



***Florida Commission
on the
Status of Women***

2011 Summary of Florida Laws Affecting Women and Families



Revised September 2011

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Florida Commission on the Status of Women

2011 Legislative Committee

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Introduction



The 2011 session of the Florida Legislature was the state's 113th, and the budget was again the one of the top issues facing lawmakers who worked to close a \$3.8 billion dollar gap during the 60 days they convened. The state education budget was cut by \$545 per student and the state's Medicaid program was completely overhauled. Changes were made to state worker's benefits and many layoffs were announced.

Education was a significant issue, as changes were made to how Florida teachers are evaluated and compensated. The Student Success Act, signed by Gov. Rick Scott on March 24, ties teacher salaries to student achievement. Starting July 1, professional evaluators will rank teachers on a four-part scale to determine their eligibility for bonuses, pay raises and promotions.

Additionally, laws were passed that impact women's health, homeowners insurance, taxes, and water management districts.

Information in this handbook was compiled from the "2011 Regular Session Summary of Legislation Passed" by the Office of the Senate Secretary. For more information on the Florida Commission on the Status of Women please visit our website at www.fcsww.net or call our office at 850-414-3300.

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Education

CS/CS/SB 736 — Educational Personnel by Budget Committee; Education Pre-K-12 Committee; and Senators Wise, Lynn, Gaetz, and Hays

This bill (Chapter 2011-1, L.O.F.) revises the evaluation, compensation, and employment practices for classroom teachers, other instructional personnel, and school administrators to refocus the education system on what is best for students. The bill aligns with Florida's successful Race to the Top application to which 62 of the 67 school districts and 53 local unions have supported and agreed to implement.

Performance Evaluations: The current evaluation system for classroom teachers, other instructional personnel, and school administrators relies on a completely subjective review and does not sufficiently, if at all, take the performance of students into consideration in determining the effectiveness of instructional staff and school leaders. The bill revises the evaluation system to focus on student performance. For instructional personnel who are not classroom teachers, a school district may include specific job-performance expectations related to student support and use growth data and other measurable student outcomes specific to the individual's assignment, as long as the growth accounts for at least 30 percent of the evaluation.

Performance of Students: The bill reinforces Race to the Top, which requires 50 percent of the evaluation for classroom teachers and other instructional personnel to be based on student performance for students assigned to them over a 3-year period. The bill specifies that 50 percent of a school administrator's evaluation is based upon the performance of the students assigned to the school over a 3-year period. If less than 3 years of student growth data is available for an evaluation, the district must include the years for which data is available and may reduce the percentage of the evaluation based on student growth to not less than 40 percent for classroom teachers and school administrators and not less than 20 percent for other instructional personnel.

Learning Growth Model: The Commissioner of Education would establish a learning growth model for the Florida Comprehensive Assessment (FCAT) and other statewide assessments to measure the effectiveness of a classroom teacher or school administrator based on what a student learns. The model would use the student's prior performance, while considering factors that may be outside a teacher's control, such as a student's attendance, disability, or English language proficiency. However, the model may not take into consideration a student's gender, race, ethnicity, or socioeconomic status. School districts are required to measure student learning growth based on the performance of students on the state-required assessments for classroom teachers, other instructional personnel, and school administrator evaluations. School districts would be required to use the state's learning growth model for FCAT-related courses beginning in the 2011-2012 school year. School districts must use comparable measures of student growth for other grades and subjects with the department's assistance, if needed. Additionally, districts would be permitted to request alternatives to the growth measure if justified.

Evaluation Criteria: The remainder of a classroom teacher's evaluation is based on instructional practice and professional responsibilities. School districts may use peer review as part of the evaluation. The evaluation system must differentiate among four levels: highly effective; effective; needs improvement or, for instructional personnel in the first three years of employment who need improvement, developing; and unsatisfactory. The Commissioner of Education would be required to

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consult with instructional personnel, school administrators, education stakeholders, and experts in developing the performance levels for the evaluation system. For instructional personnel who are not classroom teachers, the remainder of the evaluation would consist of instructional practice and professional responsibilities, and may include specific job expectations related to student support. The remainder of a school administrator's evaluation would include the recruitment and retention of effective or highly effective teachers, improvement in the percentage of classroom teachers evaluated at the effective or highly effective level, other leadership practices that result in improved student outcomes, and professional responsibilities. School districts, beginning with the 2014-2015 school year, must administer local assessments that are aligned to the standards and measure student mastery of the content. The school district can use statewide assessments, other standardized assessments, industry certification examinations, or district-developed or selected end-of-course assessments. Until July 1, 2015, a district that has not implemented an assessment for a course or has not adopted a comparable measure of student growth may use two alternative growth measures to determine a classroom teacher's student performance: student growth on statewide assessments or measurable learning targets in the school improvement plan. Additionally, a district school superintendent may assign to an instructional team, the student learning growth of the team's students on statewide assessments. The bill requires newly hired teachers to be evaluated at least twice in the first year of teaching.

Performance Pay The current salary system is divorced from the effectiveness of the classroom teacher, other instructional personnel, or school administrators. Instead, salary decisions are made on the basis of longevity. The bill comports with Race to the Top by tying the most significant gains in salary to effectiveness demonstrated under the evaluation. Beginning with instructional personnel or school administrators hired on or after July 1, 2014, the evaluation will determine an individual's eligibility for a salary increase. The salaries of quality teachers, other instructional personnel, and school administrators would grow more quickly, while those of poor performing employees would not.

The new salary schedule would require a base salary schedule for classroom teachers, other instructional personnel, and school administrators with the following salary increases:

- An employee who is highly effective, as determined by his or her evaluation, would receive a salary increase that must be greater than the highest annual salary adjustment available to that individual through any other salary schedule adopted by the school district.
- An employee who is effective, as determined by his or her evaluation, would receive a salary increase between 50 and 75 percent of the annual salary increase provided to a highly effective employee. An employee under any other performance rating would not be eligible for a salary increase. Current instructional personnel and school administrators could remain on their existing salary schedule, as long as they remain employed by the school district or have an authorized leave of absence. They may also opt to participate in the new performance salary schedule, but the option is irrevocable. Current instructional personnel who want to move to the new performance salary schedule would relinquish their professional service contract. The bill is consistent with Race to the Top by requiring school districts to provide opportunities for instructional personnel and school administrators to earn additional salary supplements for assignment to a high priority location (e.g., an eligible Title I school or low-performing school), certification and teaching in critical teacher shortage areas, or assignment of additional academic responsibilities. Beginning with instructional personnel hired on or after July 1, 2011, a district school

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board may not use advanced degrees in setting the salary schedule unless the advanced degree is held in the individual's areas of certification. When budget constraints limit a school board's ability to fully fund all adopted salary schedules, the bill prohibits the school board from disproportionately reducing performance pay schedules.

Employment The current system requires school districts to award tenure to a teacher after as little as three years of teaching. This employment is automatically renewed unless the teacher is "charged" with unsatisfactory performance. It takes two or more years to terminate an ineffective teacher. Tenure protects ineffective instructional personnel at the expense of students. The bill furthers the goals of Race to the Top by basing employment decisions on the evaluation of instructional personnel. The bill eliminates tenure with the exception for those instructional personnel who already possess a professional service contract or continuing contract. Instead, instructional personnel without tenure would be employed on an annual contract, subject to renewal by the district school board. This provision is designed to give school districts greater flexibility in meeting student instructional needs by retaining effective employees and quickly removing poor performing employees. The probationary contract is extended from 97 days to one year. An employee on a probationary contract may resign or be dismissed without creating a breach of the contract.

Upon successful completion of a probationary contract, a classroom teacher may receive an annual contract. This includes instructional personnel who move from another state or district. Instructional personnel may receive an annual contract if he or she:

- Holds a temporary or professional certificate as prescribed by s. 1012.56, F.S., and State Board of Education rules; and
- Is recommended by the superintendent for the contract and approved by the district school board.

A school district may renew an annual contract; however, a district would be prohibited from renewing an annual contract if the individual receives:

- Two consecutive unsatisfactory evaluations;
- Two unsatisfactory evaluations within a 3-year period; or
- Three consecutive needs improvement or a combination of unsatisfactory and needs improvement evaluations.

Instructional personnel with an annual contract may be suspended or dismissed for just cause. If charges against an employee are not sustained, he or she would be immediately reinstated with back pay. Instructional personnel who are currently on professional service or continuing contracts would retain their status unless the individual receives two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a 3-year period, or three consecutive needs improvement evaluations or a combination of unsatisfactory and needs improvement evaluations. In that situation, a school district is not required to automatically renew the professional service contract or continuing contract. Likewise, the above evaluation results would constitute just cause for terminating a professional service or continuing

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contract. Performance evaluation results would also be used in making decisions related to the transfer and placement of employees and workforce reductions. Specifically, the bill repeals last in, first out (LIFO) policies that base retention decisions on seniority. Instead, the individual's evaluation will inform the school district's retention decisions. Finally, each school district must annually report to the parent of a student who is assigned to a classroom teacher or school administrator with two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a 3-year period, or three consecutive needs improvement or a combination of unsatisfactory or needs improvement.

Other The bill holds charter schools to the same standard as other public schools with respect to performance evaluations for instructional personnel and school administrators, assessments, performance pay and salary schedules, and workforce reductions. For school districts that received an exemption under Race to the Top, the bill grants an annual renewable exemption to the requirements for performance pay and the weight given to student growth in performance evaluations, provided specific criteria are met. The exemption sunsets August 1, 2017, unless reenacted by the Legislature. In conformance with the bill's new contracting provisions, the bill repeals certain special laws or general laws of local application regarding contracting provisions for instructional personnel and school administrators in public schools.

These provisions were approved by the Governor and take effect July 1, 2011, except as otherwise provided.

HB 797 — Interscholastic and Intrasccholastic Sports by Rep. Perry (SB 1000 by Senator Wise)

This bill expands statewide the pilot program currently available in three counties to students enrolled at non-Florida High School Athletic Association (FHSAA) member private schools. This bill enables these students to participate in interscholastic and intrasccholastic sports at public schools. Eligibility is limited to those students attending private schools with a total student body of 125 or less. This bill requires participating public schools to maintain student records, and private schools to provide student records upon request of the FHSAA.

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

CS/CS/HB 1255 — Public School Accountability by Education Committee; K-20 Competitiveness Subcommittee, and Representative Adkins (CS/CS/SB 1696 by Budget Subcommittee on Education Pre-K - 12 Appropriations, Education Pre-K – 12, and Senator Wise)

The bill is a comprehensive public school accountability package which will implement reforms in the following areas:

- **Virtual Education**—The bill requires school districts to provide students access to Florida Virtual School (FLVS) courses during and after the normal school day to provide uniformity among school districts and increase student access to the FLVS.
- **Gift Ban**—The bill prohibits school board members and their relatives from soliciting or accepting any gift in excess of \$50 from any person, vendor, potential vendor, or other entity doing business with

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the school district.

- Voluntary Prekindergarten Program (VPK) and kindergarten screening—The bill requires a VPK provider that is on probation and who seeks a good cause exemption to administer the statewide VPK enrollment screening, which the Department of Education (DOE) must adopt, to newly admitted VPK students. The provider must pay for the screening. The bill also repeals a numeric limitation on providers who fail to meet the kindergarten readiness rate.
- Digital Curriculum—The bill authorizes school districts to implement a digital curriculum for students in grades 6-12. DOE would develop a model curriculum to serve as a guide.
- Career and Professional Academies—The bill specifies criteria for middle school career and professional academies relating to alignment to high school career and professional academies, an opportunity to earn an industry certification and partnerships with the business community.
- Student Assessment and School Accountability—The bill:
 - Repeals the requirement for certain middle school students to take the Algebra I end-of-course assessment (EOC) in 2010-2011;
 - Revises the middle school grading formula to add the performance of students in high school courses with statewide standardized assessments and students who earn designated industry certifications;
 - Requires passage of civics for middle school promotion;
 - Provides that a determination of school grades for the Opportunity Scholarship Program (OSP) will be based on statewide assessments alone;
 - Provides that for purposes of calculating the performance category under differentiated accountability, the statewide assessments' portion of a school grade would be used in determining the appropriate performance category;
 - Provides for the assignment of scores from hospital/homebound students to be assigned to their home school;
 - Authorizes the Commissioner of Education to revise statewide testing dates; and
 - Provides for postsecondary preparatory courses for high school students with designated academic deficiencies.
 - Supplemental Education Services (SES)—The bill authorizes school districts to select pre and post methods for measuring student learning gains.
 - Students with Disabilities—The bill:
 - Authorizes the waiver of certain EOC assessment requirements for students with disabilities;
 - Establishes training, accountability and reporting requirements for students who are restrained and secluded;
 - Provides that a McKay scholarship student who enters a Department of Juvenile Justice detention center for less than 21 days would not lose the scholarship; o Allows a parent of a child who is deaf or hard of hearing to enroll an eligible child in an auditory-oral education program and adds listening and spoken language specialists to eligible instructional services for exceptional students; and

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- Requires the Department of Education to revise the matrix of services for students with disabilities, which is used to determine exceptional education cost factors, beginning with the 2012-2013 school year.
- Budget Transparency—The bill requires school districts to post each proposed, tentative, and official budget on their websites and encourages school districts to provide additional information on their websites.

Accelerated High School Graduation Options—The bill authorizes students to choose the 18 credit accelerated graduation option at any time during grades 9 through 12, rather than requiring a student to choose this option no later than grade 9.

If approved by the Governor, these provisions take effect July 1, 2011, except as otherwise provided in the bill.

CS/CS/SB 1312 — School Nutrition Programs by Budget Committee, Agriculture Committee, and Senators Siplin and Gaetz (CS/CS/HB 7219 by Appropriations Committee, Education Committee, State Affairs Committee and Reps. McKeel and Stargel)

This bill creates the “Healthy Schools for Healthy Lives Act.” It provides for a type two transfer of the administration of school food and nutrition programs from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACS). The transfer includes all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs. The bill also transfers the Food and Nutrition Services Trust Fund in the DOE to the DACS.

The bill authorizes the DACS to conduct, supervise, and administer all school food and nutrition programs that are carried out using federal or state funds or funds from other sources, and to coordinate with the federal government to take advantage of any federal financial allotments and assistance that would benefit the school food and nutrition programs. The DACS may act as an agent of, or contract with, the federal government, another state agency, or any county or municipal government regarding the administration of the school food and nutrition programs, including the distribution of funds provided by the federal government in support of the school food and nutrition programs.

The bill requires each school district to submit an updated copy of its wellness policy and physical education policy to the DOE and the DACS when a change or revision is made. The DACS, as well as the DOE, must provide website links to information regarding the nutritional content of foods and beverages and to healthful food choices in accordance with the dietary guidelines of the USDA.

The bill requires the DOE, in consultation with the DACS, to develop and submit a waiver request to the U.S. Department of Agriculture to transfer administration of the school food service and nutrition programs from the DOE to the DACS within 30 days of the bill becoming law. It also requires the DOE to provide notice of the USDA’s response to certain officials.

The bill also creates the Healthy Schools for Healthy Lives Council to advise DACS on matters relating to

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nutritional standards and the prevention of childhood obesity, nutrition education, anaphylaxis, and other needs to further the development of the various school nutrition programs.

The bill provides multiple effective dates. The provision requiring the DOE to submit a waiver request and the section providing the effective dates are effective upon becoming law. The effective date for all other provisions is January 1, 2012, and is contingent upon the USDA granting the waiver request on or before November 1, 2011.

CS/HB 1329 — McKay Scholarships/Students With Disabilities by K-20 Innovation Subcommittee, Rep. Bileca, and others (CS/SB 1656 by Education Pre-K – 12 Committee and Senator Wise)

The bill allows a student with a disability to be eligible for a John M. McKay Scholarship for Students with Disabilities if he or she has an accommodation plan under section 504 of the federal Rehabilitation Act of 1973 (504 accommodation plan). However, the student would be ineligible if his or her plan was for six months or less.

The bill requires school districts to notify the parent of a student with a 504 accommodation plan about available school choice options by April 1 of each year and within ten days after a 504 accommodation plan is issued.

The bill allows parents of a student with a 504 accommodation plan to enroll their children in a public school in an adjacent school district which has available space, if the school has a program with the services agreed to in the 504 accommodation plan. Parents would be responsible for transportation.

The scholarship amount for the student would be based on the current student program cost factor generated by the student under the Florida Education Finance Program (FEFP).

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 1331— School Choice by PreK-12 Appropriations Subcommittee, Rep. Bileca and others (SB 1822 by Senator Benacquisto)

The bill revises the eligibility criteria for participation in the Opportunity Scholarship Program (OSP) public school choice option to allow parents of students in failing schools the opportunity to send their children to another public school that is performing satisfactorily. Under the bill, a failing public school is a school that has received a “D” or an “F” grade and is designated as a low performing school.

A parent would be able to enroll his or her child in a higher performing school in another district with available space. If a parent chooses another district, the receiving district must accept the student and report him or her for funding. The parent is still responsible for transportation.

A student would have the opportunity to continue to attend a higher performing public school feeder pattern within the district until he or she graduates from high school. Under the bill, a student could remain in the feeder pattern of the school chosen under the OSP.

Finally, the bill repeals the provisions related to the OSP private school option to comport with existing case law.

If approved by the Governor, these provisions take effect July 1, 2011.

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CS/CS/CS/SB 1546 — School Choice by Committee on Education Pre-K – 12 and Senator Thrasher

This legislation creates and facilitates the development and expansion of high-performing charter schools and high-performing charter school systems. To qualify as high-performing, a school must have received:

- At least two “A” school grades and no grades below a “B” for the last three years; and
- Unqualified opinions and no financial audits indicating a state of financial emergency for the last three fiscal years.

Once a school or a system has met the requirements for a high-performing designation, it is authorized to replicate at the rate of one school per year. High-performing schools will also have greater flexibility to expand grade levels, enrollment capacity, and charter terms, and to consolidate with other high-performing charter schools.

To qualify as a high-performing system, the entity must:

- Operate at least three high-performing charter schools in the state;
 - Operate a system of charter schools of which at least 50 percent are high-performing; and
- Not operate a charter school that has received a financial audit indicating a state of financial emergency.

High-performing systems are authorized to replicate at the rate of one charter school per year.

Charter virtual schools are ineligible for high-performing status.

This law encourages systems to work with disadvantaged students by authorizing charter schools in these situations more time to turn around a low-performing school.

This legislation limits the ability of a sponsor to deny a charter school application submitted by a high-performing charter school, by increasing the standard of proof to that of a clear and convincing standard. Sponsors who immediately terminate a charter must assume operation of the school pending completion of the appeal process or be liable for attorney’s fees and costs if the charter school prevails.

The charter school governing board is required to appoint a parental contact representative residing in the district, which replaces the residency requirement for the charter school governing board. The Charter School Review Panel is abolished.

The Department of Education is required to conduct a study which examines various issues relating to charter schools, including the capital improvement millage fee distributed in comparison to other public schools and the 5-percent administrative fee, and provide findings to the Governor and Legislature.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/CS/HB 7197 — Digital Learning by Education Committee; Appropriations Committee; K-20 Innovation Subcommittee; and Rep. Stargel and others (CS/SB 1620 by Rules Committee and Senator Flores)

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Virtual Education Framework The bill revises the current framework and funding for virtual instruction in Florida. Beginning with the 2011-2012 school year, the bill expands the virtual instruction program by requiring school districts to provide at least three part-time and full-time virtual instruction program options, with the exception of certain smaller school districts that are required to provide one option to participate in part-time and full-time virtual instruction. Under the bill, a school district may fulfill the requirements through agreements with more than one school district, multidistrict contractual arrangements, and a school district operated program, as well as through a contract with the Florida Virtual School (FLVS) or an approved provider.

Charter Schools Under the bill, a charter school would be permitted to operate a virtual charter school to provide full-time online instruction to eligible students in kindergarten through grade 12, subject to approval under s. 1002.33, F.S. The virtual charter school would contract with the FLVS or an approved provider or enter into an agreement with a school district. Full-time virtual charter schools would be established by amending the existing charter or submitting a new application. They are subject to the same application process as are other charter schools. Virtual charter schools would be subject to all charter school requirements, with the exception of the provisions related to facilities, capital outlay, class size, administrative fees, and transportation. The bill requires a charter school governing board to appoint a representative who resides in the same district where the charter school is located to resolve disputes and work with parents and the public. However, a single representative would be permitted to serve multiple charter schools if the board oversees multiple schools in the same district. The bill prohibits a sponsor from requiring board members to reside in the same district in which the charter school is located, if the school complies with the requirements for representation. The bill also permits “blended-learning charter schools,” which combine traditional classroom instruction with online instruction; however, the schools may only offer this instruction to their full-time students in a classroom at the charter school.

Providers The bill revises the criteria for approving providers. To be approved, all providers must have courses that meet the standards of the International Association for K-12 Online Learning or the Southern Regional Education Board, have the requisite plan for the curriculum and student performance accountability, have a method for determining if a student has satisfied grade level promotion and high school graduation requirements, and have instructional content and services that measure student proficiency in the Next Generation Sunshine State Standards. Providers would also be required to disclose to the public information that includes certification and physical location of instructional personnel, the curriculum, student-teacher ratios, student completion and promotion rates, and performance accountability outcomes for students, instructors, and schools.

Assessments The bill requires the online administration of all statewide end-of-course assessments, beginning in the 2014-2015 school year. Part-time FLVS public school students who take courses requiring statewide end-of-course assessments must take these assessments. Districts must provide access to the district’s testing facilities for FLVS full-time public school students in kindergarten through grade 12.

Funding The bill revises the manner in which virtual instruction is funded. All virtual instruction options (the FLVS, school district operated virtual instruction programs, and virtual charter schools)

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would be funded through the Florida Education Finance Program (FEFP), as provided in the General Appropriations Act, but would not include funding for class size requirements. The FLVS would serve and receive funding for students in grades kindergarten through five. Additionally, students in full-time programs could not be reported for more than 1.0 Full Time Equivalent (FTE). Beginning in the 2014-2015 fiscal year, the reported FTE and associated funding of students enrolled in courses requiring passage of an end-of-course assessment would be adjusted after the student completes the assessment. School districts would be required to expend the difference between the amount funded for students participating in the program and the price paid for contractual services on the district's local instructional improvement system or other technological tools that are required to access electronic and digital instructional materials. Districts would also be required to report to the DOE the amount paid for contractual services and an itemized list of the purchases.

Accountability Under the bill, the FLVS would receive a school grade for students receiving full-time instruction. Additionally, the bill requires the DOE to develop an evaluation system for part-time providers of virtual instruction, which must include the percentage of students making learning gains, successfully passing end-of-course assessments, and taking and scoring a three or higher on Advanced Placement course exams.

Instructional Personnel The bill specifically permits a school district to issue adjunct certificates to qualified individuals. A district may renew an adjunct certificate and award another annual contract only if the individual is rated as effective or highly effective. The bill also specifies the certification requirements for instructional personnel providing direct instruction to students through a virtual environment or through a blended virtual and physical environment.

High School Graduation Students entering the ninth grade in 2011-2012 and thereafter would be required to take at least one online course in order to meet high school graduation requirements. The requirement is also deemed met if the student has taken an online course in grades six through eight or participates as a dually enrolled student in an online course offered by a postsecondary institution.

Student Eligibility and Access The bill authorizes the FLVS to directly offer virtual education in kindergarten through grade five and part-time education to students in grades four through 12. However, part-time instruction for fourth and fifth grade students is limited to public school students taking grade 6- 8 courses for acceleration purposes. The FTE generated by the FLVS for fourth and fifth grade students must be part of the total FTE of 1.0 reported for the student for the fiscal year. To receive full-time instruction, a student in grades two through five must meet at least one of the statutory eligibility requirements. The bill revises the eligibility requirements for students. Under the bill, students who were enrolled full-time in an FLVS program during the prior school year would be eligible for virtual instruction. Students entering kindergarten or first grade would be eligible without having to meet the requirement for prior year enrollment in a public school.

If approved by the Governor, these provisions take effect July 1, 2011.

Health and Safety

CS/HB 97 — Health Insurance

by Health and Human Services Access Subcommittee; Rep. Gaetz and others (CS/CS/SB 1414 by Budget Committee; Banking and Insurance Committee; and Senators Wise and Oelrich)

The bill prohibits any individual, group, or out-of-state group health insurance policy or health maintenance contract, purchased with any amount of state or federal funds through an exchange, from providing coverage for an abortion unless the pregnancy is the result of an act of rape or incest or in cases where a woman suffers from a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death.

The federal Patient Protection and Affordable Care Act (PPACA), which was signed into law on March 23, 2010, is designed to, among other provisions, create a health insurance “exchange” in each state for individuals and employers to obtain health coverage. The PPACA sets minimum standards for health coverage offered in the exchanges and provides premium tax credits and cost-sharing subsidies for eligible, low-income individuals who obtain coverage through exchanges. An exchange is not an insurer; however, it is designed to provide eligible individuals and businesses with access to health insurance coverage.

Under the PPACA, exchanges must be self-sufficient by 2015 and may charge assessments or user fees. If the U.S. Department of Health and Human Services (HHS) determines by January 1, 2013, that a state has opted-out of operating an exchange or that it will not have an exchange operational by January 1, 2014, the HHS shall operate an exchange in that state, either directly or through agreement with a non-profit entity.

This bill provides that such coverage in Florida is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied to the cost of the policy. The bill does not prohibit the purchase of separate coverage for abortion if that separate coverage is not purchased with any state or federal funds. The bill defines “state” to mean the State of Florida or any political subdivision of the state.

The bill’s exceptions for abortion coverage in cases of rape or incest or in cases where the pregnant woman’s life is certified by a physician to be in danger, are modeled after the federal “Hyde Amendment,” which is the common name for a provision in the annual federal appropriations act for the HHS, the U.S. Department of Labor, and the U.S. Department of Education, which prevents Medicaid and any other programs under these departments from funding abortions, except for such cases described above. Provisions of the Hyde Amendment have been enacted into federal law in various forms since 1976.

If approved by the Governor, these provisions take effect July 1, 2011.

HB 331 — Fire Safety

by Rep. Weinstein and others (SB 534 by Senator Wise) The bill substantially amends the following sections of the Florida Statutes: 633.01, 633.021, 633.081, 1013.12, 1013.371, and 1013.38.

Additional Clarification of Duties of the State Fire Marshal The bill requires the State Fire Marshal to consult with the Department of Education regarding the adoption of rules pertaining to safety and health standards at educational facilities. In the event that a county does not employ or appoint a certified fire safety inspector, the bill provides that the State Fire Marshal shall take the place of the local county, municipality, or independent special fire control district regarding fire safety inspections of educational property.

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Elimination of Special Fire Safety Inspector As of July 1, 2013, the classification of “special state fire safety inspector” is abolished. Special state fire safety inspectors may, however, be grandfathered in as full fire safety inspectors provided that the following conditions are met: The inspector has at least five years of experience as of July 1, 2011, and passes the fire safety inspection examination prior to July 1, 2013; The inspector does not have five years of experience as a special state fire safety inspector but takes an additional 80 hours of courses and passes the examination; or The inspector has at least five years of experience, fails the examination, but takes 80 additional hours of courses, retakes, and passes the examination. The bill redefines the term “fire safety inspector” as a person who is certified by the State Fire Marshal, pursuant to s. 633.081, F.S.

Streamlining of Process The bill requires all administration and enforcement of uniform fire safety standards and the alternate evaluation system to be conducted by certified fire officials. Effective July 1, 2013, all fire safety inspectors are subject to the same certification process. The bill also reduces the number of mandatory annual inspections from two to one and the report generated remains at the local level. The bill deletes the requirement for the State Fire Marshal to compile each local report into one document for submission to the Legislature, the Governor, the Commissioner of Education, the State Board of Education, and the Board of Governors.

School District Fire Safety Inspections (Including Charter and Postsecondary Schools) The bill establishes parity for fire safety inspections for district schools, other public secondary schools (charter schools), and postsecondary institutions.

Inspection of Property by District School Boards Boards¹⁸ are responsible for appointing certified fire safety inspectors to conduct annual inspections on educational and ancillary plant property. The bill requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. The applicable board must submit a copy of the report to the county, municipality, or independent special fire control district providing fire protection services within 10 business days after the inspection, unless immediate corrective action is required, due to life-threatening deficiencies. The entity conducting the fire safety inspection is required to certify to the State Fire Marshal that the annual inspection has occurred.

Inspection of Educational Property by Other Public Agencies Annual fire safety inspections must be conducted on educational and ancillary plant property operated by a school board or public college. The bill requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. Immediate corrective action is required by the county, municipality, or independent special fire control district in conjunction with the appointed fire official where life-threatening deficiencies are noted.

Inspection of Charter Schools Not Located on Board-owned or Leased Property, or Otherwise Operated by a School Board The bill creates a new subsection 5 in s. 1013.12, F.S., to require a fire safety inspection to be conducted each fiscal year on educational facilities not owned or leased by the board or a public college, in accordance with State Fire Marshal standards. The bill clarifies that the inspection report is to be submitted to the charter school sponsor. The inspector must include a corrective plan of action in the report, with prompt response for life-threatening deficiencies. If corrective action is not taken, the county, municipality, or independent special fire control district must immediately report the deficiency

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to the State Fire Marshal and the charter school sponsor. The bill also expressly extends the State Fire Marshal's enforcement authority to charter school educational facilities and property.

Inspections of Public Postsecondary Education Facilities The bill requires inspections of public college facilities, including charter schools located on board-owned or board-leased facilities or otherwise operated by public college boards, to comply with the Florida Fire Prevention Code, without exception via local amendment. Both an annual inspection by a certified inspector and a corrective plan of action are required by this bill. The public college must provide a copy of the report to the appropriate county, municipality, or independent special fire control district. Fire safety inspections of state universities must comply with the Florida Fire Prevention Code. If a school board, public college board, or charter school does not take corrective action, the bill requires the inspecting authority to immediately report the deficiency to the State Fire Marshal.

Approval of New Construction/Site Plans Each board must provide for a periodic inspection of proposed educational or ancillary plants to ensure that the construction complies with the Florida Building Code and the Florida Fire Prevention Code, in addition to the currently mandated State Requirements for Educational Facilities. The bill requires local boards to submit for approval new facility site plans to the local county, municipality, or independent special fire control district, and outlines the process for compliance and informal appeal. Site plans must also be submitted for new facility additions that exceed 2,500 feet in size. The State Fire Marshal has final administrative authority to resolve disputes pertaining to the requirements or application of the Florida Fire Prevention Code.

If approved by the Governor, these provisions take effect July 1, 2011

HB 501—Choose Life License Plates by Rep. Baxley (CS/CS/SB 196 by Budget Committee; Community Affairs Committee; and Senator Fasano)

This bill amends s. 320.08058, F.S., to provide the following proposed changes:

- Directs the distribution of funds from the sale of "Choose Life" license plates to Choose Life, Inc.
- Choose Life, Inc., will distribute funds to participating nongovernmental, not-for-profit agencies within the State of Florida that assist pregnant women who are making an adoption plan for their children. Funds will be distributed based on an annual Department of Highway Safety and Motor Vehicle (DHSMV) sales per county report.
- Removes the minimum amount of funds used by agencies to provide materials to pregnant women making an adoption plan, and it extends the use of funds to birth mothers for 60 days after delivery.
- Provides Choose Life, Inc., may use a maximum of 15 percent of funds collected annually for administration and promotion of "Choose Life" specialty license plates. Funds remaining unused by agencies must be returned to Choose Life, Inc., if such funds exceed 10 percent of funds collected annually.
- If no qualified agency applies to receive funds in a county in any year, that county's Choose Life funds shall be distributed pro-rata to any qualified agencies that apply provided such agencies maintain a place of business within a one hundred mile radius of the county seat of such county. If no qualified agencies apply, the funds shall be held by Choose Life, Inc., until a qualified agency applies for the funds.
- By October 1, 2011, all funds collected by DHSMV from the sale of "Choose Life" license plates shall be transferred to Choose Life, Inc. This change will allow the department to distribute the \$557,451.63 in funds held due to lack of participating counties.

If approved by the Governor, these provisions take effect July 1, 2011.

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CS/CS/HB 689 — Driver Education and Testing by Economic Affairs Committee; Transportation and Highway Safety Subcommittee; and Rep. Berman and others (CS/SB 1974 by Budget Committee and Senator Hill)

This bill amends ss. 318.1451 and 322.095, F.S., relating to Driver Improvement Schools and Traffic Law and Substance Abuse Education Programs for driver's license applicants. The bill amends these sections to include course content regarding the risks associated with the use of handheld electronic communication devices while operating a motor vehicle. The Department of Highway Safety and Motor Vehicles (Department) is required to consider whether such information is included in a provider's curriculum, when determining whether to approve the courses.

The bill amends s. 322.12, F.S., to require driver's license exams and commercial driver's license exams to include one question testing the applicant's knowledge of traffic regulations to assist blind persons. The questions developed by the Department must emphasize pedestrian right-of-way when a driver is making a right turn at an intersection.

The bill amends s. 322.56, F.S., to provide that learner's driver's license applicants must have the opportunity to take written examinations with third-party providers; however, the Department is not precluded from continuing to provide written examinations. The bill requires the Department to contract with providers of approved traffic law and substance abuse education courses to serve as third-party administrators to conduct online knowledge tests for learner's driver's license applicants. The on-line testing program must require, prior to administering the examination, the applicant's parent, guardian or other responsible adult to provide the third-party administrator his or her driver's license number. In addition, before the issuance of the learner's driver's license, the parent, guardian, or other responsible adult must provide to the Department a signed and dated affidavit acknowledging he or she was aware of and allowed the applicant to take the examination online.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 1085—Women's Health by Health and Human Services Quality Subcommittee and Rep. Plakon (SB 1282 by Senator Storms)

The bill creates the Kelly Smith Gynecologic and Ovarian Cancer Education and Awareness Act within the Department of Health (DOH). The bill adds one member from the Florida Ovarian Cancer Alliance Speaks organization to the Florida Cancer Control and Research Advisory Council, increasing the membership from 34 to 35.

The bill directs the DOH to encourage women to discuss the risks of gynecological cancers with their health care providers. Furthermore, the DOH is directed to encourage health care providers and certain entities to disseminate and display information about gynecological cancers, including signs and symptoms, risk factors, benefits of early detection, and treatment options. The DOH is encouraged to seek any available federal or private grants to promote gynecological cancer awareness and to collaborate with other entities to create a systematic approach to increasing public awareness. The State Surgeon General is required to post on the DOH website a link to the Centers for Disease Control and Prevention website for gynecological cancer information.

If approved by the Governor, these provisions take effect July 1, 2011.

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CS/HB 1125 — Health and Human Services by Health and Human Services Quality Subcommittee; and Rep. Corcoran (CS/SB 1922 by Banking and Insurance Committee; and Senator Garcia)

In 2008, the Florida Legislature created the Florida Health Choices Program (program). The program is designed to provide a centralized marketplace for the sale and purchase of health care products. These products would include, but are not limited to, health insurance plans, health maintenance organizations (HMOs) plans, prepaid services, service contracts, and flexible spending accounts. The bill makes the following changes to the program:

- Expands the products, vendors, employers, and individuals that may participate in the program;
- Streamlines and clarifies the process by which new products are approved and offered; and
- Requires the Office of Insurance Regulation (OIR) to approve risk-bearing products offered by the program.

The bill also contains the following provisions:

- Exempts specified Medicaid psychiatric facilities and Level III neonatal intensive care units from the certificate-of-need provisions if certain conditions are met;
- Revises the eligibility requirements for health flex plans by eliminating the requirement that an enrollee must be 64 years of age or younger; and
- Adds licensed orthotists and prosthetists to the current definition of “health care provider,” under s. 766.202, F.S., for purposes of medical malpractice actions pursuant to ch. 766, F.S.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 1127 — Abortions by Health and Human Services Committee and Reps. Porter and others (CS/SB 1744 by Health Regulation Committee and Senators Storms and Oelrich)

Except in a medical emergency, this bill provides that consent to a termination of pregnancy is voluntary and informed if, among other things, a woman seeking an abortion has the gestational age of the fetus verified by an ultrasound, regardless of the woman’s stage of pregnancy. The bill prescribes who is authorized to perform the ultrasound.

The person performing the ultrasound must offer the woman the opportunity to view the live ultrasound images and hear an explanation of them before she gives informed consent to having the abortion procedure, unless the woman presents certain documentation evidencing that the woman is obtaining the abortion because she is a victim of rape, incest, domestic violence, or human trafficking or the delay in the abortion procedure would cause substantial and irreversible impairment of a major bodily function of the woman.

The bill provides that a woman has a right to decline to view the ultrasound images and hear an explanation of the images after she has been offered an opportunity to view and hear an explanation of the images. However, if the woman declines to view and hear an explanation of the ultrasound images,

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she is required to complete a form acknowledging that she was offered an opportunity to view the images and hear the explanation of the images, that she has declined that opportunity, and that her refusal to view and hear an explanation of the images was of her own free will.

The bill provides that consent to a termination of pregnancy is voluntary and informed if, among other things, a description of the fetus, including a description of the various stages of development, has been provided to the woman.

The bill provides that the failure of a health care practitioner to comply with the requirements under s. 390.0111, F.S., is grounds for disciplinary action and authorizes the DOH, or the appropriate board, to adopt rules necessary to implement the provisions under s. 390.0111, F.S.

The bill requires the Agency for Health Care Administration (AHCA) to adopt rules requiring an abortion clinic that performs abortions after the first trimester of pregnancy to take a urine or blood test, regardless of whether the woman seeking an abortion will have an ultrasound performed. The AHCA must also adopt rules requiring clinics to be in compliance with the provisions of s. 390.0111, F.S.

The bill also includes a severability clause, which severs any provision of the bill that is held invalid.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HJR 1179 — Abortion/Public Funding/Construction of Rights by Health and Human Services Committee; Rep. Baxley and others (CS/CS/SJR 1538 by Rules Committee; Judiciary Committee; and Senators Flores, Haridopolos, and Oelrich)

This is a joint resolution proposing the creation of s. 28, Art. I of the Florida Constitution to prohibit public funds from being expended for any abortion or for health-benefits coverage that includes coverage of abortion. However, public funds may be expended when required by federal law; a woman suffers from a physical disorder, physical injury, or physical illness which would, as certified by a physician, place the woman in danger of death; or a pregnancy results from rape or incest.

The joint resolution also prohibits the Florida Constitution from being interpreted to create broader rights to an abortion than those contained in the U.S. Constitution.

The joint resolution includes a summary statement that is to be placed on the ballot for the next general election.

If adopted by the voters at the 2012 General Election, this resolution will take effect January 3, 2013.

CS/HB 1193 — Health Insurance by Health and Human Services Quality Subcommittee; and Rep. Hudson and others (CS/SB 1754 by Banking and Insurance Committee; and Senator Garcia)

The bill provides that a person may not be compelled to purchase health insurance, except as a condition of:

- Public employment; Voluntary participation in a state or local benefit;

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- Operating a dangerous instrumentality;
- Undertaking an occupation having a risk of occupational injury or illness;
- An order of child support; or
- An activity between private persons.

The bill also provides that this would not prohibit the collection of debts lawfully incurred for health insurance.

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

HB 1247 — Parental Notice of Abortion

by Rep. Stargel and others (SB 1770 by Senators Hays and Oelrich)

This bill amends s. 390.01114, F.S., relating to parental notification of an abortion to be performed on a minor. This bill amends the law as it relates to parental notification of an abortion by:

- Redefining “constructive notice” to include notice by writing that must be mailed to a minor’s parent or legal guardian prior to the abortion by first-class mail and by certified mail, return receipt requested, with restricted delivery to the parent or legal guardian.
- Requiring notice that is given by telephone to a parent or legal guardian to be confirmed in writing, signed by the physician, and mailed to the parent or legal guardian of the minor by first-class mail and by certified mail, return receipt requested, with restricted delivery to the parent or legal guardian.
- Requiring a physician to make reasonable attempts to contact the parent or legal guardian, whenever possible, during a medical emergency that renders the abortion medically necessary, without endangering the minor.
- Requiring the physician to provide notice directly to a parent or legal guardian of the medical emergency requiring an abortion and any additional risks to the minor and if no notice is directly provided, then notice is required in writing to the parent or legal guardian, which must be mailed by first-class and certified mail.
- Providing that a parent or guardian’s legal right to be noticed can only be waived if the written waiver is notarized, dated not more than 30 days before the abortion, and contains a specific waiver of the parent or legal guardian’s right to notice of the minor’s abortion.
- Reducing the number of courts in which a minor is able to file a petition for waiver of parental notice.
- Extending the time within which a court must rule on a minor’s petition for a waiver of parental notice from 48 hours to 3 business days.
- Removing the automatic grant of a petition when a court fails to rule within a certain time.

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- Providing that a minor may have her petition heard by a chief judge of the circuit within 48 hours of filing the petition when a circuit court has not ruled within 3 business days.
- Providing the minor with the right to appeal a court decision that does not grant judicial waiver of parental notice, providing the timeline within which the appellate court must rule, and providing the standard of review the appellate court must use.
- Requiring the court to consider specific factors when determining whether the minor is sufficiently mature to decide whether to terminate her pregnancy.
- Changing the standard upon which a court must find that the notification of a parent or guardian of the abortion is not in the best interest of the minor, from preponderance of the evidence to clear and convincing evidence.
- Providing that when the court considers what is in the best-interest of the minor, the court is not to consider financial implications for the minor or the minor's family.
- Requiring the final written order by the court to include its factual findings determining the maturity of the minor.
- Requiring the Office of State Courts Administrator to include in its annual report to the Governor and Legislature the number of petitions filed for a waiver of parental notice and the reason for each waiver of notice granted.

The bill also includes a severability clause, which severs any provision of the bill that is held invalid and saves the remaining provisions.

If approved by the Governor, these provisions take effect October 1, 2011, or upon the adoption of rules and forms by the Supreme Court, whichever occurs earlier.

Criminal Justice

CS/HB 3 — Assault or Battery of a Law Enforcement Officer by Criminal Justice Subcommittee and Rep. Nehr and others (SB 464 by Senator Latvala)

The bill creates s. 784.071, F.S., which codifies an existing alert program that was created by executive order in 2008. This type of program often goes by the name “blue alert,” though the precise name of the current Florida program is the Florida Law Enforcement Officer (LEO) Alert Plan.

The bill provides that, at the request of an authorized person employed at a law enforcement agency, the Florida Department of Law Enforcement, in cooperation with the Department of Highway Safety and Motor Vehicles and the Department of Transportation, shall activate the emergency alert system and issue a blue alert if:

- A law enforcement officer has been killed, has suffered serious bodily injury, or has been assaulted with a deadly weapon; or a law enforcement officer is missing while in the line of duty evidencing concern for the officer’s safety.
- The suspect has fled the scene of the offense.
- The law enforcement agency investigating the offense determines that the suspect poses an imminent threat to the public or to other law enforcement officers.
- A detailed description of the suspect’s vehicle, or other means of escape, or the license plate of the suspect’s vehicle is available for broadcasting.
- Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.
- If the law enforcement officer is missing, there is sufficient information available relating to the officer’s last known location and physical description, and the description of any vehicle involved, including the license plate number or other identifying information, to be broadcast to the public and other law enforcement agencies, which could assist in locating the missing officer.

The bill also requires that a blue alert be immediately disseminated to the public through the emergency alert system by broadcasting the alert on television, radio, and the dynamic message signs that are located along the state’s highways. If a traffic emergency arises requiring that information pertaining to the traffic emergency be displayed on a highway message sign in lieu of the blue alert information, the agency responsible for displaying information on the highway message sign is not in violation of this new section.

If approved by the Governor, these provisions take effect October 1, 2011.

CS/CS/CS/HB 45 — Regulation of Firearms and Ammunition by Judiciary Committee; Community and Military Affairs Subcommittee; Criminal Justice Subcommittee and Rep. Gaetz (Rules Committee; Community Affairs Committee; Criminal Justice Committee; and Senator Negron)

This bill expands and clarifies state preemption of the regulation of firearms and ammunition. Section 790.33, F.S., is also reorganized.

The bill expands “the whole field of regulation of firearms and ammunition” (including administrative regulations or rules adopted by local or state governments) to include the storage of those items.

Subsection (2) of s. 790.33, F.S., is stricken by the bill. This is the subsection of the Joe Carlucci Act that allows a county the option to adopt a waiting period, not exceeding three days, for the purchase of a handgun. It pre-dates the constitutional amendment and constitutionally required statutory enactment. Eliminating this subsection of the Act merely clarifies the current state of the law regarding the three-day waiting period, which is found in the Florida Constitution and s. 790.0655, F.S.

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The bill retains the policy and intent language from the original Act, currently found in subsection (3) of s. 790.33, F.S. It also adds language setting forth the 2011 Legislature's intent to deter and prevent the violation of the preemption law.

Any person, county, agency, municipality, district, or other entity that enacts or causes to be enforced any local ordinance or administrative rule or regulation faces a civil fine of up to \$5,000 if the violation is knowing and willful. Any such violation is cause for termination of employment or contract or for removal from office by the Governor.

Except as required by applicable law, public funds may not be used to defend or reimburse the unlawful conduct of any person found to have committed a knowing and willful violation of this section.

Civil actions are also provided for in the bill. A person or organization whose membership is adversely affected by an alleged violation of the preemption law may seek declaratory and injunctive relief. The bill also provides for the assessment of actual damages up to \$100,000. The court is required to award a prevailing plaintiff's attorney fees, including a contingency fee multiplier, as well as related costs. Additionally, the bill provides that interest shall accrue on the fees, costs, and damages awarded the plaintiff, retroactive to the date the suit is filed.

In subsection (4) of s. 790.33, F.S., as created by the bill, a provision excepting certain zoning ordinances in the original Carlucci Act has been relocated and other exceptions to the prohibitions are set forth in the bill. Specifically, the bill does not prohibit:

- Law enforcement agencies from enacting and enforcing firearm-related regulations within their agencies;
- The entities listed in paragraphs (2)(a)-(i) from regulating or prohibiting employees from carrying firearms or ammunition during the course of their official duties, except as provided in s. 790.251, F.S.;
- A court or administrative law judge from resolving a case or issuing an order or opinion on any matter within the court or judge's jurisdiction; or

The Fish and Wildlife Conservation Commission from regulating the use of firearms or ammunition as a method of taking wildlife and regulating the shooting ranges managed by the commission.

If approved by the Governor, these provisions take effect October 1, 2011.

CS/CS/HB 75 — Offense of Sexting

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Abruzzo and others (CS/CS/SB 888 by Communications, Energy, and Public Utilities Committee; Judiciary Committee; and Senator Dean)

The bill provides a lesser-penalty alternative to punish "sexting" committed by a minor. Under the bill, a minor commits the offense of "sexting" if the minor knowingly:

- Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity and is harmful to minors; or
- Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity and is harmful to minors.

A first sexting violation is a noncriminal violation punishable as provided in the bill. A sexting violation committed after a non criminal violation is a first degree misdemeanor. A sexting violation committed

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after a first degree misdemeanor violation is a third degree felony. The bill also specifies conditions in which the sexting offense does not apply.

The new section does not prohibit the prosecution of a minor for a violation of any law of this state if the photograph or video that depicts nudity also includes the depiction of sexual conduct or sexual excitement, and does not prohibit the prosecution of a minor for stalking.

If approved by the Governor, these provisions take effect October 1, 2011.

CS/CS/HB 155 — Privacy of Firearm Owners

by Health and Human Services Committee; Criminal Justice Subcommittee; and Rep. Brodeur and others (CS/CS/CS/SB 432 by Judiciary Committee; Health Regulation Committee; Criminal Justice Committee; and Senator Evers)

This bill creates s. 790.338, F.S., entitled “Medical privacy concerning firearms.” The violation of certain provisions of the new law constitute grounds for disciplinary actions. The new law prohibits a licensed health care practitioner or licensed health care facility from intentionally entering any disclosed information concerning firearm ownership into a patient’s health record if the information is not relevant to the patient’s medical care or safety, or the safety of others. Additionally, licensed health care providers and health care facilities are:

- Prohibited from inquiring, whether oral or written, about the ownership of firearms or ammunition unless the information is relevant to the patient’s medical care or safety, or the safety of others;
- Prohibited from discriminating against a patient based upon whether a patient exercises his or her constitutional right to own and possess firearms or ammunition; and
- Mandated to respect a patient’s right to own or possess a firearm and refrain from harassing a patient about firearm ownership during an examination.

Patients are permitted to decline to answer or provide any information concerning the ownership of a firearm and a decision not to answer does not alter existing law regarding a physician’s authority to choose patients.

The bill provides an emergency medical technician (EMT) or paramedic the authority to inquire in good faith, about the possession or presence of a firearm if they believe that it is relevant to the treatment of a patient during the course and scope of a medical emergency or if the presence or possession of a firearm poses a threat of imminent danger to the patient or others.

The bill provides for certain patient’s rights concerning the ownership of firearms or ammunition under the Florida Patient’s Bill of Rights and Responsibilities. The bill provides for disciplinary action for non-compliance by licensed health care practitioners and health care facilities.

The bill provides that insurers issuing the types of policies regulated pursuant to ch. 627, F.S., are prohibited from discriminating, denying coverage, or increasing premiums on the basis that an insured or applicant possesses or owns a firearm or ammunition. However, insurers are allowed to consider the fair market value of firearms or ammunition when setting premiums for scheduled personal property coverage.

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

CS/CS/SB 234 — Firearms

by Rules Committee; Criminal Justice Committee; and Senators Evers, Dockery, Lynn, Hays, Norman, Negron, Garcia, and Altman

This bill modifies s. 790.053, F.S., the provision that prohibits carrying a firearm openly, to eliminate the violation of this law for persons who are lawfully carrying a concealed firearm which is briefly displayed, openly, to the ordinary sight of another person.

However, if the firearm is displayed in an angry or threatening manner, not in necessary self-defense, this would still constitute a violation of s. 790.053, F.S., which is a second degree misdemeanor. The bill allows the Division of Licensing of the Department of Agriculture to administer the fingerprinting of applicants for licenses to carry concealed weapons or firearms.

The bill also clarifies s. 790.06, F.S., by stating that persons licensed to carry a concealed firearm are not prohibited from carrying or storing a firearm in a vehicle for lawful purposes. The bill specifies that the section of law that allows the prohibition of firearms on the properties listed in s. 790.251(7), F.S., is not modified by s. 790.06, F.S. These properties are listed in s. 790.251(7)(a)-(g), F.S., as follows:

Any school property as defined and regulated under s. 790.115, F.S.

Any correctional institution regulated under s. 944.47, F.S., or chapter 957, F.S.

Any property where a nuclear-powered electricity generation facility is located.

Property owned or leased by a public or private employer or the landlord of a public or private employer upon which are conducted substantial activities involving national defense, aerospace, or homeland security.

Property owned or leased by a public or private employer or the landlord of a public or private employer upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or property owned or leased by an employer who has obtained a permit required under 18 U.S.C. s. 842 to engage in the business of importing, manufacturing, or dealing in explosive materials on such property.

A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer.

Any other property owned or leased by a public or private employer or the landlord of a public or private employer upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited pursuant to any federal law, contract with a federal government entity, or general law of this state.

Finally, the bill amends s. 790.065, F.S., to clarify that residents of Florida can lawfully purchase, trade, or transfer a rifle or shotgun in another state. Florida residents have been limited to the purchase, trade, or transfer of those types of firearms in states that are contiguous to Florida.

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

SB 240 — Violations of Injunctions for Protection

by Senator Joyner

This bill creates additional ways a person can violate an injunction for protection against repeat violence, sexual violence, or dating violence by making it identical to the ways a person can violate an injunction for protection against domestic violence. Specifically, the bill provides the following additional violations:

Being within 500 feet of the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member (currently there is no distance limitation; rather the violation is based solely on going to those places);

Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;

Defacing or destroying the petitioner's personal property, including the petitioner's motor vehicle; or Refusing to surrender firearms or ammunition if ordered to do so by the court.

If approved by the Governor, these provisions take effect July 1, 2011.

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CS/CS/CS/HB 251 — Sexual Offenses by Judiciary Committee; Appropriations Committee; Criminal Justice Subcommittee; and Rep. Dorworth and others (CS/CS/SB 488 by Judiciary Committee; Criminal Justice Committee; and Senators Fasano, Benacquisto, and Gaetz)

This bill addresses several issues relating to sexual violence and the legal proceedings relating to such offenses.

The bill amends the Evidence Code to expand the admissibility of collateral crime or “similar fact” evidence in criminal prosecutions of child molestation. It creates admissibility for similar fact evidence in the Evidence Code in the prosecution of sexual offenses. The definition of child molestation is expanded and sexual offense is defined.

The bill provides that the court may set any appropriate conditions on the taking of testimony by children, including the use of a registered service or therapy animal in any proceeding involving a sexual offense.

The bill prohibits a court from granting a request of a defendant in a criminal proceeding for permission to duplicate or copy material depicting sexual performance by a child or child pornography as long as the state attorney makes the material reasonably available to the defendant for inspection.

The bill requires licensed facilities providing emergency room services to gather forensic medical evidence from victims who have reported a sexual battery to a law enforcement agency or upon their request for purposes of filing a report in the future. It requires law enforcement to provide transportation for the victim of an alleged sexual battery to medical treatment, a forensic examination, and a certified rape crisis center, as appropriate. The bill provides that, prior to the investigating officer filing his or her final report, the victim shall be permitted to review it and provide a statement as to the accuracy of the report.

The bill also extends the statute of limitations for video voyeurism beyond the applicable two- and three-year limits to authorize commencement of prosecutions within one year from either the date upon which the victim learns of the existence of the video recording or from the date the recording is confiscated by law enforcement, whichever occurs first.

The bill adds crimes to the list of offenses for which an additional \$151 dollar surcharge will be assessed against a defendant in order to fund the Rape Crisis Program Trust Fund.

Further, the bill requires the court, upon a victim’s request, to order a defendant to undergo HIV and hepatitis testing within 48 hours of the filing of an indictment or information or, if later, within 48 hours after the victim’s request. The court is required to order testing pursuant to the victim’s request under this provision when the defendant is charged with: 1) a specified sexual offense and the victim is a minor, or an elderly person or disabled adult, regardless of whether it involved the transmission of body fluids; or 2) a specified crime that involves the transmission of body fluids from one person to another. Follow-up testing is also required as determined by a physician.

The bill extends the prohibitions against child pornography to include controlling or intentionally viewing child pornography. The bill specifically adds an “image,” “data,” and “computer depiction” to the enumeration of the items that cannot be possessed, controlled, or viewed. The bill defines “intentionally view” to mean to deliberately, purposefully, and voluntarily view. It specifies that proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time. The bill amends the level-five offenses in the offense severity ranking chart to add the offenses of controlling or intentionally viewing child pornography to that list.

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Finally, the bill authorizes the Department of Legal Affairs to fund a nonprofit organization to educate adults and children about sexual abuse and provide other services, with a nonrecurring sum of \$1.5 million in fiscal year 2011-2012 from the General Revenue Fund.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/CS/HB 339 — Possession of Stolen Credit or Debit Cards by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Perman and others (CS/SB 920 by Criminal Justice Committee and Senator Ring)

The bill amends s. 817.60, F.S., to create a new offense relating to credit cards: A person commits unlawful possession of a stolen credit or debit card when the person knowingly possesses, receives, or retains custody of a credit or debit card that has been taken from the possession, custody, or control of another person without the cardholder's consent and with the intent to impede recovery of the card by the cardholder.

The new possession offense is a third degree felony (pursuant to s. 817.67(2), F.S.).

The new possession offense does not apply to a retailer or retail employee who, in the ordinary course of business, possesses, receives, or returns a credit card or debit card that the retailer or retail employee does not know was stolen or possesses, receives, or retains a credit card or debit card that the retailer or retail employee knows is stolen for the purpose of an investigation into the circumstances regarding the theft of the card or its possible unlawful use.

If approved by the Governor, these provisions take effect October 1, 2011.

SB 344 — Animal Cruelty by Senator Rich

The bill creates s. 828.126, F.S.

The bill prohibits, as a first-degree misdemeanor, knowingly engaging in sexual conduct or contact with an animal. Sexual conduct and sexual contact are defined in the bill. It also prohibits, with the same penalty, knowingly:

- aiding or abetting another in committing the conduct or contact;
- permitting the acts to be conducted on one's premises; or
- organizing, promoting, participating as an observer in, or performing services to facilitate the acts for commercial or recreational purposes.

Accepted animal husbandry practices, conformation judging practices, and accepted veterinary medical practices are specifically exempted from prosecution under the bill.

If approved by the Governor, these provisions take effect October 1, 2011.

HB 347 — Vehicle Crashes Involving Death by Rep. Diaz and others (SB 514 by Senators Garcia and Diaz de la Portilla)

The bill provides that a person who is arrested for failure to stop a vehicle at the scene of an accident involving the death of any person and who has previously been convicted of leaving the scene of an accident, racing on highways, driving under the influence, or felony driving while license suspended, revoked, canceled, or disqualified must be held in custody until first appearance for a bail determination. This change prevents judges who issue warrants for failure to stop a vehicle at the scene of an accident

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involving death from setting a predetermined bond amount in an arrest warrant. It also prevents local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

If approved by the Governor, these provisions take effect October 1, 2011.

CS/CS/CS/CS/HB 353 — Drug Screening/Beneficiaries of TANF by Health and Human Services Committee; Judiciary Committee; Rulemaking and Regulation Subcommittee; Health and Human Services Access Subcommittee; and Rep. Smith and others (CS/CS/SB 556 by Budget Committee; Criminal Justice Committee; and Senators Oelrich, Dockery, Garcia, and Gaetz)

The bill creates s. 414.0652, F.S., requiring the Department of Children and Families (DCF) to perform a drug screening for temporary cash assistance applicants as a condition of eligibility. The bill provides the following:

- DCF shall require a drug test consistent with s. 112.0455, F.S.
- All applicants for Temporary Assistance to Needy Families (TANF) shall be drug screened as a condition of eligibility to receive cash assistance benefits.
- Applicants who test positive for controlled substances will be disqualified from receiving temporary cash assistance for 1 year, unless the individual chooses to seek substance abuse treatment. If the individual chooses to seek treatment, he or she can reapply for TANF funds within a 6-month time frame. This is a one-time option.
- DCF must inform applicants who test positive of the ability to apply again one year from the date of the positive test, or within 6 months upon completion of a substance abuse program. Applicants who test positive again will be ineligible to receive TANF benefits for 3 years from the date of the second positive test.
- If a parent tests positive for controlled substances, DCF may designate a “protective payee” to receive the cash assistance benefits on behalf of a dependent child. Alternatively, the parent may choose an immediate family member to receive benefits on behalf of the child or DCF may approve another individual to receive the benefits; a person so designated by the parent or approved by DCF also must undergo drug testing.
- The cost of drug testing will be paid by the individual applicant.
- DCF will be required to provide any individual who tests positive for controlled substances with information concerning drug abuse and treatment programs in the area in which he or she resides. The bill specifies that neither DCF nor the state is responsible for providing or paying for substance abuse treatment as part of screening under this section.
- DCF is authorized to adopt rules as necessary to implement the law.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/CS/HB 369 — Faith- and Character-Based Correctional Programs by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Rouson and others (CS/SB 2010 by Criminal Justice Committee and Senator Braynon)

This bill amends s. 944.803, F.S., which governs faith-based programs in state correctional institutions. Because some existing programs are not based on religious principles, the bill adds references to “character-based programs” and “secular institutions.” The bill also clarifies that the statute’s requirements are applicable to institution-wide programs as well as dormitory-based programs. Additionally, the bill: (1) removes the requirement that 80 percent of the inmates in a dormitory-based program must be within 36 months of release; (2) eliminates the statutory preference for admitting inmates who have a substance abuse issue; and (3) provides that peer-to-peer programs, such as Alcoholics Anonymous and literacy instruction, must be allowed within faith and character-based institutions of the state correctional system.

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The bill also expresses legislative intent for the Department of Corrections to expand the use of faith- and character-based institutions and encourages the phasing-out of dormitory-based programs.

If approved by the Governor, these provisions take effect on July 1, 2011.

CS/SB 400 — Treatment-based Drug Court Programs by Criminal Justice Committee and Senators Wise, Fasano, Latvala, and Joyner

This bill provides for additional sentencing options for a statutorily restricted population of defendants and community supervision offenders who might successfully, and safely, be diverted from the prison system into existing postadjudicatory drug court programs. The target population consists of offenders who have a substance abuse or addiction problem that is amenable to treatment and who are currently in the criminal justice system because of a nonviolent felony offense.

Entry into the postadjudicatory drug court program is also expanded to include offenders who violate their probation or community control for any reason.

Whether having violated community supervision or before the court for sentencing on a substantive law violation, the candidate for a postadjudicatory drug court program may not score more than 60 sentencing points, shall be before the court for sentencing on a nonviolent felony, and must show by a drug screening and the court's assessment that he or she is amenable to substance abuse or addiction treatment. The defendant or offender must agree to enter the program. The state attorney and victim, if any, must be consulted. Successful completion of the program is a condition of a probation or community control sentence.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 409 — Public Records/Intelligence/Investigative Information by Government Operations Subcommittee and Rep. Perry (CS/SB 1168 by Criminal Justice Committee and Senators Oelrich and Lynn)

The bill amends s. 119.071, F.S., to expand the current public-records exemption in that section for any criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of the victim of certain sexual offenses, regardless of whether it identifies the victim. Specifically, the bill expands the exemption to include that same information in the case of a victim of the sexual offense of video voyeurism under s. 810.145, F.S.

The bill provides that the exemption stands repealed on October 2, 2016, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity for the expansion of the exemption as required by the Florida Constitution.

The bill also reenacts sections of law pertaining to judicial proceedings and court records to incorporate the changes made by the bill, thereby ensuring the exemption applies to judicial proceedings and court records involving a victim of the sexual offense of video voyeurism.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 411 — Public Records/Photos and Recordings/Killing of Person by State Affairs Committee and Rep. Burgin (CS/CS/SB 416 by Judiciary Committee; Criminal Justice Committee; and Senator Bogdanoff)

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This bill creates an exemption from public records requirements for photographs and video and audio recordings that depict or record the killing of a person. (The exemption is comparable to the public records exemption in s. 406.135, F.S., relating to photographs and video and audio recordings of an autopsy held by a medical examiner.) The exemption is subject to the Open Government Sunset Review Act and as such, will be repealed on October 2, 2016, unless reviewed and reenacted by the Legislature.

The exemption permits a surviving spouse to view, listen, and copy these photographs and video and audio recordings that depict or record the killing of a person. If there is no surviving spouse, then the deceased's surviving parents may view and copy them. If there are no surviving parents, then an adult child of the deceased may view and copy them. The surviving relative who has the authority to view and copy these records is authorized to designate in writing an agent to obtain the exempted records.

Additionally, federal, state, and local governmental agencies, upon written request, may have access to these records in the performance of their duties. Other than these exceptions, the custodian is prohibited from releasing the records to any other person not authorized under the exemption without a court order. Knowingly violating these provisions is a third degree felony.

The public records exemption created in the bill is given retroactive application, with exceptions. The public records exemption created in the bill does not apply to any order in effect on July 1, 2011, which was duly entered by a court of this state and which restricts or limits access to any photograph or video or audio recording that depicts or records the killing of a person.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/CS/HB 563 — Injunctions for Protection Against Violence by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Jones and others (CS/SB 438 by Criminal Justice Committee and Senator Hill)

This bill requires (in addition to the notice requirements on law enforcement for serving an injunction for protection) that the Florida Association of Court Clerks and Comptrollers, subject to available funding, develop an automated process by which a petitioner may request notification that a respondent has been served with a protective injunction against domestic violence, repeat violence, dating violence, or sexual violence, as well as other court actions related to the injunction. The association may apply for any available grants to help fund the notification system. Notification must be made within 12 hours after the sheriff or other law enforcement officer has served the protective injunction. The notification must include, at a minimum, the location, date, and time that the protective injunction was served.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/SB 618 — Juvenile Justice by Criminal Justice Committee and Senator Evers

The bill repeals numerous sections and provisions containing obsolete language in ch. 985, F.S., to more accurately reflect current practices within the Department of Juvenile Justice (DJJ). The specific provisions which the bill deletes include the following:

- Serious or habitual juvenile offender programs and intensive residential treatment programs for offenders under 13 which are underutilized and not needed anymore;
 - Sheriff's Training and Respect programs which have not been operational since 2008;
 - Inspectors within the Inspector General's Office being sworn law enforcement officers when deemed necessary by the Secretary of DJJ (DJJ has never had sworn law enforcement officers);
- and

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- Juvenile Justice Standards and Training Commission which provided staff development and training, except that since it expired in 2001, the department has taken over its training duties.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 997 — Juvenile Civil Citations by Justice Appropriations Subcommittee and Rep. Pilon and others (CS/SB 1300 by Criminal Justice Committee and Senator Storms)

This bill requires juvenile civil citation programs or other similar diversion programs to be established at the local level. Currently, these local diversion programs are discretionary. The bill specifies that they may be operated by any number of entities, including law enforcement, the Department of Juvenile Justice (DJJ), a juvenile assessment center, the county or city, or an entity selected by the county or city. Unlike current law, only first-time juvenile misdemeanants will be eligible to participate in a civil citation program. (Current law allows second-time juvenile misdemeanants to participate.) The bill also provides that intervention services will be required during the civil citation program if a needs assessment determines such services are necessary.

Finally, the DJJ is required to encourage and assist with the implementation and improvement of civil citation programs or other similar diversion programs around the state. The DJJ must also develop guidelines for the civil citation program which include intervention services. The guidelines must be based on proven civil citation programs or other similar diversion programs within Florida.

If approved by the Governor, these provisions take effect July 1, 2011.

HB 1029 — Interstate Compact for Juveniles by Rep. Brodeur (SB 1494 by Senator Evers)

The bill reenacts the statutes relating to the Interstate Compact for Juveniles (compact) and the State Council for Interstate Juvenile Offender Supervision (council) that expired by operation of law on August 26, 2010. The compact governs interstate movement of juveniles on probation and parole as well as extradition across state lines of runaways, escapees, absconders, and juveniles charged as delinquent. The bill reenacts the compact to do the following:

- Creates the Interstate Commission, which is an independent compact administrative agency with the authority to administer ongoing compact activity;
- Provides rule making authority for the Interstate Commission;
- Establishes a mechanism for all states to collect standardized information and information systems;
- Provides for sanctions against states that do not follow compact rules and regulations;
- Provides for gubernatorial appointments of representatives from member states to the Interstate Commission;
- Provides a mandatory funding mechanism sufficient to support essential compact operations;
- Provides for coordination and cooperation with other interstate compacts; and
- Requires the creation of state councils.

The bill also reenacts the Interstate Juvenile Offender Supervision Council (council) to do the following:

- Requires that the council consist of seven members comprised of the Secretary of the Department of Juvenile Justice (DJJ), the compact administrator or his or her designee, the Executive Director of the Florida Department of Law Enforcement (FDLE) or his or her designee, and four remaining members to be appointed by the Governor, who may delegate this appointment power to the Secretary of DJJ in writing on an individual basis;
- Provides that appointees may include one victim's advocate, employees of the Department of Children and Family Services, employees of the FDLE who work with missing or exploited children, and a parent;
- Applies provisions of public records/open meetings requirements to the council's proceedings and records;

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- Supplies terms of office, record storage, property transfer, and reimbursement for travel and per diem expenses; and
- Creates additional duties and responsibilities for the compact administrator.

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

CS/HB 1039 — Controlled Substances by Justice Appropriations Subcommittee and Rep. Patronis and others (CS/SB 1886 by Budget Committee and Senators Wise and Oelrich)

The bill amends s. 893.13(1)(c), F.S., to schedule in Schedule I of Florida's controlled substance schedules several psychoactive substances or "designer drugs" that have been sold in Florida as "bath salts" but are actually drugs of abuse. These substances are:

- 3,4-Methylenedioxy-methcathinone.
- 3,4-Methylenedioxy-pyrovalerone (MDPV).
- Methylenedioxy-methcathinone.
- Methoxy-methcathinone.
- Fluoro-methcathinone.
- Methylethcathinone.

The effect of the scheduling of these substances is that offenses relating to possession, sale, etc., of Schedule I controlled substances will apply to these substances.

If approved by the Governor, these provisions take effect July 1, 2011.

Insurance

CS/CS/HB 99 — Commercial Insurance Rates by Economic Affairs Committee; Insurance and Banking Subcommittee; Rep. Drake and others (CS/CS/SB 178 by Banking and Insurance Committee, Commerce and Tourism Committee and Senator Oelrich)

The bill amends the insurance “Rating Law,” to expand the number of specified types of commercial lines insurance that are exempt from the rate filing and review requirements of s. 627.062(2)(a) and (f), F.S. The bill adds the following types of insurance to be exempt:

- General liability insurance;
 - Nonresidential property insurance, except collateral protection insurance;
 - Nonresidential multiperil insurance;
 - Excess property insurance; and
- Burglary and theft insurance.

The bill further specifies that the current statutory exemption for directors and officers, employment practices and management liability coverage is also to include fiduciary liability coverage.

The bill expands the commercial motor vehicle insurance coverage that is exempt from specified rate filing and review requirements. Currently, commercial motor vehicle insurance covering a fleet of 20 or more vehicles is exempt from: s. 627.0651(1), F.S., requiring certain rate filing information; s. 627.0651(2), F.S., requiring the OIR to review the rate filing; s. 627.0651(9), F.S., allowing the OIR to require information necessary to evaluate the filing; and s. 627.0645, F.S., requiring annual rate filings. The bill expands this exemption to apply to all commercial motor vehicle insurance, regardless of the size of the fleet being covered.

An insurer or rating organization that implements a rate change under any of these exemptions must notify the Office of Insurance Regulation (OIR) of any changes to rates for these exempted types of insurance within 30 days after the effective date of the change. The bill requires that actuarial data with regard to the rates must be maintained by the insurer or rating organization for two years, instead of the current statutory requirement that an insurer must keep underwriting files, premiums, losses, and expense statistics, and a rating organization must keep loss and exposure statistics applicable to loss costs. The bill deletes current law which allows the OIR to require information to be submitted at the insurer’s or rating organization’s expense, but the bill replaces that provision with the requirement that the insurer or rating organization must incur the cost of any examination required by the OIR. The bill also removes the current statutory requirement that for insurers, the 30-day notice must include the total premium written on the product during the immediately preceding year.

If approved by the Governor, these provisions take effect October 1, 2011.

CS/CS/CS/SB 408 — Property and Casualty Insurance by Rules Committee, Budget Subcommittee on General Government Appropriations, Banking and Insurance Committee and Senators Richter and Hays CS/CS/CS for SB 408 makes numerous changes to laws related to property insurance, primarily residential property insurance.

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Time Limits for Claims and Statute of Limitations The bill places time limits for bringing a hurricane or sinkhole claim and also creates a statute of limitations for bringing a breach of contract property insurance action in court. A claim, supplemental claim, or reopened windstorm or hurricane claim must be given to the insurer within 3 years after the hurricane first makes landfall or the windstorm causes covered damage. An initial, supplemental or reopened sinkhole claim must be given to the insurer within 2 years after the policyholder knew or reasonably should have known about the sinkhole loss. The bill also enacts a 5 year statute of limitations for bringing an action for the breach of a property insurance contract that runs from the date of loss.

Florida Hurricane Catastrophe Fund The bill requires the Florida Hurricane Catastrophe Fund (Cat Fund) to provide reimbursement for all incurred losses, including amounts paid as fees on behalf of the policyholder. However, the bill also specifies a number of losses that are excluded from payment.

Insurance Capital Build-Up Incentive Program The bill authorizes the State Board of Administration (Board) and private market insurers to renegotiate the terms of a surplus note issued pursuant to the Insurance Capital Build-Up Incentive Program before January 1, 2011. If the insurer agrees to accelerate the payment period of the note by at least 5 years, the Board must agree to exempt the insurer from the premium-to-surplus ratios required by statute. If the insurer agrees to accelerate the payment period for less than 5 years, the Board may agree to an appropriate revision of the premium-to-surplus ratios after consulting with the Office of Insurance Regulation, subject to a minimum writing ratio of net premium to surplus of at least 1 to 1 or of gross premium to surplus of at least 3 to 1.

Surplus Requirements The bill raises the surplus requirements for insurers transacting residential property insurance that are not a wholly owned subsidiary of an insurer domiciled in another state. For a new insurer, the bill raises the surplus requirement from \$5 million to \$15 million. An existing insurer that holds a certificate of authority before July 1, 2011, must have a surplus of at least \$5 million until June 30, 2016; from July 1, 2016 until June 30, 2021, a surplus of at least \$10 million; and on or after July 1, 2021, a surplus of at least \$15 million.

Public Adjusters The bill limits public adjuster fees related to reopened or supplemental claims to a maximum of 20 percent of the reopened or supplemental claim payment. The bill also limits public adjuster fees to 20 percent of an insurance claim payment made by the insurer more than one year after events that are the subject of a declaration of a state of emergency by the governor. A public adjuster fee related to a policy issued by Citizens Property Insurance Corporation may not exceed 10 percent of the additional amount actually paid in excess of the amount originally offered by Citizens on the claim. Public adjusters are prohibited from making deceptive or misleading advertisements or solicitations. Written solicitations must include a disclaimer notifying the consumer that a solicitation is being made. A public adjuster contract related to a property and casualty insurance claim must contain the full name of the public adjuster and public adjusting firm, the business address, license number, and other specified information. Public adjusters must give prompt notice of a property loss claim to the insurer and include with the notice the public adjuster's employment contract. The public adjuster must also ensure that the insurer has access to inspect the property, can interview the insured directly about the loss and claim, and allow the insurer to obtain information necessary to investigate and respond to the claim. The insurance

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company's adjuster or other persons acting on the insurer's behalf must provide at least 48 hours notice before scheduling an inspection of the property or a meeting with the claimant. The insurer also must allow the public adjuster to be present during the insurer's in-person meetings with the insured. The bill requires licensed contractors to be licensed as a public adjuster in order to adjust a claim on behalf of the insured.

Rate Standards The bill requires property insurance rate filings to be submitted via the "file and use" method until May 1, 2012. In a "file and use" rate filing the insurer must receive approval from the Office of Insurance Regulation before implementing the insurer's proposed rate. Residential property insurers are authorized to make a separate rate filing limited solely to an adjustment of its rates for reinsurance and financing products used as a replacement for reinsurance. The rate filing may not result in a premium increase of more than 15 percent for an individual policyholder and must be approved or disapproved by the Office of Insurance Regulation within 45 days. The OIR retains the authority to deny the filing if the proposed rate is excessive, inadequate, or unfairly discriminatory. An insurer may make only one such filing per 12-month period. The procedure created by the bill expands a provision in current law that authorizes a 10 percent rate increase per policyholder that is solely based on reinsurance that replaces Temporary Increase in Coverage Limits reinsurance from the Florida Hurricane Catastrophe Fund. The bill specifies that that the sworn certification of a property insurance rate filing is not rendered false if the insurer provides the Office of Insurance Regulation with additional information pursuant to a request from the Office. The insurer's actuary responsible for providing the additional information must provide an additional sworn certification.

Citizens Property Insurance Corporation The bill renames the Citizens "high risk" account the "coastal" account. Under current law, Citizens is authorized to offer policies that provide coverage only for the peril of wind for risks located within the coastal account. The high risk area of the coastal account consists of areas that were eligible for coverage in the Florida Windstorm Underwriting Association, essentially coastal areas at high risk for a hurricane. The bill repeals the requirement to reduce the high-risk area after December 1, 2010, if necessary to reduce the probable maximum loss attributable to wind-only coverages to 25 percent below the "benchmark" for the high-risk area, which is defined in statute as the 100-year probable maximum loss for the Florida Windstorm Underwriting Association based on its November 30, 2000 exposures. The bill also repeals a requirement to reduce the high-risk area after February 1, 2015, by 50 percent below the benchmark. The requirement that the Citizens board issue an annual report showing the reduction or increase in the 100-year probable maximum loss attributable to wind only coverages and the quote share program is also repealed. The bill specifies that Citizens may not levy regular assessments until the full Citizens policyholder surcharge has been levied. The bill also specifies that the Citizens policyholder surcharge must be paid upon cancellation, termination, or renewal of an existing policy or upon issuance of every new policy issued within 12 months after the surcharge is levied or the time needed to fully collect the policyholder surcharge. As of January 1, 2012, Citizens must require agents to obtain from applicants for coverage a signed Acknowledgment of Potential Surcharge and Assessment Liability form. The form details that Citizens policyholders are subject to a Citizens policyholder surcharge of up to 45 percent of premium and emergency assessments. Citizens policies issued or renewed on or after January 1, 2012, which cover sinkhole loss may not include coverage for losses to appurtenant structures, sidewalks, decks, or patios that are caused by sinkhole activity. Citizens

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must exclude such coverage using a notice of coverage change, which may be included with the policy renewal. Citizens Board of Governors must commission an independent third-party consultant with insurance company management expertise to prepare a report and make recommendations on the costs and benefits of outsourcing policy issuance and service functions to private servicing carriers. The report must be completed and submitted to the Citizens board by July 1, 2012. The board must subsequently develop a plan to implement the consultant's report and submit the plan to the Financial Services Commission for review, modification, and approval. Upon the commission's approval of the plan, the Citizens board must begin implementing the plan by January 1, 2013. Members of the Citizens Board of Governors with insurance experience are deemed to be within the exception in s. 112.313(7)(b), F.S., that allows a public officer to practice a particular profession or occupation when required or permitted by law or ordinance. The bill also provides procedures for board members who have a conflict of interest regarding a particular matter. A Citizens board member may not vote on any measure that would inure to the gain or loss of the board member; the board member's corporate principal or the parent or subsidiary of the corporate principal; or the relative or business associate of the board member. A board member with a conflict must publicly state his or her interest in the matter prior to the vote being taken. The board member must also provide written disclosure of the conflict within 15 days after the vote, and the disclosure must be included in the minutes of the board meeting and available as a public record.

Notice of Cancellation The bill revises the notice of cancellation, nonrenewal or termination requirements for personal lines and commercial lines residential property insurance policies. At least 120 days notice must be given to a named insured whose residential structure has been insured by the insurer or its affiliate for at least 5-years. Under current law 180 days notice must be provided for the cancellation, nonrenewal, or termination of such policies. The bill authorizes the nonrenewal of a policy that covers both a home and a motor vehicle for any reason applicable to either the property or motor vehicle insurance, so long as the insurer provides 90 days notice of the nonrenewal. The notice of cancellation requirement for a Citizens policy that has been assumed by an authorized "take out" insurer is reduced to 45 days. The bill also authorizes an insurer to cancel or nonrenew a property insurance policy if the Office of Insurance Regulation finds that the early cancellation is necessary to protect the best interests of the public or policyholders. The Office may base its finding upon the financial condition of the insurer, the insurer's lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The nonrenewal may be conditioned upon the insurer being placed under administrative supervision or to the appointment of a receiver.

Notice of Change in Policy Terms The bill authorizes insurers to renew a property and casualty insurance policy under different policy terms by providing to the policyholder a written "Notice of Change in Policy Terms" instead of a written "Notice of Non-Renewal." The Notice must be titled "Notice of Change in Policy Terms," give the insured written notice of the change, and be enclosed with the written notice of renewal premium. The insured is deemed to have accepted the change in policy terms upon the insurer's receipt of the premium payment for the renewal policy. If the insurer fails to provide the Notice of Change in Policy Terms the original policy terms remain in effect.

Replacement Cost Coverage The bill modifies how insurers must pay dwelling or personal property losses on a replacement cost basis. For a dwelling loss, the insurer must initially pay the actual cash value,

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minus the deductible. Subsequently the insurer must pay any amounts necessary to perform repairs as work is performed. If a total loss of a dwelling occurs, the insurer must pay the entire replacement cost coverage without holdback of depreciation in value pursuant to the Valued Policy Law. For personal property losses insured on a replacement cost basis, the insurer must offer two claim payment options. The first option requires the insurer to pay the replacement cost without holdback of depreciation, regardless of whether the insured replaces the property. The second option allows the insurer to limit the initial payment to the actual cash value of the personal property to be replaced. To receive payment from the insurer for the full replacement value of the personal property, the insured must provide a receipt for the replaced property to the insurer. A policy authorizing the insurer to require replacement of personal property prior to paying the full replacement cost must provide the policyholder with a premium credit or discount and the insurer must provide clear notice of the payment process before the policy is bound.

Sinkhole and Catastrophic Ground Cover Collapse Insurance The bill enacts numerous revisions and clarifications to ss. 627.706-627.7074, F.S., governing sinkhole and catastrophic ground cover collapse insurance. The bill authorizes insurers to restrict catastrophic ground cover collapse and sinkhole loss coverage to the principal building as defined in the insurance policy. The bill also allows an insurer to require a property inspection prior to issuing sinkhole loss coverage. The bill clarifies that additional living expense coverage is only available pursuant to a sinkhole loss if there is structural damage to the covered building. The bill changes the definition of “sinkhole loss,” primarily by creating a statutory definition of “structural damage.” A sinkhole loss is defined in statute as structural damage to the covered building, including the foundation, caused by sinkhole activity. The bill creates a detailed definition of “structural damage” for purposes of determining whether a sinkhole loss has occurred. The definition specifies five distinct types of damage that constitute structural damage. Each type of damage is tied to standards contained in the Florida Building Code or used in the construction industry. Accordingly, in order for the policyholder to obtain policy benefits for sinkhole loss, the insured structure must sustain structural damage as defined by the bill that is caused by sinkhole activity.

Investigation of Sinkhole Claims – The bill creates a substantially new process for an insurer’s investigation of a sinkhole claim. The process requires the insurer to determine whether: (1) the building has incurred structural damage that (2) has been caused by sinkhole activity. Coverage for sinkhole loss is not available if structural damage is not present or sinkhole activity is not the cause of structural damage. The new process is as follows:

- ***Initial Inspection & Structural Damage Determination:*** Upon receipt of a claim for sinkhole loss, the insurer must inspect the policyholder’s premises to determine if there has been structural damage which may be the result of sinkhole activity. This inspection will often require the insurer to retain a professional engineer to evaluate whether the insured building has incurred structural damage as defined by statute.
- ***Sinkhole Testing Initiated by the Insurer:*** The insurer is required to engage a professional engineer or professional geologist to conduct sinkhole testing pursuant to s. 627.7072, F.S., if the insurer confirms that structural damage exists and is either unable to identify a valid cause of the structural damage or discovers that the structural damage is consistent with sinkhole loss. If coverage is excluded under the

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policy even if sinkhole loss is confirmed, then the insurer is not required to conduct sinkhole testing.

- *Notice to the Policyholder:* The bill maintains the requirement that the insurer must provide written notice to the policyholder detailing what the insurer has determined to be the cause of damage (if the determination has been made) and a statement of the circumstances under which the insurer must conduct sinkhole testing. The policyholder must also be notified of his or her right to demand sinkhole testing and the circumstances under which the policyholder may incur costs associated with testing.
- *Authorization to Deny Sinkhole Claim:* Insurers may continue to deny the claim upon a determination that there is no sinkhole loss.
- *Policyholder Demand for Sinkhole Testing:* The bill specifies that the policyholder may demand sinkhole testing in writing within 60 days after receiving a claim denial if the insurer denies the claim without performing sinkhole testing and coverage would be available if a sinkhole loss is confirmed (i.e. the claim denial was not issued due to policy conditions or exclusions of coverage and instead was based the failure of the loss to meet the definition of sinkhole loss). However, if the policyholder requests such testing, it must pay the insurer 50 percent of the sinkhole testing costs up to \$2,500. If the requested testing confirms a sinkhole loss the insurer must reimburse the testing costs to the policyholder.

Payment of Sinkhole Claims – The insurer continues to be required to pay to stabilize the land and building and repair the foundation upon the verification of a sinkhole loss. Payment shall be made to conduct such repairs in accordance with the recommendations of the professional engineer retained by the insurer under s. 627.707(2), F.S. The bill also clarifies that the insurer is required to give notice to the policyholder regarding payment of the claim. The bill revises the statutory authorization specifying that the insurer may limit payment to the actual cash value of the sinkhole loss not including below-ground repair techniques until the policyholder enters into a contract for the performance of building stabilization repairs. The bill requires the contract for below-ground repairs to be made in accordance with the recommendations set forth in the insurer’s sinkhole report issued pursuant to s. 627.7073, F.S., and entered into within 90 days after the policyholder receives notice that the insurer has confirmed coverage for sinkhole loss. The time period is tolled if either party invokes neutral evaluation. Stabilization and all other repairs to the structure and contents must be completed within 12 months after the policyholder enters into the contract for repairs unless the insurer and policyholder mutually agree otherwise, the claim is in litigation, or the claim is in neutral evaluation, appraisal or mediation. The bill specifies that if a covered building suffers a sinkhole loss or catastrophic ground cover collapse, the insured must repair such damage in accordance with the insurer’s professional engineer’s recommended repairs. However, if repairs cannot be completed within policy limits, the insurer has the option to either pay to complete the recommended repairs or tender policy limits.

Prohibition Against Rebates – The policyholder is prohibited from accepting a rebate from a person performing sinkhole repairs. If the policyholder does receive a rebate, coverage under the insurance policy is rendered void and the policyholder must refund the amount of the rebate to the insurer.

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Furthermore, a person who offers a rebate commits insurance fraud punishable as a third degree felony as provided in s. 775.082, F.S. (up to 5 years imprisonment), s. 775.083, F.S. (up to a \$5,000 fine), and s. 775.084, F.S. (for a habitual felony offender up to 10 years imprisonment with no eligibility for release for 5 years).

Nonrenewal of Policy Due to Sinkhole Claims – The circumstances that allow an insurer to nonrenew a policy on the basis of filing a sinkhole claim are modified. The policy may only be nonrenewed if the insurer makes payments for sinkhole loss that equal or exceed policy limits for damage to the covered building or the policyholder does not repair the structure in accordance with the engineering recommendations.

Sinkhole Testing Reports – The bill requires a sinkhole testing report to verify whether the structural damage to the covered building has been identified within a reasonable professional probability.

Filing of Reports With The Clerk of Courts – In addition to filing the sinkhole testing report with the Clerk of Court after paying a sinkhole loss claim, the bill requires the insurer to also file the neutral evaluator's report (if any), a copy of the certification indicating that stabilization has been completed (if applicable), and the amount of the claim payment. The policyholder must file a copy of any sinkhole report prepared on behalf of the policyholder as a precondition to accepting a sinkhole loss payment.

Certification of Proper Completion of Sinkhole Repairs – Once building stabilization or foundation repairs of a sinkhole loss are completed, the professional engineer responsible for monitoring the repairs must issue a report to the property owner detailing the repairs performed and certifying that the repairs were performed properly. The professional engineer must file with the Clerk of Court a copy of the report and certification, the legal description of the real property, and the name of the county clerk of court.

Neutral Evaluation of Disputed Sinkhole Claims – The bill specifies that neutral evaluation must determine causation (whether a sinkhole loss has occurred and, if so, whether the observed damage was caused by sinkhole activity); all methods of stabilization and repair both above and below ground; the costs for stabilization and all repairs; and all information needed to determine whether a sinkhole loss has been verified and render an opinion on all matters at dispute in the neutral evaluation. The neutral evaluator must be provided with information necessary to perform his or her duties. The bill requires that the neutral evaluator must be allowed reasonable access to the interior and exterior of the insured structures to be evaluated or for which a claim has been made. The policyholder must provide the neutral evaluator with all reports initiated on behalf of the policyholder that confirm a sinkhole loss or dispute the insurer's sinkhole testing report. Such materials must be provided prior to the neutral evaluator's physical inspection of the property. The bill revises the procedures and time frames for conducting the neutral evaluation. The parties are provided 14 business days to agree to a neutral evaluator. If an agreement cannot be reached, the Department of Financial Services (DFS) shall appoint a certified neutral evaluator. Each party may disqualify two neutral evaluators without cause; a reduction from 3 disqualifications under current law. The neutral evaluator has 14 business days after the referral to notify the parties of the date, time and place of the neutral evaluation conference; an increase from 5 business days in current law. The neutral evaluator must make a reasonable effort to hold the conference within 90

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days after the DFS has received the request for neutral evaluation. Failure to conduct the conference within 90 days does not invalidate either party's right to neutral evaluation. Current law requires that the neutral evaluation conference be held within 45 days. The neutral evaluator's report must be provided to the parties within 14 days after the completion of the neutral evaluation conference. A court proceeding related to the neutral evaluation must be stayed until 5 days after the filing of the neutral evaluator's report with the court. If the neutral evaluator is not qualified to determine a disputed issue, he or she may enlist the assistance of another certified neutral evaluator, a professional engineer or professional geologist who is not a certified neutral evaluator, or a licensed general contractor to provide an opinion on that issue. Such person may be disqualified for cause in the same fashion as a neutral evaluator. The neutral evaluator may also request that the entity that performed the sinkhole investigation perform additional and reasonable testing that the neutral evaluator deems necessary. If the insurer agrees to comply with the neutral evaluator's report, payments shall be made in accordance with the terms of the applicable insurance policy and s. 627.707(5), F.S. The bill also makes the following changes related to the neutral evaluation process:

- Specifies that neutral evaluation does not invalidate an insurance policy's appraisal clause.
- Allows the parties to disqualify a neutral evaluator for cause based on specified familial or professional relationships.
- Requires admission of the neutral evaluator's oral testimony and full report in any action, litigation or proceeding related to the claim.
- Specifies that the actions of the insurer in neutral evaluation are not a confession of judgment or an admission of liability.

Deems neutral evaluators agents of the Department of Financial Services and grants them immunity from suit pursuant to s. 44.107, F.S.

Legislative Intent – The bill states that the clarifications and revisions to ss. 627.706-627.7074, F.S., are intended to reduce the number and cost of sinkhole claims and disputes, increase reliance on scientific or technical determinations relating to sinkhole claims, and ensure that repairs are made in accordance with scientific and technical determinations and insurance claims payments.

Other Provisions The bill:

- Repeals the consumer advocate report card for property insurers.
- Repeals an obsolete requirement that the Office of Insurance Regulation develop a standard rating territory plan for residential property insurance by January 15, 2006.
- Authorizes the public hurricane loss projection model to charge a private market insurer fees for use of the model related to the reasonable costs associated with the operation and maintenance of the model.
- Repeals a requirement that the Office of Insurance Regulation develop a method to directly correlate property insurance hurricane mitigation discounts and credits with the Uniform Home Grading Scale.
- Clarifies that the requirement that an insurer must pay property insurance claim within 90 days of

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receiving notice of the claim applies to reopened and supplemental claims.

- Clarifies that inquiries about coverage on a property insurance contract are not claim activity unless a claim is filed by the policyholder which results in an insurer investigation of the claim.
- Repeals the electronic database of sinkhole activity.
- Specifies that the insurer may request at its own expense the verification a uniform hurricane mitigation verification provided to the insurer by the policyholder or policyholder's agent in addition to forms provided by an authorized mitigation inspector.

Provides that all provisions of the act are severable from any provision that is held invalid.

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

HB 469 — Individual Retirement Accounts by Rep. Stargel (SB 978 by Senator Flores and Diaz de la Portilla)

The bill amends s. 222.21(2)(c), F.S., to provide that an Individual Retirement Account (IRA) exempt from creditors under s. 222.21(2)(a), F.S., would continue to be exempt if the original IRA were transferred into an Inherited IRA.

The bill contains "whereas" clauses to express the Legislature's intent that an Inherited IRA, as defined in the Internal Revenue Code of 1986, was intended to be exempt from the claims of creditors and that the decisions in *Robertson v. Deeb* and *In re: Ard* are contrary to the Legislature's intent in 2005.

The bill amends s. 222.21(2)(c), F.S., to provide that an IRA exempt from creditors under s. 222.21(2)(a), F.S., would continue to be exempt if the original IRA were transferred into an Inherited IRA. Under the proposed changes, when an owner of an IRA passes away, his or her named beneficiary would continue to enjoy the protection from creditors that the original owner enjoyed under s. 222.21(2)(a), F.S. This protection would most likely extend to protection in bankruptcy proceedings, as well.

The bill contains language indicating the provisions are clarifying and shall apply retroactively to all Inherited IRA's regardless of when an Inherited IRA was created.

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

CS/HB 723 — Reciprocity of Workers' Compensation Claims by Insurance and Banking Subcommittee; and Rep. Weinstein and others (CS/CS/SB 1286 by Budget Committee; Banking and Insurance Committee; and Senator Bennett)

In Florida, the workers' compensation process is governed by ch. 440, F.S., which provides a detailed framework for coverage and benefit issues, as well as the process for resolving disputes. These provisions are specific to Florida and may be substantially different than those in other states. Section 440.09(1)(d), F.S., provides that if a Florida employee is injured while employed outside of Florida, and the injury would entitle the employee or dependents to compensation if it had happened in this state, the employee or his or her dependents are entitled to compensation. If, however, the employee receives compensation or damages under the laws of any other state, the total compensation for the injury may not be greater than is provided in ch. 440, F.S.

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Recently, however, a number of Florida employees, most notably former professional athletes, have begun to file for benefits under the workers' compensation laws of other states, particularly California. The claims are based on the premise that, although the employer and primary employment is in Florida, the injury was sustained in the other state.

The bill creates a process for reciprocity designed to ensure that if a Florida employee is injured in the course of employment while temporarily in another state, that employee is entitled to receive only the benefits required under Florida law, and not the benefits required by the law of the other state. To accomplish this purpose, the bill creates s. 440.094, F.S., to provide the following.

- If a Florida employee temporarily leaves the state incidental to his or her employment and is injured in the course of employment, that employee, or beneficiaries if the injury results in death, is entitled to the benefits as if the employee were injured in Florida.
- If an employee from another state is injured incidental to employment while temporarily in Florida, that employee and his or her employer are exempt from Florida law if: (1) the employer has workers' compensation insurance coverage under its own state laws; (2) the extraterritorial provisions of Florida law are recognized in the employer's state and; (3) employers and employees covered in Florida are exempted from the workers' compensation laws of the other state.
- If an employee from another state is injured incidental to employment while temporarily in Florida, the exclusive remedy against the employer are the workers' compensation laws of the other state.
- A certificate from the appropriate office of another state is prima facie evidence that an employer carries workers' compensation coverage in the other state.
- For any litigation in Florida that involves a question of construction of laws in another state, the Florida court shall take judicial notice of the laws of the other state.
- When an employee has a claim under workers' compensation in another jurisdiction for the same injury or occupational disease as a claim filed in Florida, the total amount of compensation derived from the other jurisdiction shall be credited against the compensation due under Florida Workers' Compensation Law.
- An employee is considered to be temporarily working in another state if the duration of that work does not exceed 10 consecutive days or 25 days during a calendar year.

The provisions of s. 440.094, F.S., apply to any claim made on or after July 1, 2011, regardless of the date of the accident.

If approved by the Governor, these provisions take effect July 1, 2011.

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CS/HB 1087 — Insurance by Economic Affairs Committee; and Rep. Holder (CS/CS/SB 1252 by Rules Committee; Budget Committee; and Senator Smith) In Florida, the Office of Insurance Regulation (OIR) regulates insurers and other risk-bearing entities. The Department of Financial Services (DFS) has regulatory authority over many insurance-related activities, including, but not limited to, insurance agents and agencies, investigation of insurance fraud, and the administration of the Workers' Compensation Law. The bill provides the following changes to these insurance-related activities:

Notification of the Cancellation, Nonrenewal, or Renewal of a Policy The bill revises the policyholder notification requirements for an insurer in transactions involving the nonrenewal, renewal, or cancellation of workers compensation, employer liability, commercial liability, motor vehicle, or other property and casualty insurance coverage. The bill changes the designated person or persons an insurer is required to notify from the "named insured" to the "first-named insured" in transactions involving the nonrenewal, renewal, or cancellation of such.

Workers' Compensation Insurance The bill allows for the use of a prepaid card for the provision of workers' compensation benefits to an injured employee if certain conditions are met. Currently, such benefits are payable by check or by direct deposit into the employee's account. The bill permits flexibility for insurers regarding the frequency of premium audits by providing that such audits are not required for coverage, except as provided by the insurance policy, by an order of the OIR, or at least once each policy period at the request of the insured. The bill provides that assessments for the Special Disability Trust Fund are determined on a calendar year basis rather than a fiscal year basis.

Certificate of Authority Requirements for Insurers The bill allows insurers domiciled outside of the U.S., that cover only persons who are nonresidents of the U.S., to be exempt from the certificate of authority provisions if certain conditions are met. Currently, life insurers are provided an exemption if certain conditions are met.

Licensure of Agents and Agencies The bill revises the requirements for disqualification of applicants convicted of certain crimes from agent and adjuster licensure by the DFS. The bill bars persons who commit specified felonies from applying for licensure and revises license waiting periods for other persons.

Motor Vehicle Insurance The bill creates a civil penalty for motor vehicle insurance fraud authorizing civil fines of up to \$5,000 for the first offense, \$10,000 for the second offense, and \$15,000 for third and subsequent offenses.

Service Warranty Associations The bill exempts a service warranty company from licensure requirements if the service warranties are only offered, marketed, or sold to nonresidents of Florida, and meets other requirements.

Surplus Lines Insurance The bill allows surplus lines insurance agents to place commercial insurance directly in the surplus lines market without requiring the agent to make a diligent effort to procure such coverage from an authorized insurer. The bill also requires the insured to sign a disclosure regarding surplus lines coverage.

Except if otherwise expressly provided in this act and except for section 20, which takes effect upon this act becoming a law, this act takes effect July 1, 2011.

Economic Security

CS/CS/CS/SB 88 — Public Employee Compensation by Governmental Oversight and Accountability Committee; Judiciary Committee; Community Affairs Committee; and Senators Gaetz and Storms

This bill prohibits bonuses paid to public employees unless the bonus is awarded to the employee of a public hospital from private funds or is awarded to government employees based on statutorily specified bonus criteria. Specifically, under the bill, any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

- Base the award of a bonus on work performance;
- Describe the performance standards and evaluation process by which a bonus will be awarded;
- Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and
- Consider all employees for the bonus.

This bill prohibits severance pay unless the severance pay is:

- Paid to the employee of a public hospital from private funds;
- Paid in an amount not greater than 20 weeks of compensation; or
- Paid as the result of a settlement agreement in an amount not to exceed 6 weeks of compensation.

Contracts for severance pay must include a provision stating that severance pay is not paid in cases of employee misconduct.

The bill defines severance pay as actual or constructive compensation including salary, benefits, or perquisites for employment services yet to be rendered which is provided to an employee who has recently been or is about to be terminated. The term does not include compensation for leave time, early retirement, or insurance subsidies.

The bill prohibits confidentiality clauses in agreements for extra compensation entered into after July 1, 2011.

The bill deletes provisions of law that are inconsistent with the provisions created in the bill.

If approved by the Governor, these provisions take effect July 1, 2011.

HB 639 — Affordable Housing by Rep. Aubuchon and others (SB 912 by Senators Bennett and Smith)

This bill removes the statutory limitation on documentary stamp tax revenues that go into the State and Local Government Housing Trust Funds and prohibits the use of affordable housing funds for new construction activities until July 1, 2012. The bill also provides targeted assistance for persons with special needs.

The bill allows the Florida Housing and Finance Corporation (FHFC) to receive federal funds for which no corresponding program has been created in statute and empowers local housing authorities to invest surplus funds. The bill provides preference for general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing and deletes current preference language. The bill also authorizes an inspector general position within the FHFC and deletes

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the requirement that the inspector general of the Department of Community Affairs serve that function on behalf of the FHFC.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/SB 926 — Liability/Employers of Developmentally Disabled by Commerce and Tourism Committee; and Senator Storms

CS/SB 926 creates a new section of the Florida Statutes to provide an employer who employs an individual who has a developmental disability with immunity from liability for negligent or intentional acts or omissions by that individual if:

- The employee receives or has received supported employment services through a supported employment service provider; and
- The employer does not have actual prior notice of the employee's actions that created the unsafe conditions in the workplace.

The bill also allows a supported employment service provider that has provided employment services to a person with a developmental disability to be immune from liability for the actions or conduct of the person that occur within the scope of the person's employment. The bill creates s. 768.0895, F.S.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/SB 1992 – Background Screening by Budget Committee; Children, Families, and Elder Affairs Committee; and Senator Storms

The bill makes a number of changes to background screening requirements, primarily pertaining to individuals who work with Florida's vulnerable populations. Those changes include:

- Exempting from fingerprinting and screening requirements, mental health personnel working in a facility licensed under ch. 395, F.S., who work on an intermittent basis for less than 15 hours a week of direct, face-to-face contact with patients, except that individuals working in a mental health facility where the primary purpose is the mental health treatment of minors must be fingerprinted and meet screening requirements;
- Revising the list of professionals to include law enforcement officers so that officers are not required to be re-fingerprinted or rescreened if they are working or volunteering in a capacity that would otherwise require them to be screened;
- Exempting, from the definition of "direct service provider;" individuals who are related to the client, the client's spouse, and volunteers who assist on an intermittent basis for less than 20 hours of direct, face-to-face contact with a client per month;
- Exempting, from any additional Level 2 background screening requirements, an individual who was background screened pursuant to an Agency for Health Care Administration (AHCA) licensure requirement if they are providing a service within the scope of their licensed practice;
- Allowing the Department of Elderly Affairs (DOEA) to adopt rules to implement a schedule to phase in the background screening of individuals serving as direct service providers on July 31, 2010. The phase in must be completed by July 1, 2012;

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- Specifying that employers of direct service providers previously qualified for employment or volunteer work under Level 1 screening standards, and individuals required to be screened according to the Level 2 screening standards, shall be rescreened every five years, except in cases where fingerprints are electronically retained and monitored by the Department of Law Enforcement (FDLE);
- Removing a provision relating to criminal offenses that was inadvertently applied to the DOEA;
- Requiring fingerprint vendors to meet certain technology requirements;
- Establishing a July 1, 2013, date for retention of prints for persons screened under ch. 435, F.S.;
- Allowing an employer to hire an employee for the purpose of training and orientation before the employee completes the screening process. The employee may not have direct contact with vulnerable persons until the screening process is complete;
- Providing personnel of a qualified entity, as defined in ch. 943, F.S., with the ability to apply for an exemption from disqualification from being employed;
- Establishing a rescreening schedule for individuals required by the AHCA to be screened;
- Requiring the Board of Nursing to waive background screening requirements for certain certified nursing assistants; and

Requiring the Department of Children and Family Services, the Department of Juvenile Justice, the AHCA, the DOEA, the Department of Health, the Agency for Persons with Disabilities, and the Department of Law Enforcement to establish a statewide background screening workgroup, providing duties of the workgroup, and requiring a report to the Legislature by November 1, 2011.

If approved by the Governor, these provisions take effect July 1, 2011.

HB 7003 — Affordable Housing by Community and Military Affairs Subcommittee and Rep. Workman (SB 176 by Senators Bennett and Gaetz)

This bill (Chapter 2011-15, L.O.F.) reenacts certain sections of law created by ch. 2009-96, Laws of Florida, (SB 360 from 2009) that are most closely related to the subject of affordable housing in order to eliminate any possible question that it could be subjected to a single subject challenge or struck down as an unconstitutional unfunded mandate. The bill does not change the law, but reaffirms the changes to the law made in 2009 by SB 360 relating to affordable housing.

These provisions became law upon approval by the Governor on April 27, 2011.

CS/CS/HB 7005 — Unemployment Compensation by Economic Affairs Committee; Finance and Tax Committee; Economic Development and Tourism Subcommittee; and Rep. Holder (CS/CS/SB 728 by Judiciary Committee; Commerce and Tourism Committee; and Senators Detert and Gaetz)

This bill reforms the unemployment compensation (UC) law in the following manner:

- The bill changes qualifying requirements by (effective August 1, 2011):
 - Requiring claimants to participate in an initial skills review using an online education or training program as part of reporting for benefits;

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- Requiring claimants to make a systematic and sustained effort to find work, and to contact at least five prospective employers each week or report in person to a One-Stop Career Center to meet with a representative for reemployment services each week; and
- Requiring claimants to file continuing claims by Internet, rather than by phone or mail.
- The bill changes the criteria by which claimants are disqualified from receiving benefits by:
- Changing the standard to show misconduct from “willful” (a high standard) to “conscious” (a lower standard);
- Changes the definition of misconduct to specify certain acts of misconduct that would disqualify an individual from benefits, such as absenteeism;
- Adds a disqualification for any weeks in which an individual receives severance pay from an employer (effective August 1, 2011);
- Expands disqualification to include being fired for all crimes committed in connection with work (rather than only those punishable by imprisonment) (effective August 1, 2011); and
- Adds a specific disqualification for individuals who are incarcerated or imprisoned (effective August 1, 2011).
- The bill creates a sliding scale for benefits beginning in 2012 by correlating the maximum weeks of benefits available with the rate of unemployment. The maximum amount of benefits available is 23 weeks when the unemployment rate is 10.5 percent or greater, and this scales down to 12 weeks of benefits when the unemployment rate is 5 percent or less.
- The bill codifies the executive order extending the temporary state extended benefits program and amends the program to conform to new federal law.
- The bill eliminates the payment of benefits by mail (effective August 1, 2011).
- Related to unemployment taxes, the bill:
- Allows employers to continue to have the option to pay their taxes in installments over 2012, 2013, and 2014;
- Provides tax relief for employers beginning in 2012 by adjusting the tax calculation;
- Increases the number of employee leasing companies who may obtain tax information for their clients by filing a memorandum of understanding, instead of filing a power of attorney for each client, with the Department of Revenue.
- The bill allows appeals of orders by the Unemployment Appeals Commission to be filed in district courts of appeal where the claimant resides, where the business was located, or where the order was issued (effective August 1, 2011).
- The bill codifies certain agency rules related to the exclusion of evidence that is irrelevant or repetitious, and revises the admissibility of hearsay evidence to allow it to be used to establish a fact under certain circumstances (effective August 1, 2011).

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- The bill creates a rebuttable presumption that the date on a document mailed by AWI or DOR is the date that the document was mailed.
- The bill amends law related to statutory construction to repeal language which requires that unemployment laws be liberally construed in favor of a claimant.
- The bill permits AWI to contract with consumer reporting agencies to access wage records and requires that any revenues from the contract be used for administration of the unemployment system.

If approved by the Governor, these provisions take effect upon becoming law, unless otherwise specified in the bill.

Elderly Affairs

CS/SB 664 — Missing Person Investigations/Silver Alert by Judiciary Committee and Senators Benacquisto, Negron, Margolis, Smith, Dockery, Evers, and Dean

The bill amends ss. 937.0201, 937.02, and 937.022, F.S., to codify Florida's Silver Alert Plan, which was created by a 2008 executive order. This plan provides for alerts regarding a missing person age 60 or older where there is a clear indication that the person has an irreversible deterioration of intellectual faculties and a missing person age 18 to 59 who has irreversible deterioration of intellectual faculties and law enforcement has determined the person lacks the capacity to consent.

Under the bill, upon receiving a request from the law enforcement agency having jurisdiction over the missing person, the Florida Department of Law Enforcement, other agencies, and specified entities who are responsible for complying with the request are immune from civil liability for damages for complying in good faith with the request and are presumed to have acted in good faith in recording, reporting, transmitting, displaying, or releasing Silver Alert information pertaining to the missing person.

The bill also makes clarifying definitional and referencing changes to effectuate Florida's Silver Alert Plan and specifies that only a law enforcement agency having jurisdiction over the case may make a request to the Missing Endangered Persons Information Clearinghouse for the activation of a state Silver Alert involving a missing adult if circumstances regarding the disappearance have met the criteria for activation.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 843 — Teaching Agency for Home and Community-based Care by Health and Human Services Access Subcommittee and Rep. Diaz (CS/SB 1158 by Children, Families, and Elder Affairs Committee and Senator Garcia)

This bill creates s. 430.81, F.S., which authorizes the Department of Elderly Affairs to designate a home health agency as a teaching agency for home and community-based care if the home health agency:

- Has been a not-for-profit, designated community care for the elderly lead agency for home and community-based services for more than 10 consecutive years;
 - Participates in a nationally recognized accreditation program and holds valid accreditation; • Has been in business in Florida for a minimum of 20 consecutive years;
 - Demonstrates an active program in multidisciplinary education and research that relates to gerontology;
 - Has a formalized affiliation agreement with at least one established academic research university with a nationally accredited health professions program in Florida;
 - Has salaried academic faculty from a nationally accredited health professions program;
 - Is a Medicare and Medicaid certified home health agency that has participated in the nursing home diversion program for a minimum of five consecutive years; and
- Maintains insurance coverage or proof of financial responsibility.

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The bill defines the term “teaching agency for home and community-based care” as “a home health agency that is licensed under part III of chapter 400 and has access to a resident population of sufficient size to support education, training, and research related to geriatric care.”

The bill also authorizes a teaching agency for home and community-based care to be affiliated with an academic health center in the state in order to foster the development of methods for improving and expanding the capabilities of home health agencies to respond to the medical, health care, psychological, and social needs of frail and elderly persons. A teaching agency for home and community-based care is to serve as a resource for research and for training health care professionals in providing health care services in homes and community-based settings to frail and elderly persons.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/CS/HB 1037 — Continuing Care Retirement Communities by Health and Human Services Committee; Health and Human Services Quality Subcommittee; Reps. Bembry and Passidomo; and others (CS/SB 1340 by Children, Families, and Elder Affairs Committee and Senator Bogdanoff)

This bill authorizes the use of continuing care at-home contracts in order to allow individuals to receive services offered by a continuing care retirement community (CCRCs) in their own homes while reserving the right to shelter to be provided by the CCRC at a later date.

The bill defines the term “continuing care at-home” to mean “pursuant to a contract other than a contract described in subsection (2) [relating to continuing care], furnishing to a resident who resides outside the facility the right to future access to shelter and nursing care or personal services, whether such services are provided in the facility or in another setting designated in the contract, by an individual not related by consanguinity or affinity to the resident, upon payment of an entrance fee.”

The bill creates s. 651.057, F.S., to govern continuing care at-home (CAAH) contracts and provides requirements for providers offering CAAH contracts.

Section 651.021, F.S., is amended to require written approval from the Office of Insurance Regulation (OIR) before constructing a new facility or marketing the expansion of an existing facility equivalent to the addition of at least 20 percent of existing units or 20 percent or more in the number of CAAH contracts.

The bill amends s. 651.023, F.S., to provide that if a feasibility study is prepared by an independent certified public accountant, it must contain an examination opinion for the first three years of operations and financial projections having a compilation opinion for the next three years. If the feasibility study is prepared by an independent consulting actuary, it must contain mortality and morbidity data and an actuary’s signed opinion that the project as proposed is feasible and that the study has been prepared in accordance with standards adopted by the American Academy of Actuaries.

A certificate of authority may not be issued until the CCRC project has a minimum of 50 percent of the

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units reserved and proof is provided to OIR. The bill provides that if a provider offering CCAH contracts is applying for a certificate of authority or approval of an expansion, then the same minimum reservation requirements must be met for the continuing care and CCAH contracts, independently of each other.

The bill further provides that for an expansion of a continuing care facility or CCAH contracts, a minimum of 75 percent of the moneys paid for all or any part of an initial entrance fee for continuing care and 50 percent of the moneys paid for all or any part of the initial fee collected for CCAH shall be placed in an escrow account or on deposit with the department. Additionally, a provider is entitled to secure release of moneys held in escrow if, among other things, the consultant who prepared the feasibility study (or an approved substitute) certifies *within 12 months before the date of filing for office approval* that there has been no material adverse change in status with regard to the study.

The bill amends s. 651.055, F.S., to provide that a prospective resident, resident, or resident's estate is not entitled to interest of any kind on a deposit or entrance fee unless specifically provided for in the continuing care contract. The bill permits contracts for continuing care and CCAH to include agreements to provide care for any duration. The bill also requires a provider to file a new residency contract for approval within 30 days after receipt of a letter from OIR notifying the provider of a noncompliant residency contract. The bill provides that pending review and approval of the new residency contract, the provider may continue to use the previously approved contract.

The bill amends s. 651.118, F.S., to provide that the Agency for Health Care Administration (AHCA) does not need to approve sheltered nursing home beds for the residences of residents living outside the facility pursuant to a CCAH contract.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 4045 — Assisted Living Facilities by Health and Human Services Committee and Rep. Hudson and others (CS/HB 692 by Rules Committee and Senator Richter)

This bill makes several changes to provisions of law relating to assisted living facilities (ALFs).

The bill amends s. 429.19, F.S., to remove the requirement that the Agency for Health Care Administration (AHCA or agency) develop and disseminate an annual list of ALFs sanctioned or fined for violations of state standards. The bill also eliminates language providing that AHCA may provide the information electronically or on its website. While the bill eliminates the requirement that AHCA publish this annual list, the agency would still have the discretion to do so if it wished.

The bill amends s. 429.23, F.S., to remove the requirement that all assisted living facilities report monthly to the Agency for Health Care Administration any liability claim filed against it.

This bill also amends s. 429.35, F.S., to remove the requirement that the AHCA distribute, within 60 days after the date of the biennial inspection visit or within 30 days after the date of any interim visit, all biennial and interim visit reports of ALFs to the local ombudsman council, at least one public library or to the county seat in which the inspected ALF is located if there is no library, and to the district Adult Services and Mental Health Program Offices.

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Section 429.41, F.S., is amended to remove the requirement that the Department of Elderly Affairs (DOEA) submit a copy of proposed rules to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of substance for review and comment prior to enactment. The bill also removes the requirement that rules promulgated by DOEA encourage the development of homelike facilities which promote the dignity, individuality, personal strengths, and decision-making ability of residents.

Section 429.54, F.S., relating to the collection of information and local subsidies for ALFs, provides that DOEA may conduct field visits and audits of ALFs in order to collection information regarding the actual cost of providing room, board, and personal care to residents. Additionally, the law provides that local governments or organizations may contribute to the cost of care of residents in local ALFs by subsidizing the rate of state-authorized payment to such facilities. This bill repeals s. 429.54, F.S.

If approved by the Governor, these provisions take effect July 1, 2011.

Family Law

CS/CS/HB 139 — Child Care Facilities by Health and Human Services Committee; Health and Human Services Access Subcommittee; and Rep. Ahern (CS/CS/SB 364 by Commerce and Tourism Committee; Children, Families, and Elder Affairs Committee; and Senator Latvala)

This bill creates a definition for “household children” in ch. 402, F.S., providing that the supervision of household children belonging to a family day care or large family child care home operator is to be left to the discretion of the operator, unless the children receive subsidized child care through the School Readiness Program to be in the home. The bill also amends the definitions of “family day care home” and “large family child care home” to require that household children under the age of 13 be included in the capacity calculation of those homes when the child is on the premises of the home or on a field trip with children enrolled in child care.

The bill expands the requirements for advertising by prohibiting a person from advertising a child care facility, family day care home, or large family child care home without including the license or registration number of the facility or home.

Lastly, the bill allows a Gold Seal Quality Care provider to correct any Class III violations for which it is cited within one year from the date of the violation before losing its Gold Seal designation or becoming ineligible for such designation.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 279 — Training/Certification/Child Welfare Personnel by Health and Human Services Access Subcommittee and Rep. Davis (CS/SB 380 by Children, Families, and Elder Affairs Committee and Senator Wise)

The bill amends legislative intent relating to the training and certification of child welfare personnel by eliminating the responsibility of the Department of Children and Families (DCF or department) to establish, maintain, and oversee child welfare training academies and by requiring that persons providing child welfare services earn and maintain a certification from a third party credentialing entity that is approved by the department. The bill creates definitions for the terms “child welfare certification,” “core competency,” “preservice curriculum,” and “third-party credentialing entity.” The bill requires the department to approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services and provides the criteria for a credentialing entity to secure DCF approval.

The bill requires the department to approve core competencies and related pre-service curricula. The bill allows community-based care agencies, sheriffs’ offices, and the department to contract for training and requires department approved credentialing entities to grant reciprocity and award a child welfare certification to individuals who hold certificates issued by the department for a specified period of time. No cost will be incurred by the department or the certificate holder.

The use of the Child Welfare Training Trust Fund is amended by the bill, and the child welfare training academies are eliminated. The bill also eliminates the ability of the department to develop certification programs.

If approved by the Governor, these provisions take effect October 1, 2011.

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SB 404 — Transition to Adulthood Services by Senator Wise

The bill makes changes to ch. 985, F.S., relating to juvenile justice, to provide transition-to- adulthood services to older youth who are in the custody of, or under the supervision of, the Department of Juvenile Justice (DJJ).

The bill requires that transition-to-adulthood services for a youth be part of an overall plan leading to the total independence of the child from DJJ's supervision. Specifically, the plan must include: • A description of the child's skills and a plan for learning additional identified skills;

- The behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities;
 - The provision for future educational, vocational, and training skills;
 - Present financial and budgeting capabilities and a plan for improving resources and abilities;
 - A description of the proposed residence;
 - Documentation that the child understands the specific consequences of his or her conduct in such a program;
 - Documentation of proposed services to be provided by DJJ and other agencies, including the type of services and the nature and frequency of contact; and
- A plan for maintaining or developing relationships with family, other adults, friends, and the community.

The bill also provides that youth who are adjudicated delinquent and are in the legal custody of the Department of Children and Family Services (DCF) may, if eligible, receive DCF's independent living transition services pursuant to s. 409.1451, F.S. Adjudication of delinquency may not be considered, by itself, as disqualifying criteria for eligibility in DCF's Independent Living Program.

The bill also permits a court to retain jurisdiction for a year beyond the child's 19th birthday if he or she is participating in the transition-to-adulthood program. The bill provides that the transition services created in s. 985.461, F.S., require voluntary participation by affected youth and are not intended to create an extension of involuntary court-sanctioned residential commitment.

Additionally, the bill creates the College-Preparatory Boarding Academy Pilot Program (Academy) for at-risk students. The bill defines the key elements of the program and establishes "at-risk" student eligibility criteria consistent with eligibility standards for a range of non-educational federal and state programs that support needy families, children, and youth. Specifically, the bill provides that an "eligible student" is a student who is a resident of the state and entitled to attend school, is at risk of academic failure, is currently enrolled in grade 5 or 6, is from a family whose income is below 200 percent of the federal poverty guidelines, and who meet at least two additional risk factors, which are specified in the bill.

The bill outlines a process for the State Board of Education (SBE) to select an experienced, qualified operator (through a request for proposals process) and prescribes the qualifications and obligations of the operator. The bill also stipulates the contract requirements between the SBE and the selected operator.

The bill authorizes the program to receive funding from non-education sources and requires the SBE to coordinate, streamline, and simplify requirements to eliminate duplicate, redundant, or conflicting

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requirements to which the academy is subjected. The bill authorizes the operator of the Academy to bill Medicaid for services rendered to eligible students.

The bill directs the Academy to enroll up to 80 students beginning in August 2012, and to grow to a student capacity of 400 students. It also requires the SBE to issue an annual report for each college-preparatory boarding academy. Finally, the bill authorizes the SBE to adopt rules to administer the pilot program.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/SB 504 — Child Visitation by Children, Families, and Elder Affairs Committee and Senator Bogdanoff

This bill amends Florida's Keeping Children Safe Act (Act) to require probable cause of sexual abuse by a parent or caregiver in order to create a presumption of detriment to a child. The bill further provides that persons meeting specified criteria may not visit or have contact with a child without a hearing and order by the court. If visitation or contact is denied and the person wishes to begin or resume contact with the child victim, there must be an evidentiary hearing to determine whether contact is appropriate. The bill clarifies that *prior* to the hearing, the court shall appoint a guardian ad litem or attorney ad litem for the child.

The bill also provides that at the hearing, the court may receive evidence, to the extent of its probative value, such as recommendations from the child protective team, the child's therapist, or the child's guardian ad litem or attorney ad litem, even if the evidence may not be admissible under the rules of evidence.

The bill provides that once a rebuttable presumption of detriment has arisen or if visitation has already been ordered and a party or participant informs the court that a person is attempting to influence the testimony of the child, the court must hold a hearing within seven business days to determine whether it is in the best interests of the child to prohibit or restrict visitation with the person who is alleged to have influenced the testimony of the child.

This bill also amends the legislative intent of the Act to provide that it is the intent to protect children who have been sexually abused or exploited by a parent or caregiver by placing additional requirements on judicial determinations related to contact between a parent or caregiver who meets certain criteria and a child victim in any proceeding pursuant to ch. 39, F.S.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/HB 579 — Public Records for Regional Autism Centers by Governmental Operations Subcommittee and Rep. Coley and others (CS/SB 1192 by Governmental Oversight and Accountability Committee and Senators Rich and Flores)

This bill creates a public-records exemption for all records that relate to a client of a regional autism center who receives the services of a center or participates in center activities, and for all the records that

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relate to the client's family. The bill specifies circumstances under which the records may be released. Additionally, the bill creates a public-records exemption for the personal identifying information of a donor or prospective donor to a regional autism center who desires to remain anonymous.

The bill provides a statement of public necessity for the public-records exemptions as required by the Florida Constitution and the bill provides that the exemptions are subject to the Open Government Sunset Review Act and will be repealed on October 2, 2016, unless reviewed and reenacted by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2011.

CS/CS/SB 1366 — Child Welfare/Mental Health/Substance Abuse by Health Regulation Committee; Children, Families, and Elder Affairs Committee and Senator Storms

The bill includes managing entities and the agencies that have contracted with monitoring agents among the entities who must identify and implement changes that improve the efficiency of administrative monitoring of child welfare services and the efficiency of administrative, licensure, and programmatic monitoring of mental health and substance abuse service providers.

To improve efficiency, these entities must limit administrative monitoring to once every three years if the provider of child welfare services is accredited by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Council on Accreditation (COA), and must limit administrative, licensure, and programmatic monitoring to once every three years if the provider of mental health or substance abuse services is accredited by these entities.

The bill provides that the limitations on administrative, licensure, and programmatic monitoring apply only to providers of mental health or substance abuse services that are accredited for the services being monitored and, despite the limitations on such monitoring, these entities may continue to monitor the service provider as to specified areas of concern.

These entities must also allow the private sector to develop and implement an Internet-based, secure, and consolidated data warehouse and archive for maintaining certain records of providers of child welfare, mental health, or substance abuse services and the entities must use the data warehouse to request documents.

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

SB 2100: Retirement by Budget

Retirement; Requires that a local governmental entity or the governing body of a charter school or charter technical career center make certain elections regarding benefits at the time the entity or governing body joins the Florida Retirement System. Requires employer and employee contributions to the retirement system. Modifies the early retirement benefit calculation for those members retiring on or after a certain date or before the normal retirement date to reflect the change in normal retirement age, etc.

If approved by the Governor, these provisions take effect June 30, 2011

About the Florida Commission on the Status of Women



The Commission is administratively housed in the Office of Attorney General Pam Bondi.

The Florida Commission on the Status of Women (the Commission) is established in the Office of the Florida Attorney General, and consists of 22 members. The Governor, the Speaker of the House of Representatives, the President of the Senate, and the Attorney General appoint four members, and the Chief Financial Officer and Commissioner of Agriculture each appoint three members. The Commission’s mission is to empower women from all walks of life in achieving their fullest potential. It is in accordance with this mission that the Commission has produced the “2011 Summary of Florida Laws Affecting Women and Families.”

This publication is the work of the Legislative Committee of the Commission, with purpose is to educate women about the legislative process and encourage them to become active and informed citizens. It is the Commission’s goal that this handbook will educate women in understanding the impact of the 2011 Florida legislative session in their lives as well as advance women toward an active role in civic engagement.

To find out more about the work of the Florida Commission on the Status of Women and to view other publications, please visit our website at www.fcsww.net.



**2011 Members of the
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Commission Publications

Each year, the Commission produces an Annual Report on issues affecting women. In addition, the Commission has produced a number of educational brochures, calendars and special reports. Please contact the Commission office for copies of the following FCSW Publications:

- **2010 Annual Report “Florida’s Women Veterans: Challenges and Needs of Those Who Served”**
- **2009 Annual Report “Thriving In Challenging Times: Strategies for Florida Women”**
- **2008 Annual Report “Good Health for a Lifetime: A Woman’s Guide”**
- **2007 Annual Report “Smart Surfing: Protecting You and Your Family from Cybercrime”**
- **2006 Annual Report “*Life Issues of Florida Women: Mid-Life and Beyond*”**
- **2006 and 2007 Summary of Florida Laws Affecting Women and Families**
- **2005 Annual Report “*Florida Women Mean Business!*”**
- **2004 Annual Report “*Legally Yours: A Guide for Florida Women*”**
- **2003 Annual Report “*Women and Money: Practical Money Skills for Women*”**
- **2002 Annual Report “*A Passion to Play! 30 Years of Women’s Athletics in Florida*”**
- **2002 Publication “*Creating Change and Challenging Tradition: Florida Women Public Officials*”**
- **2001 Annual Report “*Prevention by Intervention: Girls in Florida’s Juvenile Justice System*”**
- **2000 Annual Report “*A Study of Women’s History Education in Florida’s Public Schools*”**
- **1999 Annual Report “*Reflections and Projections: Women in Florida*”**
- **1998 Annual Report “*A Definitive Study on Young Women Ages 12-18 in Florida*”**
- **1997 Annual Report “*Women and Economic Development*”**
- **1996 Annual Report “*Women and Health, A Status Report*”**
- **1995 Annual Report “*Welfare Reform in Florida*”**
- **1994 Annual Report “*Justice and Human Rights: How They Apply to Women*”**
- **1993 Annual Report “*Women’s Health Care*”**
- **1992 Annual Report “*Women in the Workplace*”**
- **1999, 2000, 2004 FCSW Calendar**
- **2001, 2002, and 2003 Women’s History Calendar**
- **Women’s Hall of Fame Brochure**
- **Sexual Harassment Brochure**

For more information on the Commission visit our website at www.fcsw.net.



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