

## Bills that Passed the 2016 Legislative Session

### Child Welfare

#### CS/SB 12 – Mental Health and Substance Abuse - Senator Garcia (Chapter 2016-241, Laws of Florida)

- Addresses Florida’s system for delivery of behavioral health services. Provides for mental health services for children, parents, and others seeking custody of children involved in dependency court proceedings. Identifies components of a coordinated system of care to be provided for individuals with mental illness or substance use disorder and defines a “No Wrong Door” model for accessing care.
- Agency for Health Care Administration (AHCA) and Department of Children and Families (DCF) are directed to modify licensure requirements through the rulemaking process if possible, to create an option for a single, consolidated license to provide both mental health and substance use disorder services. For modifications requiring statutory revisions, the agency and DCF shall produce a plan for consolidation to the Legislature by November 1, 2016.
- By December 31, 2016, AHCA and DCF are directed to develop a plan to increase federal funding for behavioral health care; compile detailed documentation of the cost and reimbursements for Medicaid covered services provided to Medicaid eligible individuals by providers of behavioral health care services. If the report provides clear and convincing evidence that Medicaid reimbursements are less than the costs of providing services, the agency and DCF shall request additional trust fund authority necessary to draw down Medicaid funds as a match for the documented general revenue expenditures supporting covered services delivered to eligible individuals.
- To more closely align the Baker Act (mental illness) and Marchman Act (substance abuse), the bill modifies the legal procedures and timelines, as well as processes for assessment, evaluation, and provision of services.
- DCF duties and responsibilities are revised for the contract and oversight of the managing entities (MEs). The duties and responsibilities of the MEs are also revised. New duties include, among others, the requirement to conduct a community behavioral health care needs assessment every three (3) years in the geographic area served by the ME; determine the optimal array of services to meet the needs identified in the needs assessment and develop strategies to divert people with mental illness or substance use disorder from the criminal justice system and collaborate with the Department of Juvenile Justice and the state court system to integrate behavioral health services with the child welfare system.
- By September 1 of each year, beginning in 2017, each ME is required to develop and submit a plan to the DCF describing the strategies for enhancing services and addressing three to five priority needs in the service area. The plans must be developed with input from consumers and their families, local governments, local law enforcement agencies, and other stakeholders.

- DCF is to update the crisis stabilization services utilization database. The database is renamed the acute care services utilization database. MEs are required to collect utilization data from all public receiving facilities situated within its geographical service area and all detoxification and addictions receiving facilities under contract with the ME.
- A crisis stabilization unit, a short-term residential treatment facility, or an integrated adult mental health crisis stabilization and addictions receiving facility that is collocated with a centralized receiving facility is allowed to be in a multi-story building and may be authorized on floors other than the ground floor.
- DCF is to develop certain forms to be used by law enforcement for use when a person is taken into custody under chapter 397. DCF is also to develop a website and post standard forms to be used to file a petition for involuntary admission under the Marchman Act.
- The bill has an appropriation of \$400,000 in nonrecurring funds from the Operations and Maintenance Trust Fund to DCF for the purpose of modifying the existing crisis stabilization database to collect and analyze data and information pursuant to s. 397.321, F.S.

Effective date: 7/1/2016

**CS/CS/CS/HB 439 - Mental Health Services in Criminal Justice System - Representative McBurney (Chapter 2016-127, Laws of Florida)**

Expands the authority of courts to use treatment-based mental health and substance abuse court programs for defendants who are involved in the criminal justice process at both the preadjudicatory and postadjudicatory level. The bill:

- Amends s. 39.001(6), F.S., to include mental health services with substance abuse services for **children and parents involved in the dependency system**;
- Authorizes dependency courts to require persons having or seeking custody of a child to participate in certain mental health programs;
- Expands eligibility criteria for defendants to **participate in diversionary programs to include children in dependency court** and veterans who were released from military service under a general discharge;
- Authorizes counties to fund and establish **mental health court programs under which a child under the jurisdiction of dependency court** or a defendant (parent) having a mental illness shall be processed in a manner that provides appropriate treatment and services;
- Requires the state court system, contingent upon appropriations by the Legislature, to establish a mental health coordinator for each county mental health court program; and
- Creates the Forensic Hospital Diversion Pilot Program to divert defendants found mentally incompetent to proceed to trial or not guilty by reason of insanity into a residential bed and community treatment setting. The Program authorizes DCF to replicate the current model of the Miami-Dade Forensic Alternative Center into two (2) additional counties. In addition to Miami-Dade, the DCF would implement the program in Broward and Duval Counties.

The specialized mental health treatment authorized by the bill may help defendants avoid returning to the criminal justice and forensic mental health systems.

Effective date: 7/1/2016

**CS/CS/CS/SB 590 Adoption Intervention - Senator Detert (Chapter 2016-71, Laws of Florida)**

- Revises the definition “abandoned” or “abandonment” in Chapter 39, F.S., to provide that a man’s acknowledgement of paternity of the child does not limit the period of time considered in determining whether the child was abandoned;
- Revises the definition of “parent” in Chapter 39, F.S., to clarify that the term “parent” does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent except in certain conditions;
- Revises the circumstances under which an adoption consent is valid, binding and enforceable;
- Amends the factors a court must consider in determining whether the best interests of the child are served by transferring custody to a prospective adoptive parent chosen by the parent or adoptive entity;
- Authorizes the court to establish reasonable timelines for the transfer of custody; and
- Requires the court to provide written notice to a parent of his or her right to participate in a private adoption plan earlier in the process than currently required by law.

Effective date: 7/1/2016

**CS/CS/HB 719 Education Personnel - Representative Spano (Chapter 2016-58, Laws of Florida)**

Adds Department of Education (DOE) employees and agents, who investigate or prosecute educator misconduct, to the list of individuals authorized to access records relating to child abuse, abandonment, or neglect. Authorizes the DOE to use information from the Central Abuse Hotline for educator certification discipline and review. Authorizes the Commissioner of Education to issue a letter of guidance to an educator in lieu of finding probable cause to prosecute misconduct.

Addresses a number of other DOE issues that do not impact the DCF.

Effective date: 7/1/2016

**CS/HB 837 Educational Programs for Persons with Disabilities – Representative Bileca (Chapter 2016-137, Laws of Florida)**

The bill modifies educational programs for individuals with disabilities and expands options for home education and dual enrollment students, including students with disabilities.

Regarding the John M. McKay Scholarship for Students with Disabilities Program (McKay):

- Exempts foster children from the prior school year attendance requirement for determining student eligibility;
- Authorizes a private school to establish a transition-to-work program for students participating in the McKay scholarship; and
- Enables students benefitting from the McKay scholarship to take virtual courses without reducing the scholarship amount.

The bill expands services provided to home education program students, including students with disabilities:

- Requires the Department of Education (DOE) to make testing and evaluation diagnostic services available to home education program students at diagnostic and resource centers; and
- Authorizes school districts to provide exceptional student education-related services to home education program students with disabilities eligible for the services who enroll in a public school solely for the purpose of receiving such services, and requires the districts to report such students for full-time equivalent funding.

The bill modifies dual enrollment articulation agreement provisions:

- Establishes August 1 as the annual deadline by which dual enrollment articulation agreements with home education program students, private schools, and state universities or eligible private colleges and universities must be submitted to DOE;
- Specifies responsibilities for private school students similar to home education program students, and provisions that must be included in the private school dual enrollment articulation agreements; and
- Requires eligible postsecondary institutions to include in their dual enrollment articulation agreements, services and resources available to students with disabilities, and provide such information to the Florida Center for Students with Unique Abilities (center); requires the department to provide the center a link to dual enrollment articulation agreements that apply to students with disabilities; and requires the center to disseminate dual enrollment information to students with disabilities and their parents.

Effective date: 7/1/2016

**CS/CS/HB 1083 Agency for Persons with Disabilities - Representative Renner (Chapter 2016-140, Laws of Florida)**

The bill amends s. 393.065(5), F.S., to make changes to the waiver waiting list prioritization categories. The bill allows individuals with developmental disabilities needing both waiver and extended foster care child welfare services to be prioritized in Category 2 and, when enrolled on the waiver, to be served by both the Agency for Persons with Disabilities (APD) and community-based care organizations.

The bill addresses a number of other APD issues that do not impact the DCF.

Effective date: 7/1/2016

**CS/CS/CS/HB 1125 Eligibility for Employment as Child Care Personnel - Representative McBurney (Chapter 2016-98, Laws of Florida)**

The bill prohibits the DCF from removing a disqualification from employment or granting exemption for employment as child care personnel to persons who have been:

- Registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) and are subject to the registration requirements under the Adam Walsh Child Protection and Safety Act; or
- Arrested for and are awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for certain state felonies and misdemeanors

enumerated in the bill. The list of crimes in the bill is more comprehensive than those in federal law and less comprehensive than the list in current Florida law.

Such individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016. The bill also provides that the provisions of this bill related to exemptions from disqualification from employment will supersede the provisions of CS/HB 7053 if that bill were to pass this session and become law.

The provisions in CS/CS/CS/HB 1125 apply to all child care personnel.

Effective date: 7/1/2016

#### **CS/CS/HB 7029 - School Choice - Representative Cortes (Chapter 2016-237, Laws of Florida)**

The bill amends numerous sections of the education statutes pertaining to postsecondary education performance funding, K-12 education policy and funding, school choice, and school construction. Amends s. 1002.31(2)(c), F.S., requiring each school district to provide preferential treatment in its controlled open enrollment process to all children who have been relocated due to a foster care placement in a different school zone. Amends s. 1002.31(6)(b), F.S., allowing children who have been relocated due to a foster care placement in a different school zone to participate in a sport if the student participated in that same sport at another school during the school year.

Effective date: 7/1/2016

#### **CS/HB 7053 - Child Care and Development Block Grant Program - Representative O'Toole (Chapter 2016-238, Laws of Florida)**

The bill revises the Early Steps program within the Department of Health (DOH) and revises provisions of the School Readiness program to align to federal requirements in the 2014 reauthorization of the Child Care and Development Block Grant.

The School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities. Specifically, the bill revises current statutory provisions relating to the School Readiness program by:

- Increasing health and safety standards;
- Expanding requirements for employment history checks and child care personnel background screenings;
- Expanding availability of child care information, including inspection and monitoring reports;
- Expanding School Readiness provider standards to include pre-service and in-service training requirements and appropriate group size and staff-to-child ratios; and
- Aligning child eligibility criteria to the federal requirements.

Effective date: 7/1/2016

## General Appropriations Act and Conforming Bills

### HB 5001 - General Appropriations Act - Appropriations Committee (Chapter 2016-66, Laws of Florida)

Provides moneys for annual period beginning July 1, 2016 and ending June 30, 2017, and supplemental appropriations for period ending June 30, 2016, to pay salaries and other expenses, capital outlay—buildings and other improvements, and for other specified purposes of various agencies of state government. APPROPRIATION: \$82,348,890,492

Effective date: 7/1/2016

### HB 5003 - Implementing the 2016-2017 General Appropriations Act - Appropriations Committee (Chapter 2016-62, Laws of Florida)

Implements specific appropriations of the General Appropriations Act for fiscal year 2016-2017.

Sections that impact Office of Child Welfare:

- Section 40, page 87 starting at line 2244 is APD Medicaid waiver priority language; and
- Section 49, page 96 starting at line 2479 addresses allocation of CBC training money based on a survey of training needs.

Effective date: 7/1/2016

### HB 5101 – Health Care Services - Representative Hudson (Chapter 2016-65, Laws of Florida)

Revises various statutes related to the Medicaid Program and the Florida Kidcare Program.

- Removes the five-year waiting period for “lawfully residing children” to access health care coverage under Medicaid or the Children’s Health Insurance Program (CHIP).
- Creates s. 409.811(17), F.S., defining “lawfully residing child” to substitute for the term “qualified alien;” includes children with a pending application for Special Immigrant Juvenile Status.
- Clarifies that Kidcare program eligibility is not being extended to undocumented immigrants.

Effective date: Above provisions are effective July 1, 2016, other provisions are effective 2017, and others are contingent on the passage of other legislation

## Other Bills

### HB 241 - Children and Youth Cabinet - Representative Harrell (Chapter 2016-19, Laws of Florida)

Revises the membership of the cabinet, to include the Superintendent of Schools.

Effective date: 7/1/2016

**CS/SB 386 - Expunction of Records of Minors - Senator Detert (Chapter 2016-42, Laws of Florida)**

Amends s. 943.0515(1)(b), F.S., to require Florida Department of Law Enforcement (FDLE) to retain the criminal history record for only two years after an individual turns 19 (until age 21) , instead of five years (until age 24), for minors who are not classified as serious or habitual juvenile offenders or who have not been committed to a juvenile correctional facility or juvenile prison. The criminal history record is then automatically expunged. The bill also:

- Eliminates requirement that an application for prearrest or postarrest diversion expunction must be submitted within 12 months after the minor completes the diversion program.
- Provides that a minor who is eligible for automatic expunction of criminal history records at age 21 may apply for an expunction any time after reaching 18 but before reaching 21. The only offenses eligible to be expunged are those that the minor committed before reaching the age of 18. In order to qualify for expunction prior to age 21, the minor must apply to the FDLE and meet certain criteria.
- Section 790.23(2), F.S., provides an exception for a person who has been convicted of a felony and has had their civil rights and firearm authority restored to possess firearms. There is not an exception for persons who have had their criminal records expunged pursuant to s. 942.0515, F.S.

Effective date 7/1/2016

**CS/SB 860 - Foster Families Appreciation Week - Senator Detert (Chapter 2016-73, Laws of Florida)**

Designates the second week of February of each year as “Foster Family Appreciation Week.”

Effective date: 3/23/2016

## Human Trafficking

**CS/CS/HB 545 - Human Trafficking - Representative Spano (Chapter 2016-24, Laws of Florida)**

The bill removes persons under the age of 18 from being prosecuted for prostitution, and makes correlating changes in Chapter 39, F.S., relating to the definition of the term “sexual abuse of a child,” to reflect that sexually exploiting a child in prostitution should be viewed as human trafficking.

Effective date: 10/1/2016

**CS/SB 1294 - Victim and Witness Protection - Senator Grimsley (Chapter 2016-199, Laws of Florida)**

The bill increases protections for minors and victims of human trafficking. Specifically the bill:

- Increases the eligible age of a child victim or witness who may have his or her testimony videotaped or who may testify by closed circuit television from “under 16 years of age” to “under 18 years of age;”
- Increases the age of “under 16” to “under 18” to extend the protections of court orders intended to protect a victim or witness from severe emotional or mental harm due to the presence of the defendant and in the definition of “sexual offense victim or witness;”

Effective date: 7/1/2016

**CS/HB 1333 - Sexual Offenders - Representative Baxley (Chapter 2016-104, Laws of Florida)**

- Amends a variety of statutes related to sexual predators and offenders to bring them further in line with the federal Adam Walsh Act.
- Removes language that currently prevents a parent or guardian from being designated as a sexual predator or offender when he or she has been convicted of a specified kidnapping, false imprisonment, or luring or enticing a child offense against his or her minor child.
- The above listed parent or guardian may be designated a sexual predator or offender if he or she commits one of the above mentioned offenses and the offense had a sexual component.

Effective date: 10/1/2016