

# Legislative Link

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

## BILLS HEARD THIS WEEK

(Some information below is excerpted from legislative staff analysis)

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### **SB 318 Exceptional Students with Disabilities/Cost (Constantine)**

The bill specifies which school district is financially responsible for providing exceptional student education (ESE) services when a student receives the services in a district other than his or her assigned district. In these circumstances, the cost of providing ESE services would be paid by the school district where the student's parent resides. In the case of a student who no longer resides with the parent, the school district where the student last resided with the parent must pay for the ESE services.

The bill also provides for the payment of ESE services for a student who resides in a residential care facility that is located in a school district other than the student's assigned district and operated by the Department of Children and Family Services (DCF) or the Agency for Persons with Disabilities (APWD). In these circumstances, the school district where the student last resided with the parent must pay for these services.

*Last Action: 03/27/08 SENATE On Committee agenda - Education Pre-K - 12, 04/01/08, 3:30 pm, 110 S*

### **HB 623 School Food Service Programs (Schools & Learning Council, Kendrick and others)**

On March 18, 2008, the Committee on K-12 adopted an amendment offered by Representative Kendrick. The amendment:

- Retained provisions in the bill which, beginning with the 2010-2011 school year, expand the School Breakfast Program (currently required in elementary schools) to all middle and high schools;
- Required each school to serve meals at alternative sites (e.g., "Breakfast in the Classroom," "Grab 'n' Go Breakfast," and "Breakfast on the Bus"), to the maximum extent practicable, in lieu of the bill's provisions requiring 10 percent of meals to be served at alternative sites;
- Directed school districts to set prices for breakfast meals which cover the costs of breakfast meals, except if the district school board sets lower prices;
- Requires district school boards, before the 2010-2011 school year, to approve or disapprove a policy for providing universal-free school breakfast for all students in each elementary, middle, and high school in which 80 percent or more of the students are eligible for free or reduced-price meals;
- Retained provisions in the bill which require each school district to annually provide students and parents with information about the district's School Breakfast Program;
- Directed OPPAGA, by January 15, 2009, to submit a report on school district food service programs.

*Last Action: 03/25/08 HOUSE Favorable with CS by Schools & Learning Council; 14 Yeas, 0 Nays; 03/27/08 HOUSE Placed on Calendar, on second reading.*

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**SB 688 Guardian Advocates for Persons with Developmental Disabilities (Crist and others)**

Florida Statutes define “developmental disability” as a “disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” Many individuals with developmental disabilities are able to manage their own personal and financial affairs without the intervention of a guardian. However, others recognize that at times they need help making critical decisions. Often the person who steps in to help is a family member. The problem some family members, usually the parents, run into is that when the child turns 18 and becomes a legal adult, the parents are no longer entitled to the child’s information due to privacy reasons.

- The circuit court must appoint a guardian advocate from a list of persons in preferential order, giving first preference to health care surrogates;
- The names, relationships, and addresses of the persons listed as potential guardian advocates must be included in the petition for appointment;
- Notice of the petition for appointment must be provided to every potential guardian advocate, in addition to the person with developmental disabilities;
- Court-appointed attorneys must complete specified training unless waived by the court;
- Attorneys may not represent both the individual with a developmental disability and the guardian advocate or the person petitioning for appointment of a guardian advocate;
- Attorneys representing the individual with a developmental disability may not act as the guardian advocate;
- The name of the person selected as the guardian advocate and the court’s reasoning for the selection must be included in the court order.

*Last Action: 03/25/08 SENATE Favorable with CS by Judiciary; 10 Yeas, 0 Nays; 03/27/08 SENATE Committee Substitute (C1) Filed; Now in Health and Human Services Appropriations*

**HB 731 Personal Care Attendant Program (Gardiner)**

The Personal Care Attendant (PCA) program was established to assist eligible persons, who are disabled because of a traumatic spinal cord injury, to return to work in their communities by providing personal care attendants.

House Bill 731 amends the existing Personal Care Attendant (PCA) program and expands participant eligibility to provide personal care attendants to persons who have severe and chronic disabilities of all kinds. The bill names the program the “James Patrick Memorial Work Incentive Personal Attendant Services Program.”

The bill merges the Cross Disability Pilot program that provides personal care attendants to the significantly disabled in Orange, Osceola, Lake and Seminole counties with the PCA program and specifies that all persons who are enrolled in the existing PCA and the Cross Disability pilot projects on June 30, 2008, are automatically eligible for and enrolled in the revised program.

The bill places the administration of the program within the Florida Association of Centers for Independent Living (FACIL) and provides that FACIL receive 15 percent of the funds that are deposited in the Florida Endowment Foundation for Vocational Rehabilitation from the Tax Collection Enforcement Diversion Program and the Motorcycle Specialty License Tab to administer the program.

*Last Action: 03/25/08 HOUSE Favorable with CS by Healthcare Council; 16 Yeas, 0 Nays*

**HB 839 Emergency Health Care Providers (Homan and others)**

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the government or its political subdivisions for the torts of officers or agents of such governments unless such immunity is expressly waived.

providing emergency medical services. The effect of such extension is that tort liability of an emergency This bill extends the concept of sovereign immunity to healthcare entities and healthcare workers

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providing emergency medical services. The effect of such extension is that tort liability of an emergency medical provider would be limited in each tort incident to \$100,000 per individual and \$200,000 overall. The medical provider that caused the tort would be required to reimburse the state for monies paid out and would be subject to professional discipline for failure to reimburse the state for the liability.

*Last Action: 03/26/08 HOUSE Temporarily postponed by Safety & Security Council*

**SB 846 Medicaid Provider Service Networks (Rich and Dean)**

The bill provides authority for the Agency of Health Care Administration (AHCA) to contract with specialty provider service networks (PSNs) that will provide a comprehensive system of care to Medicaid recipients with psychiatric disabilities.

The bill modifies the mandatory assignment process as it pertains to individuals who do not choose a managed care plan upon enrollment in Medicaid. The bill requires the AHCA to assign recipients, in areas where a specialty PSN is established, who meet the diagnostic criteria or who have been served by community mental health agencies, and who fail to make a choice, to this specialty PSN. It also allows Medicaid recipients who do not meet the diagnostic criteria or have not been served by community mental health agencies to voluntarily enroll in the specialty PSN. When more than one capitated managed care network provider is available for assignments, the AHCA must assess a recipient's psychiatric disability and take the assessment into consideration before making a mandatory assignment. It is estimated that 5.5 percent of Florida adults have a severe mental illness - 574,995 adults between the ages of 18 and 64 in 2006. Adults over the age of 18 with a severe and persistent mental illness equal more than 104,544 individuals (1 percent of the total population in the age group according to the U.S. Census projections for 2006).

*Last Action: 03/26/08 SENATE Favorable by Health Policy; 5 Yeas, 0 Nays; 03/27/08 SENATE Now in Children, Families, and Elder Affairs; On Committee agenda- Children, Families, and Elder Affairs, 04/01/08, 3:30 pm, 412 K*

**HB 1021 Prekindergarten Education Pilot Program (Ausley)**

House Bill 1021 establishes a pilot program for enhancing the quality of the Voluntary Prekindergarten Education (VPK) Program in Gadsden, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla counties. The design for the pilot program is as follows:

- The program is established as a 3-year coordinated pilot;
- Participation by prekindergarten education providers is voluntary;
- The program must provide opportunities for individuals with baccalaureate or higher degrees to teach in the VPK program;
- The Early Learning Coalition of the Big Bend Region must develop a curriculum for the pilot program in consultation with a community college, and the curriculum must provide each participant with early education training designed to enhance the quality of the VPK program and with health and safety training; and
- Individuals participating in the pilot program must complete the curriculum.

The bill specifies that the pilot program is to be administered by the Early Learning Coalition of the Big Bend Region. The coalition is directed to recruit participants for the program, determine the required training, and provide assistance for the placement of participants (individuals and prekindergarten education providers).

The bill does not provide funding for the pilot program but authorizes the coalition to apply for grants and funding for implementation of the pilot program. The bill also specifies that implementation of the pilot program is not required until the coalition secures the necessary funding. Accordingly, the bill does not appear to create a fiscal impact on the state or local governments.

*Last Action: 03/25/08 HOUSE Favorable by Policy & Budget Council; 26 Yeas, 0 Nays; Placed on Calendar, on second reading*

**HB 1029 Protection of Minors Online (Kravitz and others)**

Among others, HB 1029 requires Internet access providers (defined by the bill as entities that provide consumers with public access to the Internet) who know that a subscriber resides within this state, to make available to the subscriber a product or service that enables the subscriber to regulate a minor's use of the service to access the Internet.

*Last Action: 03/19/08 HOUSE Favorable with 1 Amendment by Homeland Security & Public Safety; 10 Yeas, 0 Nays; Now in Safety & Security Council; 03/24/08 HOUSE On Council agenda - Safety & Security Council, 03/26/08, 9:45 am, Reed Hall; 03/26/08 HOUSE Not considered by Safety & Security Council*

**HB 1457 Florida Kidcare Program (Garcia)**

The Legislature established the Florida KidCare Program in 1998 to reduce the number of uninsured children in Florida through a combination of Medicaid expansions and public/private partnerships.

The Florida KidCare program provides health care coverage to over 1.4 million children in Florida. KidCare is an “umbrella” program that includes: Medicaid, Florida Healthy Kids Program, MediKids and the Children’s Medical Services Network for children with special health care needs.

HB 1457 amends Chapters 409 and 624 Florida Statutes to make substantive changes to the Florida KidCare Program as follows:

- The bill directs the Agency for Health Care Administration to ensure, to the greatest extent possible that family members in the MediKids program are assigned to the same managed care plans or MediPass provider.
- The bill allows applicants to the Florida KidCare program to be allowed to reactivate their application when it becomes invalid after 120 days have passed without enrollment.
- The bill provides that a child who loses Medicaid eligibility because of income or age, will be provided 60 days of continued eligibility under their existing plan to allow time for transition to Title XXI funded Kidcare.
- The bill shortens the time span from 6 months to 90 days that a child must wait to enroll in KidCare after the child had coverage in an employer-sponsored health benefit plan voluntarily cancelled.
- The bill directs the Agency for Health Care Administration to give 60 days notice to the managed care plan or MediPass providers before the child’s eligibility for Medicaid or MediKids is to terminate. This change is to assist with continuity of coverage and the transition between KidCare program components. In addition, the bill directs the child's health care plan and providers to cooperate during transitions.
- The bill directs that applicant eligibility information be obtained electronically to the extent possible.
- The bill exempts from income verification those persons who pay the full cost of the KidCare premium.
- The bill requires the Department of Children and Families to develop and implement a standardized eligibility application form that covers all components of Florida KidCare.
- The bill changes the eligibility re-verification from 6 months to 12 months.
- The bill deletes a requirement for the state level coordination council (for the Florida KidCare program)
- The bill directs the Agency for Health Care Administration to establish a toll free telephone line to assist families with questions about Florida KidCare. A similar requirement is deleted for the Department of Health.

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- The bill directs the Agency for Health Care Administration to develop and implement an outreach and marketing program to educate the public, explain enrollment and maintain public awareness.

*Last Action: 03/25/08 HOUSE Favorable by Healthy Families; 8 Yeas, 0 Nays; 03/27/08 HOUSE Now in Healthcare Council*

**SB 1458 School Breakfast Programs (Wise)**

CS/SB 1458 encourages each school board to expand its school breakfast program to make breakfast available to all students in its middle and high schools.

Beginning in the 2008-2009 school year:

1. Each district school board is encouraged to make available universal free to eligible students in each elementary, middle and high school in which 80 percent or more to the students are eligible for free or reduced-priced meals.
2. Elementary, middle and high school students in these schools shall annually receive information prepared by the district's food service administration regarding the school breakfast program. The information shall be communicated through school announcements and written notice sent to all parents.

The bill also encourages the department to develop, with national breakfast foundations and the Department of Agriculture, a cost-efficient incentive model to encourage school districts to expand student participation in school breakfast programs. The cost efficient expansion model shall be developed with the use of existing funds and those funds made available from private organizations and foundations.

*Last Action: 03/27/08 SENATE On Committee agenda - Education Pre-K - 12, 04/01/08, 3:30 pm, 110S*

**SB 1508 Medicaid Managed Care Programs (Saunders)**

This bill modifies the mandatory managed care assignment process for Medicaid recipients who do not choose a managed care plan or MediPass provider upon eligibility determination. The bill requires the Agency for Health Care Administration (AHCA), when assigning a recipient who does not make a choice, to take into account:

- How a managed care plan maintains, rather than whether it has, sufficient network capacity to meet the needs of members and the managed care plan's performance and compliance with the network adequacy requirements (which the AHCA must validate on an annual basis);
- Whether a managed care plan has sufficient network capacity to meet the urgent, emergency, acute, and chronic needs of its members and has consistently maintained compliance with the network adequacy requirements over the previous 12-month period; and
- The quality of service and the performance of managed care plans.

The bill requires the AHCA to establish quality-of-care and network adequacy standards for managed care plans, which the agency must monitor quarterly and evaluate annually, and specifies the criteria upon which these standards shall be based. If the managed care plan does not meet these network adequacy or quality standards, the AHCA may not continue to assign recipients to the plan as part of the mandatory assignment process.

The bill prohibits managed care plans and the MediPass program from withholding payment for emergency services and care based on the enrollee's or the hospital's failure to notify the managed care plan or MediPass primary care provider in advance or within a certain period of time after the care is given.

*Last Action: 03/26/08 SENATE Favorable by Health Policy; 6 Yeas, 0 Nays; 03/27/08 SENATE Now in Health Regulation*

**CB/SB 1670 Early Learning (Education Pre-K-12 and Gaetz)**

Senate Bill 1670, the "Success in Early Learning Act," permits early learning coalition boards to engage in board business by telecommunication methods.

The bill transfers the responsibility for the statewide child care resource and referral network from the Department of Children and Families (DCF) to the Agency for Workforce Innovation (AWI). It also transfers the duties of the Child Care Executive Partnership Program from DCF to AWI and the early learning coalitions.

The bill requires VPK providers to adhere to specified ethics standards, especially with respect to employment practices.

The bill requires that entities that accredit Voluntary Prekindergarten (VPK) programs must have written standards that meet or exceed the state's licensing requirements and must conduct at least one onsite visit to the provider prior to accreditation.

The bill allows private and public VPK providers to assign a substitute instructor who does not meet the VPK program instructor qualifications to temporarily replace a credentialed instructor under specified circumstances, and gives AWI rulemaking authority to govern the use of substitute instructors in VPK programs.

The CS for SB 1670:

- Prohibits confidentiality agreements for VPK providers when an employee resigns or is terminated for unethical conduct;
- Adds disqualifying offenses for employment purposes of luring or enticing a child, unlawful sexual activity with a minor, voyeurism, video voyeurism, and delinquent acts that qualify or would qualify an individual for inclusion on the Registered Juvenile Sex Offender List;
- Requires additional pre-employment screening to include contacting previous employers; and
- Requires ethics training that is jointly developed by DCF, AWI, and DOE, on adopting policies for preventing and reporting suspected or actual misconduct by a prekindergarten instructor or administrator.

*Last Action: 03/26/08 SENATE Favorable with CS by Children, Families, and Elder Affairs; 6 Yeas, 0 Nays*

**CS/SB 1704 Abandonment of a Newborn Infant (Storms and others)**

Beginning with Texas in 1999, infant safe haven legislation has been enacted in most states as "an incentive for [a] mother in crisis to safely relinquish [her baby] to a safe haven where the baby will be protected and provided with medical care until a permanent home can be found."<sup>1</sup> Safe haven laws generally allow the parent to remain anonymous and avoid prosecution for abandonment or neglect in exchange for safely surrendering the baby.

Florida passed newborn safe abandonment legislation in 2000.

Pursuant to s. 383.50, F.S., a parent may safely abandon an infant at a fire station, emergency medical services station, or hospital emergency room within 3 days of birth.<sup>6</sup> The receiving entity must provide any necessary emergency care, and then transfer the infant to a hospital for any further treatment.<sup>7</sup> The hospital then transfers the child to a licensed child-placing agency.

Committee Substitute for Senate Bill 1704 amends Florida's newborn safe abandonment laws to clarify that a parent who safely surrenders a newborn is presumed to have consented to termination of his or her parental rights. The bill expressly prohibits the search for and notification of the surrendering parent, unless there is actual or suspected child abuse or neglect.

The bill extends the period during which a newborn infant may be safely surrendered from 3 days to 7 days, and requires hospitals to complete the birth certificate of a safely surrendered newborn infant without naming the mother under specified circumstances.

The bill replaces the term "abandoned" with the word "surrendered" throughout the relevant statutes to distinguish infants who are relinquished to a safe haven from children who are abandoned as a matter of

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child abuse. This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.201, 63.0423 and 383.50.

*Last Action: 03/26/08 SENATE Favorable by Health Policy; 6 Yeas, 0 Nays; 03/27/08 SENATE Now in Judiciary*

**SB 1950 Forensic Services for Persons Who are Retarded or Autistic (Rich)**

Senate Bill 1950 amends the definitions of autism and retardation in s. 9 16.106, F.S., clarifying that the definition of retardation for purposes of ch. 916, F.S., requires onset of the disability prior to age 18.

The bill amends s. 9 16.301, F.S., clarifying that the court must appoint at least two experts to evaluate competency when a criminal defendant is suspected to be retarded or autistic.

The bill provides that the Agency for Persons with Disabilities must receive notice and an opportunity to be heard at all proceedings where experts are appointed and at any other proceeding that relates to the competency of a defendant or former defendant under the part of ch. 916, F.S., that applies to retarded or autistic defendants.

*Last Action: 03/26/08 SENATE Favorable with CS by Children, Families, and Elder Affairs; 6 Yeas, 0 Nays*

**SB 1954 Developmental Disabilities (Rich)**

Senate Bill 1954 amends the definition of the term “retardation” to be consistent with the term “developmental disability.” The bill changes the term “developmental disabilities institutions” throughout ch. 393, F. S., to the term “developmental disabilities centers” to accurately reflect the nature of services delivered to the clients of the Agency for Persons with Disabilities.

The bill amends the background screening requirements for direct service providers and authorizes APD to deny, suspend, revoke or fine a residential facility licensee or applicant if that facility has been found to be responsible for abuse, neglect, abandonment, or exploitation of a child or vulnerable adult, or if the licensee has previously had its license revoked.

*Last Action: 03/26/08 SENATE Favorable with CS by Children, Families, and Elder Affairs; 6 Yeas, 0 Nays*

**SB 2192 (Compare H0625) Foster Care/Independent Living Transition Services (Storms)**

Senate Bill 2192 authorizes group home providers, residential agencies and other authorized caregivers to participate in the development and implementation of written plans for youth in their care who are transitioning out of foster care.

The bill also requires the Independent Living Services Advisory Council to include in its 2008 report a specific analysis and recommendations regarding youth who have turned 18 while in foster care and who have not completed high school or its equivalent or earned a special diploma or certificate of completion.

*Last Action: 03/26/08 SENATE Favorable by Children, Families, and Elder Affairs; 8 Yeas, 0 Nays; 03/27/08 SENATE Now in Education Pre-K - 12*

**SB 2428 Services for the Elderly (Haridopolos)**

Senate Bill 2428 provides that it is the Legislature’s intent that DOEA take a proactive approach in using the Local Revenue Maximization Act to fund elder needs and services throughout Florida.

The bill provides the Legislature’s intent that:

- Revenue maximization opportunities use certified local funding only after available state funds have been used to generate matching federal funding for the state as a whole;
- Certified local funding for federal matching programs not supplant or replace state funds;
- Programs initiated be revenue neutral with respect to state funds; and
- Local participation in revenue maximization be voluntary.

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The bill designates DOEA as the lead agency for designing and establishing a mechanism to maximize the use of local match dollars to help fund the service to elderly at a local level, and draw federal match dollars from programs including:

- Aged and Disabled Adult Waiver,
- Adult Day Health Waiver,
- Alzheimer's Disease Waiver,
- Assisted Living for the Elderly Waiver, and
- Channel Services for the Frail Elderly program.

The bill provides that DOEA designate the local AAAs as local political subdivisions, responsible for collecting certified local funding from local private entities. The bill designates funds donated by private entities as public revenue available for matching federal funds.

The bill provides that any federal reimbursement received as the result of certification of local matching funds must, unless prohibited by federal law, be dispersed by check or wire transfer within 45 days of receipt to the AAAs providing the certified local match and be distributed to the local private entities providing the initial funds. However, the bill allows the department and the AAAs to deduct the administrative cost for implementing and monitoring the local match program prior to the transfer. The department's administrative costs may not exceed five percent of the total federal funding provided to the AAA and the AAA administrative costs may not exceed five percent of the total federal funding provided to private entities providing services to elders.

*Last Action: 03/26/08 SENATE Favorable by Children, Families, and Elder Affairs; 5 Yeas, 0 Nays; 03/27/08 SENATE Now in Health Policy*

**SB 2574 Public Records/Employee Leave for Victims of Sexual Violence (Fasano)**

Senate Bill 2574 contains the public records exemption for Senate Bill 994, to which it is linked. Senate Bill 994 requires the submission of specified documentation in order for an employee to seek leave from his or her employer in connection with an incident of sexual violence.

The bill makes confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the Florida Constitution, personal identifying information that is contained in records documenting an act of sexual violence that are submitted to a public agency by an agency employee.

*Last Action: 03/26/08 SENATE Favorable with 1 Amendment by Children, Families, and Elder Affairs; 6 Yeas, 0 Nays; 03/27/08 SENATE Now in Commerce; On Committee agenda - Commerce, 04/01/08, 9:30 am, 401 S*



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