

# Legislative Link

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

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Helping all children succeed for life.  
An initiative of the United Way of Florida,  
Publix Super Market Charities, Inc. and  
Bank of America.



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## MONEY

The chasm separating the House and Senate on fundamental budget and revenue issues appeared late last week, deepened this week, and promises to flavor the remainder of session. Both Houses passed draft 2004-2005 budgets out of their respective appropriations committees this week, and the chasm is much wider than the \$1.1 billion difference in their bottom lines.

While no one has used it this year, the 2003 mantra of "live within our means" remains the House's guiding principle. How does the House fund its budget? . . . Largely with nonrecurring revenues (i.e. most of the \$2 billion "windfall" the state experienced this year), raising fees, and "sweeping" reserves out of trust funds.

The Senate is loathe to use those nonrecurring funds for recurring purposes and has taken the high road, even in this election year. As a result, it's draft 2004-2005 budget makes deep cuts in numerous human service areas. In doing so, Senate leaders argue that using this year's non-recurring "windfall" will result in far deeper cuts next year when those funds will likely not be available.

Legislators are finding themselves between a rock and a hard place. There clearly isn't enough money to go around. The child welfare system remains badly under funded, as do developmental services, quality early care and education, Community Care for the Elderly, nursing homes, child health, Medicaid services and virtually every other component of the human services system.

Because the likelihood of "finding" significant new dollars is slim, the pain of the deep cuts included in the Senate bill would be so great, and it's an election year, it appears likely that at session's end the Senate will have gravitated to the House's "use it while you have it, and pray for next year" philosophy.

If so, human service recipients and providers will be able to breath a sigh of relief for 2004-2005. But they should also start praying for 2005-2006.

**Senate UPK Bill Filed...See Page 2**

## SENATE UPK BILL FILED: SB 3036

On Tuesday, Senator Fran Carlton filed the long-awaited Senate Universal Prekindergarten (UPK) bill. Anxiously awaiting the bill's release, advocates have been forced to respond only to the House bill (CS/HB 821) that is void of the most important quality provisions, such as teacher qualifications, program accreditation, teacher:student ratios, a career ladder, and placement within the Department of Education, among others.

A website dedicated to providing accurate, understandable information about SB 3036 has been created – <http://www.upkflorida.org/>. Please visit the site to download the bill itself, get information in

easy to understand language, review answers to frequently asked questions, and to submit questions of your own regarding the bill.

With release of the bill, an added boost has been given to efforts to ensure Florida's new UPK program is what voters intended it to be when they voted overwhelmingly for it in November 2002.

Legislators are hearing a growing chorus of voices from all stakeholder groups about the need for quality and using SB 3036 as the basis for achieving it.

### CONTACT YOUR LEGISLATORS TODAY!!!

**Tell them to “Keep the Promise” and implement quality UPK based on common sense, local innovation and control, and statewide accountability and standards:**

#### **COMMON SENSE** *(It's about education and educational reform)*

- Services for children birth to five including the VUPK program should be housed in the **Department of Education** under a separate division headed by a Chancellor of Early Learning.
- **Staff qualifications** should be required with no less than a Child Development Associate or Florida equivalency certificate beginning in 2005. Benchmarks for increased educational qualifications should be established with lead teachers possessing an associate's degree by 2010 and a bachelor's degree by 2013.

#### **LOCAL INNOVATION AND CONTROL** *(It's about communities and families at their best)*

- **A unified system** for children birth to five with local governance should ensure meaningful involvement and oversight of VUPK and school readiness/early childhood education programs through Early Learning Councils.
- **Parent choice of settings** (private, public, faith-based) is critical to level the playing field and ensure maximum parental involvement, regardless of the setting.
- **Resource and Referral** should be the delivery system to enable and ensure parent choice, maintenance of provider information profiles, consumer education, and awareness for VUPK and early childhood education / child care programs to avoid costly duplication of parallel structures and confusion to families.
- **Services for school-age children** through Child Care and Development Block Grant funding should be earmarked in budget proviso language to ensure their safety and well-being and to enable family sufficiency.

#### **STATEWIDE ACCOUNTABILITY AND STANDARDS** *(It's about consistency, quality, and the constitutional mandate)*

- **Gold Seal accreditation** should be required of all VUPK providers by 2006.
- **Staff to child ratios** should not exceed one adult per ten children. **Group size** should not exceed 20 children in any VUPK classroom.
- **A minimum of 1080 hours** of instruction should be provided to achieve desired learning outcomes.
- **A professional development system** for teachers to improve skills and obtain credentials should be enacted to remove barriers to higher education.
- **Equal access** must be assured through equity in payment and free for all parents.

*When I die, I want to die like my grandfather-- who died peacefully in his sleep. Not screaming like all the passengers in his car."--Author Unknown*

## EARNED INCOME TAX CREDIT: It's That Time of Year

The Earned Income Tax Credit is now the largest federal aid program targeted to the working poor. Nationally, for tax year 2002, the EITC delivered \$36 billion in benefits to 20 million working families and individuals, helping lift more working families out of poverty than any other federal program (per the Census Bureau, the EITC lifts over 4.7 million families out of poverty annually, including over 2.7 million children). The impact of the EITC on working families cannot be ignored – for tax year 2002, the total benefits of the EITC were larger than the benefits of the Temporary Assistance for Needy Families (TAFN) and Food Stamps programs combined.

Overall, the number of families receiving the tax credit jumped 8 percent – 11 percent in Florida – with about 1 out of every 5 households, paying income taxes in Florida receiving the refund.

Brookings' report blamed the weak economy in 2002 for causing the jump in tax credit recipients. During those years, nearly 3 million Americans lost jobs and the nation's unemployment rate rose from 4 percent to 5.8 percent.

Under the EITC, a married couple with 2 children earning up to \$34,692 qualifies for the credit, with the credits being paid on a sliding scale based on income and a maximum refund of \$4,204. The credit works essentially as a wage booster for low-income workers. With the credit, a worker with a \$7/hour job makes the equivalent of about \$9/hour.

As tax time approaches, please direct anyone you know to <http://www.irs.ustreas.gov/individuals/article/0%2C%2Cid=96456%2C00.html> to get more information and find out if they qualify.

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### MEDICAID NOTES

- On August 15, 2003, Florida Department of Elder Affairs Secretary Terry White noted:
  - Medicaid enrollment is growing at an annual rate of more than 6 percent while spending is increasing at a rate of more than 13 percent.
  - Florida's Medicaid growth continues at its current level, in 12 years Medicaid costs will equal today's state budget of \$53 billion.
  - Residents older than 60 years old spend \$150 billion a year and contribute \$2.5 billion more than they consume in state services.

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### **THIS PUTS OUR WORLD INTO A PERSPECTIVE MORE EASILY UNDERSTOOD.**

If we could shrink the earth's population to a village of precisely 100 people, with all the existing human ratios remaining the same, it would look something like the following:

There would be:

57 Asians

21 Europeans

14 from the Western Hemisphere, both north and south

8 Africans

52 would be female

48 would be male

# Alzheimer's Disease Fact Sheet

- Alzheimer's Disease:** Alzheimer's Disease (AD) is a degenerative neurological disorder. Over time, the person experiences progressive dementia, brain atrophy, and cognitive impairment. AD is *not* a normal evitable part of aging.
- People Affected:** More than 4 million people in the U.S. suffer with AD. In 1995, there were an estimated 202,000 cases in Florida. AD is the most common form of dementia and is the fourth leading cause of death in the United States among adults. It is incurable and irreversible.
- Financial Costs:** AD is estimated to cost the nation between \$80 and \$90 billion dollars a year. This includes direct financial outlays and indirect costs, such as lost productivity.
- Symptoms:** Memory loss, personality changes, and ultimately, the loss of ability to perform activities of daily living (ADL's).
- Onset:** Usually between ages 65-85, but isolated cases have been reported as early as age 40. AD does not discriminate on sex, race, or nationality.
- Course:** AD progresses steadily but unpredictably. Deterioration of the brain takes place in three stages over a period from 3 to 20 years.
- Ultimately, the person forgets how to swallow, eat, dress, walk, or recognize danger and react appropriately. At the end of the disease course, the person with AD is completely dependent upon caregivers. The caregivers become totally responsible for meeting all of the person's needs and assuring his or her safety.
- For More Information:** Department of Elder Affairs (904) 414-4000  
Elder Care Locator (800) 677-1116  
National Alzheimer's Association (800) 272-3900  
National Alzheimer's Foundation (866) AFA-8484

*Source: Alzheimer's Summit 2004*

To find out more about Alzheimer's and Alzheimer services in your area, visit <http://www.seniorpro.com/library/alzheimers.asp>

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## ***Questions of the Ages***

- *Why is the third hand on the watch called the second hand?*
- *Why do "fat chance" and "slim chance" mean the same thing?*
- *Why do "tug" boats push their barges?*
- *Why do we sing "Take me out to the ball game" when we are already there?*
- *Why are they called "stands" when they are made for sitting?*
- *Why is it called "after dark" when it really is "after light"?*

## ELDERS ARE FALLING THROUGH THE CRACKS: Support Community Care for the Elderly

Mr. W is 87 years old and lives with his daughter who is his primary caregiver. Mr. W also has advanced Alzheimer's, Parkinson's with seizures, high blood pressure, arthritis, degenerative eye disease and is incontinent.

Mr. W's daughter needs help to keep him at home, but Mr. W is not eligible for Medicaid home-based services because his assets, a life insurance policy worth \$5,000, are too high. His choices then are to continue to live with his daughter and hopefully receive Community Care for the Elderly (CCE) services or move into a nursing home and use up his meager savings, after which he WILL qualify for Medicaid – *at a cost of as much as \$45,000 a year, \$16,925 of which will be paid with Florida General Revenue matching funds. For a fraction of that amount - \$2,432 per year – CCE services could enable Mr. W continue to live at home.*

**Florida spends only 14% of its long term care budget on community-based alternatives, compared to the national average of 21.7%.** In addition, Florida's home-based focus has increasingly become Medicaid-dependent.

For the last 22 years, CCE has provided an array of services in the homes of seniors who don't qualify for Medicaid. There are 36 allowable home-and community-based services in the program including help with bathing, preparing meals, doing laundry and other essential personal and household activities that most take for granted. CCE is the safety net for frail elders in Florida.

Florida's budgeting trend over the last several years has been to allocate general revenue as matching funds for the Medicaid Home/Community Based Services Waiver program. The HCBS Waiver mirrors CCE's services, but its eligibility is based on strict income and asset requirements in addition to degree of frailty. And, while the HCBS Waiver has helped to expand home-based services, it has done so only for targeted groups of frail seniors – those who are frail and meet strict income and asset guidelines. Meanwhile, funding for the CCE program has decreased by \$500,000 over the last seven years (from \$43.9 million in 1995-96 to \$43.4 million in 2002-03).

There are an estimated 270,000 frail elders, age 65+ living in the community, and needing help with three or more activities of daily living, meeting this description in Florida today – and by 2010, the estimate will increase by almost 45% to 318,645 frail elders. Last year, CCE served 37,296 elders and the Medicaid HCBS waiver program served 18,984 – only 21% of the estimated 270,000 frail elders needing help.

*According to the Florida Department of Elder Affairs, 14,109 elders have been assessed and determined eligible for CCE services, but due to funding limitations are not being served.*

Funding in both the House and Senate appropriations bills for CCE is flat.

*Source: Community Care for the Elderly Coalition*

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### Why We Love Kids . . .

#### OPINIONS

On the first day of school, a first-grader handed his teacher a note from his mother. The note read, "The opinions expressed by this child are not necessarily those of his parents."

#### SCHOOL

A little girl had just finished her first week of school. "I'm just wasting my time," she said to her mother. "I can't read, I can't write and they won't let me talk!"

## BILLS HEARD THIS WEEK

*(The bills summarized below relate to human service issues and other issues of interest to United Ways, United Way agencies, and United Way supporters. Much of the information below has been excerpted from Legislative staff analyses.)*

TO OBTAIN A COPY OF A BILL, STAFF ANALYSIS, LEGISLATIVE CALENDARS  
OR OTHER LEGISLATIVE INFORMATION:

**House Bills:** House Documents, Rm. 325, Capitol, Tallahassee, FL 32399 ♦ 850/488-7475

**Senate Bills:** Senate Bill Rm. 303, Capitol, Tallahassee, FL 32399 ♦ 850/487-5285

**Website Address:** <http://www.leg.state.fl.us/>

### **CS/SB 158 – Religious-Exempt Child Care Programs**

Committee Substitute for Senate Bill 158 requires religious-affiliated child care programs and weekday preschool programs to be members or participants of, or be accredited by, an accrediting agency recognized by the Department of Children and Family Services in order to qualify for the religious exemption from licensure as a child care facility.

Since 1974, the Legislature has mandated the statewide licensure of child care facilities. These “child care facilities” include any child care center or child care arrangement that provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit (s. 402.302(2), F.S.).

The 1974 legislation, however, exempted from licensure a child care facility that is an integral part of a church or parochial school conducting regularly scheduled classes, courses of study, or educational programs accredited by, or a member of, an organization that publishes and requires compliance with its standards for health, safety, and sanitation. This exemption for “religious-exempt” facilities remains under current law, except that the child care personnel operating religious-exempt facilities must complete the same background-screening requirements applicable to child care personnel in licensed child care facilities (s. 402.316(1), F.S.). In addition, religious-exempt facilities must comply with the requirements of local governments for health, sanitation, and safety.

Religious-exempt facilities may choose to be licensed but cannot withdraw from licensure once they are licensed (s. 402.316(3), F.S.). Of the 1,468 child care facilities in the state which are eligible for the religious exemption under s. 402.316, F.S., currently 1,012 facilities have chosen to be licensed child care facilities and 456 facilities have chosen to be religious-exempt facilities.

*Last Action: 3/18/04 HOUSE in Messages*

### **HB 227 – Florida Coordinating Council for the Deaf and Hard of Hearing**

CS/HB 227 creates the Florida Coordinating Council for the Deaf and Hard of Hearing, sited in the Department of Health but independent of the Department’s control. The Council includes 17 persons, including representatives of organizations of individuals who are deaf and hard of hearing and their families, organizations and professions serving those individuals, and state agencies. The Council is required to work to increase coordination among public and private entities serving individuals who are deaf or hard of hearing, provide information and education, provide services where gaps exist, review state agencies to determine their compliance with accessibility standards, study the feasibility of and necessity for licensing interpreters, and maintain a registry of qualified interpreters.

The bill requires an initial appropriation of \$450,000 from the General Revenue Fund for the first year and recurring annual appropriations in later years of \$425,000 for the basic operations of the coordinating council.

*Bills Heard this Week (continued)*

Currently there is no state program specifically dedicated to meeting the broad needs of individuals of all ages who are deaf, hard-of-hearing, and late-deafened. Other state programs may provide some assistance but have limited eligibility criteria or limited scope of services. For instance, Children's Medical Services may serve children. Adults who are deaf, hard-of-hearing, and late-deafened who have other disabilities may be served by the Developmental Disabilities Program or Adult Services Program of the Department of Children and Families

Various community programs may provide assistance as well. There are deaf service centers in many areas of the state, which provide services including education and information and referral. Other organizations, such as Independent Living Centers, which serve the needs of individuals with a range of disabilities, also assist those who are deaf, hard-of-hearing, and late-deafened.

In 1983, the Legislature created the Florida Council for the Hearing Impaired, which was eliminated in 1995. As of 2000, 39 states had an entity addressing the needs of individuals who are deaf, hard-of-hearing, and late-deafened, including Georgia, Arizona, Kentucky, New Mexico, Kansas, and West Virginia.

*Last Action: 3/24/04 HOUSE Favorable by the Future of Florida's Families*

**HB 231 – Florida Food Banks License Plate**

CS/HB 231 creates the "Florida Food Banks" specialty license plate, and establishes an annual use fee of \$25, to be paid by purchasers of the plate in addition to license taxes and fees. Annual use fees will be distributed to the Florida Association of Food Banks, Inc., for programs directed at ending hunger in the state.

The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the State University System. Since then, the Legislature has authorized seventy-eight more specialty license plates.

*Last Action: 3/23/04 HOUSE Favorable by Finance & Tax*

**Some Special License Plates of Interest**

<i>Name</i>	<i>Additional Annual Fee</i>	<i>Number Issued</i>
Invest in Children	\$20	73,283
Choose Life	\$20	40,937
Support Special Olympics	\$15	23,089
Keep Kids Drug Free	\$25	13,427
Everglades River of Grass	\$20	13,229
Miami Heat	\$25	11,995
Boy Scouts of America	\$20	5,377
Girl Scouts of America	Discontinued	1,157

**CS/SB 316 – Substance Abuse Treatment Intervention**

CS/SB 316 allows the court, at a dependency shelter hearing, adjudicatory hearing, or upon judicial review of a case plan for a parent, to order a substance abuse assessment of a child or the child's parent, caregiver, legal custodian, or other person requesting custody of the child. The court may require participation in substance abuse treatment services when appropriate and available, including treatment-based drug court programs.



*Bills Heard this Week (continued)*

The bill also provides that with the approval of the state attorney, a defendant (child or adult) assessed with a substance abuse problem who is charged for the first time with a nonviolent third-degree felony and who has not previously been adjudicated of a felony, or is charged with a second or subsequent nonviolent third-degree felony may be referred to a pretrial substance abuse education and treatment intervention program. Upon completion of the program, the defendant is entitled to dismissal of the pending charge involving a nonviolent third-degree felony.

*Last Action: 3/18/04 SENATE CS by Appropriations Subcommittee on Article V Implementation and Judiciary*

**HB 379 – Elder Abuse and Neglect**

HB 379 revises the crime of aggravated abuse of an elderly or disabled person from a second degree felony to a first degree felony. The bill requires certified law enforcement personnel to receive training in identifying and investigating elder abuse and neglect.

The bill also designates a new Memory Disorder Clinic (MDC) under the Alzheimer’s Disease Initiative in Clearwater which is a part of the Department of Elder Affairs’ Planning & Service Area (PSA) 5. PSA 5 is the only PSA that does not have at least one MDC. Lastly, the bill also creates a workgroup at the Florida Mental Health Institute at the University of South Florida. The workgroup is to study the use of the Florida Mental Health Act for involuntary commitment of elderly persons who have dementia. The workgroup is to report its findings and recommendations to the Legislature by January 1, 2005, and is repealed February 1, 2005.

*Last Action: 3/23/04 HOUSE Now in Public Safety & Crime Prevention*

**CS/CS/SB 406 – Corporate Income Tax Credit for Contributions to Nonprofit Cultural Organizations**

The committee substitute for the committee substitute for Senate bill 406 allows a corporate tax credit of 50 percent of the amount of a contribution or contributions to an “eligible cultural organization” that are between \$60,000 and, in an annual aggregate, \$600,000. An “eligible cultural organization” is a nonprofit cultural organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that is engaged in the disciplines of dance, music, theater, visual arts, literature, media arts, interdisciplinary and multidisciplinary, and programs of museums.

A credit may be taken on a consolidated return basis if the taxpayer files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1), F.S. The bill prohibits carrying forward to the following year any unused credit granted by the section. Further, the section prohibits conveyance, assignment, or transfer of the credit to another entity unless all of the assets of the taxpayer are so transferred.

*Last Action: 3/18/04 SENATE CS by Finance and Taxation*

**HB 463 – Mental Health**

HB 463 amends the Baker Act to include voluntary and involuntary outpatient treatment as alternatives to inpatient commitment. The bill provides criteria and procedures for receipt of outpatient services, assuming such services and programs are available.

The bill grants DCF rulemaking authority to implement the act.

Part I of Chapter 394, F.S., is known as the Florida Mental Health Act or the “Baker Act.” The Baker Act contains all of the statutory provisions for the involuntary examination and the involuntary placement of persons who are mentally ill and require mental health treatment.

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*Louis Pasteur discovered a cure for rabbits but I don't know why.*

*Sir Walter Raleigh is a historical figure because he invented cigarettes and started smoking.*

-- History quiz answers given by 5<sup>th</sup> and 6<sup>th</sup> graders in Ohio.



*Bills Heard this Week (continued)*

Section 394.463, F.S., specifies the criteria for an involuntary mental health examination. A person may be taken to a receiving facility for involuntary examination if there is reason to believe that he or she is mentally ill and because of his mental illness the person:

- has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or
- is unable to determine for himself if the examination is necessary; and
- without care or treatment, is likely to suffer from neglect or refuses to care for himself which poses a real and present threat of substantial harm to his well-being; and it is not apparent that harm may be avoided through the help of willing family members or friends or the provision of other services; or
- there is a substantial likelihood, as evidenced by recent behavior that, without care or treatment, the person will cause serious bodily harm to himself or others in the near future.

The CS creates new section 394.4655, F.S., relating to involuntary outpatient placement.

**PROVIDES CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT**

- Requires the court to find by clear and convincing evidence that
  - The person is 18 or older; and
  - The person has a mental illness; and
  - Based on a clinical determination the person is unlikely to survive safely in the community without supervision; and
  - The person has a history of noncompliance with treatment for mental illness; and The person has
    - At least twice within the last 36 months been admitted for examination or placement in a receiving or treatment facility or received mental health services in a forensic or correctional facility, which period of time excludes any period during which the person was admitted or incarcerated; or
    - Engaged in one or more acts of serious violent behavior to self or others or engaged in attempts at serious bodily harm to self or others within the preceding 36 months; and
    - The person is unlikely to voluntarily participate in treatment; and
    - The person is in need of involuntary outpatient placement in order to prevent a relapse or deterioration of condition which would result in harm to self or others; and
    - The person will likely benefit from involuntary outpatient placement; and all available less restrictive alternatives have been judged to be inappropriate.

Each of the criteria must be alleged and substantiated in a petition for involuntary outpatient placement which shall include a clinical determination by a qualified professional.

*Last Action: 3/22/04 HOUSE Now in Judiciary*

**CS/HB 523 – Video Voyeurism**

CS/HB 523 creates the misdemeanor offense of video voyeurism. The bill provides that a person commits the offense of video voyeurism if the offender, for the amusement, entertainment, sexual arousal, gratification or profit of the offender or another, or for the purpose of degrading or abusing another person, intentionally uses or installs or permits the use or installation of an imaging device to secretly view, broadcast, or record: 1) a person, without that person's knowledge or consent, who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy.

*Last Action: 3/22/04 HOUSE Now in Public Safety Appropriations*

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**THIS PUTS OUR WORLD INTO A PERSPECTIVE MORE EASILY UNDERSTOOD.**

If we could shrink the earth's population to a village of precisely 100 people, with all the existing human ratios remaining the same, it would look something like the following:

There would be:	70 would be non-Christian
70 would be non-white	30 would be Christian
30 would be white	

**CS/CS/SB 532 – The Good Samaritan Act**

CS/CS/SB 532 extends immunity from civil liability under the Good Samaritan Act to any person whose acts or omissions are not otherwise covered under the act and who participates in emergency response activities under the direction of or in connection with local emergency management agencies, the Division of Emergency Management of the Department of Community Affairs, or the Federal Emergency Management Agency. The person would not be liable for any civil damages as a result of care, treatment, or services provided gratuitously in such capacity and resulting from any act or failure to act in such capacity in providing or arranging further care, treatment, or services, if such person acts as a reasonably prudent person would have acted under the same or similar circumstances.

The scope of the immunity for civil liability provided by the committee substitute is broader than the immunity available under existing law. First, existing law provides immunity from liability to a person who provides medical treatment. The committee substitute provides immunity from liability to a person who provides “services” during emergency response activities, in addition to medical treatment. Second, the immunity provided by the committee substitute extends to a person who provides care, treatment, or a service regardless of an objection to the care, treatment, or service by a recipient.

*Last Action: 3/23/04 SENATE Placed on Calendar, on second reading*

**CS/HB 645 – Minority Health Care**

A study of health disparities in nine states by the federal Office of Minority Health found that in Florida:

- Infant mortality rates were at least twice as high for black infants as for white infants;
- 21 percent of Florida counties (14) had shortages of mental health and primary care professionals;
- 12 of these counties had above average percentages of minorities; and
- Data on Hispanics and Native Americans is limited in Florida as it is in the other study states.

CS/HB 645 addresses these issues by requiring the Department of Health (DOH) to, within existing resources, monitor and report on Florida’s status on goals of the federal Healthy People 2010 initiative. The initiative is a comprehensive, nationwide health promotion and disease prevention agenda. The goals of the Florida program are to help individuals of all ages increase life expectancy and improve their quality of life, and eliminate health disparities among different segments of the population.

*Last Action: 3/23/04 HOUSE Now in Health Appropriations*

**CS/HB 723 and CS/SB 1698 – Foster Care Services**

CS/SB 1698 and CS/HB 723 are substantially similar. They amend §409.1671, F.S., related to the privatization of foster care and related services, to provide new requirements for the proposal related to a statewide shared financial risk pool intended to protect community based care providers who deliver foster care and related services. The bills extend a deadline for the submission by the Department of Children and Family Services to the Legislative Budget Commission of a proposal regarding the risk program from December 31, 2002 until October 1, 2004, remove conflicting language related to the use of risk program funds, add a purpose for which risk pool funds may be used, clarify requirements for performance bonds, and add requirements related to the composition of the boards of directors for community-based care lead agencies. The bills also prohibit entities that receive funding from either the Department of Children and Family Services or a community-based lead agency from serving on the community alliance.

In 2000, §409.1671, Florida Statutes, was amended to address the risk assumed by community-based care providers as they became responsible for service provision by authorizing DCF to establish and administer a risk pool intended to reduce the financial risk to eligible lead community-based providers resulting from unanticipated caseload growth.<sup>5</sup> The risk pool did not have an established years-to-year funding source but was funded by specific appropriation each year from non-recurring funds. The sum of \$4.5 million was appropriated in 2000 to establish the risk pool.

Legislation enacted in 2002 required DCF to develop, in consultation with existing lead-agency providers, a statewide proposal related to the long-term use and structure of a shared-earnings program addressing the financial risk to eligible lead community-based care providers not only from unanticipated caseload increases as provided in 2000 legislation, but also from significant changes in client mixes or services eligible for federal reimbursement.

*Bills Heard this Week (continued)*

The 2003 General Appropriations Act provided 10 million dollars from the federal grants trust fund for the shared risk fund for community-based providers of child welfare to be used for unanticipated costs associated with the privatization of foster care and related services as authorized in section 409.1671(7)(i), Florida Statutes.

The bill redirects the Department of Children and Family Services, in consultation with the existing community-based care lead agencies, to develop a proposal related to the use and structure of a statewide shared financial risk program intended to protect eligible lead agencies who contract with the department for the provision of foster care and related services. It also removes a provision which currently appears to restrict the use of funds only to provide for continuity of care in the event of the failure of a lead agency, discontinuance of service provision by a lead agency, or financial misconduct and provides that an irrevocable letter of credit may substitute for the currently required performance bond.

The decision to privatize the provision of foster care and related services has transferred the associated financial risk from the state to those entities that have contracted to become community based care lead agencies.

Unlike the Department of Children and Family Services, private providers do not have the ability to manage that risk through the use of statewide realignments in the agency budget nor do they have sovereign immunity.

Management of financial risk is a serious issue that can affect privatization efforts both on the front end when trying to recruit lead agencies and on the back end when lead agencies fail. Reluctance of many providers to assume the increased financial risk that comes with lead agency status. As more and more lead agencies assume service provision at the accelerated pace currently in place, there appears to be a justifiable concern that lead agencies will fail. Department contract monitoring reports for November 2002 and January 2003 identified two lead agencies that were experiencing problems, some of which were related to financial stability, that jeopardized their existence. One of those agencies, Family Continuity Programs, which began providing services in June 2000, reportedly failed last week having exhausted an almost \$4 million credit line. In spite of this, it is a problem that Florida has been slow to address and has not yet implemented an adequate solution.

As of January 2004, the department has contracts in place with 11 lead agencies, serving 28 counties and 42% of all children receiving child protection services, with a total contract value of just over \$342 million dollars.

A \$4.5 million risk pool was established in 2000; and at \$10 million today, it hardly appears adequate to manage the risk associated with a statewide privatization effort of this magnitude. To date, the risk pool has not been accessed by any provider, reportedly due to statutory interpretation conflict.

*Last Action for both bills: HB 723 3/24/04 HOUSE Favorable by State Administration; SB 1698 3/24/04 SENATE CS by Children and Families*

**HB 937 and SB 2202 – Lead Poisoning Reduction Act**

HB 937 and SB 2202 creates the “Florida Childhood Lead Poisoning Reduction Act” and authorizes the Secretary of Health to appoint a Director of Lead Poisoning Prevention, establishes a Lead Poisoning Prevention Coordinating Council and the Lead Poisoning Prevention Commission.

The bill provides requirements for property constructed before 1978 to be designated as lead-free or lead-safe properties and specifies actions that must be taken by the property owner, who is not the occupant of the affected property, to protect the occupants from health hazards during work to remove or reduce lead-based-paint or lead-based-paint hazards.

If the tenant or an affected property refuses to respond to reasonable requests of the property owner to vacate the property for work to be done, the property owner is immune for any damages arising from the tenant’s refusal to vacate.

The bill provides for voluntary inspections to determine if a property is lead-free or lead-safe and authorizes mandatory inspections under certain circumstances.

*Bills Heard this Week (continued)*

The bill provides for liability protection for property owners, which applies to all potential civil liability for alleged injury or loss due to lead ingestion attributable to a property covered by this bill. Liability protection does not apply to any claim in which the elevated blood-lead level of the person at risk is documented 60 days or less after the property has been certified as lead-free or lead-safe.

*Last Action for Both Bills: HB 937 3/25/04 HOUSE Unfavorable by Health Care; SB 2202 3/16/04 SENATE CS by Health, Aging, and Long-Term Care*

**CS/SB 1058 – Foster Children/Vehicle Insurance**

CS/SB 1058 establishes a pilot program in Sarasota, Desoto, and Manatee counties to assist foster parents with the costs of providing motor vehicle insurance for the foster youth in their care. Through the pilot program, foster parents would be reimbursed for half of the increase in costs for adding a foster youth to their motor vehicle insurance policy. The bill provides for a report to the Governor and Legislature on the outcome of the pilot project and an appropriation of \$50,000.

The bill expresses the legislative finding that foster parents are responsible for the increased cost in motor vehicle insurance when a foster youth obtains a driver's license. The added insurance cost to insure the foster youth is a barrier to the foster youth gaining independence and employment opportunities. The Department of Children and Families is directed by the bill to establish a pilot program which would provide funds to reimburse foster parents for the increased cost of providing motor vehicle insurance coverage for the foster youth, to the extent that funding is available. The pilot program is created for a 3-year period and is available in Sarasota, Desoto, and Manatee counties. The bill requires the department to reimburse foster parents for one-half of the increased cost that was a result of adding the foster youth to the policy. The foster youth are required to pay one-half of the cost of the increase. Foster parents are ineligible for the reimbursement if the foster youth accumulates six or more points as a result of one or more moving violations.

*Last Action: 3/24/04 SENATE CS by Banking and Insurance*

**HB 1059 – Deaf & Blind School**

Founded in 1885, the Florida School for the Deaf and the Blind is a state-supported boarding school for eligible hearing-impaired and visually-impaired students pre-school through 12th grade. The school serves approximately 700 students from its St. Augustine campus. In a 2002 report, the Auditor General found numerous operational and accounting problems with the school's operation. This bill addresses some of the audit findings by limiting the powers of the school and directing that the school be audited annually.

This bill restates current laws applicable to all state agencies, and places the requirements in a section of law specifically applicable to the school. Those provisions require the school to:

- Deposit all funds other than gifts, donations, and bequests, into the State Treasury.
- Utilize state purchasing laws in ch. 287, F.S.
- Provide a veteran's preference in hiring.
- Comply with the campus planning requirements of s. 1013.30, F.S.
- Comply with travel and per diem rates set forth in s. 112.061, F.S.

Current law requires, at s. 1013, F.S., universities and community colleges to create and maintain campus master plans and campus development agreements. This bill requires the Florida School for the Deaf and the Blind to comply with the same requirements.

*Last Action: 3/24/04 HOUSE CS by State Administration*

**HB 1109 – Hospice Facilities/Florida Building Code**

HB 1109 removes the requirement that the Department of Elderly Affairs establish minimum standards and procedures for "the physical plant standards for hospice residential and inpatient facilities", and requires that "hospice residential and inpatient facilities and units" comply with the Florida Building Code.

*Last Action: 3/22/04 HOUSE CS by The Future of Florida's Families*

**HB 1261 - Hazing**

Current law under s. 1006.63, F.S. provides that public and nonpublic post secondary educational institutions whose students receive state student financial assistance, must adopt antihazing policies. There is no current criminal penalty for the act of hazing, though criminal prosecutions can arise. These offenses are instead usually handled administratively at the university and community college level. The principal problem for prosecuting such offenses is that the applicable crimes usually require an element that the act occur against the will of the victim. Recently there have been a number of incidents in which acts apparently involving hazing which resulted in the serious injury or death of students.

HB 1261 amends the section of statutes providing the current definition of hazing. The bill also creates two new criminal offenses for hazing. One offense is a third degree felony and would occur when a person “intentionally or recklessly orders, directs, pressures, or coerces another person who is a member of or an applicant to any type of student organization to engage in conduct that results in the serious bodily injury or death of another person or that creates substantial risk of physical injury to such other person and thereby caused such injury or death.” The second offense created by the bill is a first degree misdemeanor and would occur when “in the course of another person’s initiation into or affiliation with any organization, he or she intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person.”

The bill provides that as a condition of the sentences imposed for either of these newly created offenses, the court may require the defendant to complete a 4-hour hazing education course and may also impose a condition of drug or alcohol probation. The bill also disallows certain defenses for the offense of hazing, such as consent of the victim.

*Last Action: 3/25/04 HOUSE CS by Public Safety & Crime Prevention*

**CS/HB 1379 – Medication of Children**

CS/HB 1379 creates the new Center for Juvenile Psychotropic Studies within the Department of Psychiatry of the College of Medicine of the University of Florida for the purpose of collecting, tracking, and assessing information regarding dependent minors in state custody who have been or are currently being prescribed psychotropic medications. A nine-member advisory board is also created to review and advise the center on all actions taken pursuant to the act. The membership is to composed of nine experts in psychiatric health to include

The bill also:

- provides that the refusal of a parent or guardian to administer psychotropic medications to their child is not in and of itself grounds for that child to be taken into DCF custody;
- makes it unlawful for a child care facility to administer medication to a child attending the facility without written authorization of the child’s parent or legal guardian, and provides an exception for emergency situations;
- provides that a violation resulting in serious bodily injury to a child is a third degree felony, and a violation which does not result in serious injury to a child is a first degree misdemeanor; and
- requires each district school board to implement policies prohibiting their personnel from recommending the use of psychotropic medications for any student.

Emotional and mental disorders are disproportionately frequent among children who have been abused or neglected. Those same children frequently end up in the foster care system because of that abuse or neglect. Studies of mental health needs specific to the foster care system have firmly established that children in foster care are a high-risk population for socio-emotional, behavioral, and psychiatric problems warranting mental health treatments.

In addition, an estimated 50 percent of Florida juvenile offenders in residential delinquency programs are diagnosed with mental health illnesses or emotional problems; many have been victims of physical and/or sexual abuse themselves.

Children with emotional, behavioral, and mental disorders that could be treated with medications may not be treated, or may be treated improperly, because their physicians do not know which products might be most effective or what dosage to administer. New drug therapies are helping children combat even serious mental illnesses, such as schizophrenia and depression. Troubled children have been able to make dramatic turnarounds and do things they never could before—go to school, be with friends and get along with their family.

*Bills Heard this Week (continued)*

However, three-fourths of all medications used by children are prescribed “off label,” in that they have not been approved by the FDA for use by children. Clinicians, families, researchers and advocates are concerned about the unknown, long-term effects of medication on children’s development.

*Last Action: 3/23/04 HOUSE Now in Education Appropriations*

**SB 1672 – Child Protective Investigations**

Senate Bill 1672 is the by-product of a Senate committee interim project focusing on retention of protective investigators. It modifies the process for conducting institutional child abuse investigations, particularly in Department of Juvenile Justice facilities, by removing outdated provisions, shifting the responsibility to address certain allegations from the Department of Children and Families to the Department of Juvenile Justice, removing unnecessary investigative activities, and strengthening the actions available to the Department of Children and Families when safety is a concern. Both the Department of Children and Families and the Department of Juvenile Justice are required to develop policies and procedures to guide conducting and responding to institutional child abuse investigations. An interagency agreement between these two departments is required to further develop the necessary collaborations. The Department of Children and Families is to adopt rules for the hiring and training of child protective staff, develop a program design to pilot an alternative response system, and work with the courts to examine the information needed by the courts for a dependency case. A report on the implementation of all of the recommendations of the Protective Investigator Retention Workgroup is to be submitted to the Legislature by December 31, 2004.

*Last Action: 3/24/04 SENATE Favorable by Criminal Justice*

**HB 1689 – Juvenile Justice System**

The Department of Juvenile Justice administers programs for youths of both genders. In current law, there is no specific provision that programs administered by the Department of Juvenile Justice provide gender-specific program models and services, although the department currently mandates such programming in contracts with program providers.

HB 1589 would provide a statutory requirement that DJJ commitment programs provide gender-specific programming. In addition, the bill requires OPPAGA to conduct an analysis of programs for females to determine if existing programs meet gender specific needs. The analysis must also determine the cost of providing such programming, and if females charged with status or probation violation offenses could be better served by less costly community-based programs.

*Last Action: 3/9/04 HOUSE Now in State Administration*

**SB 1872 – Family Values License Plate**

SB 1872 directs the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a Family Values specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a \$25 annual use fee will be charged for this new specialty license plate. The annual use fees will be distributed to the Sheridan House, Inc., and will be expended for residential care programs, family counseling, social services for single parents and their children, resource materials and facility construction.

The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the State university system. Since then, the Legislature has authorized 78 more specialty license plates.

*Last Action: 3/24/04 SENATE Favorable by Children and Families*

**CS/SB 1898 – Arthritis Prevention & Education Act**

According to the United States Centers for Disease Control and Prevention (CDC), nearly 70 million Americans, or about one of every three adults in the United States, are affected by arthritis. CS/SB 1898 creates the “Arthritis Prevention and Education Act,” to require the Florida Department of Health (DOH) to establish an arthritis prevention and education program and to conduct a needs assessment to identify research on arthritis, the needs of persons with arthritis, and services available to persons with arthritis.

*Bills Heard this Week (continued)*

The department must establish and coordinate an advisory panel on arthritis, and use strategies consistent with existing national and state efforts to raise public knowledge on the causes and nature of arthritis, personal risk factors, the value of prevention and early detection, ways to minimize preventable pain, and options for diagnosing and treating the disease. The department must establish, promote, and maintain an arthritis prevention and education program and carry out other related duties, to the extent that funds are specifically made available to implement the bill. The bill authorizes the Secretary of Health to accept grants, services, and property from various sources to fulfill the obligations of the program and to seek any federal waiver that may be necessary to maximize funds from the federal government.

*Last Action: 3/24/04 SENATE Favorable by Governmental Oversight and Productivity*

**SB 2090 – Trust Funds**

SB 2090 creates the Elder Victims Trust Fund within the Department of Elder Affairs. Funds will be used to investigate and prosecute financial exploitation against elderly person. Moneys will also be used to fund education initiatives on financial exploitation for elderly persons, law enforcement, the judicial system, social service professionals and the public.

*Last Action: 03/25/04 SENATE On Committee agenda-- Health, Aging, and Long-Term Care*

**SB 2092 – Financial Protection for Elderly Act**

SB 2092 creates the “Financial Protection for the Elderly Act.” It provides protection to elderly persons over 60 years of age against financial exploitation of money, funds, assets or property, through entitling elderly persons, or certain other persons acting on their behalf, to a cause of action for financial exploitation and to recover civil damages, including punitive damages capped at \$1 million.

This bill requires the court to consider specific circumstances when determining an act is unconscionable, and therefore constituting financial exploitation, including:

- The defendant took advantage of an elderly person’s inability to protect his or her interests because of mental or physical infirmity, ignorance or illiteracy.
- The elderly person was unable to materially benefit from the transaction.
- The defendant knew or should have known that there was no reasonable probability that the elderly person could pay a financial obligation.
- The defendant induced the elderly person into the transaction to the person’s detriment
- The acts shock the conscience or offends public policy.
- The defendant seeks a waiver of the rights and remedies under this bill.

The Attorney General is authorized to investigate and file civil actions in cases of financial exploitation against an elderly person. Funding for the Elder Victims Trust Fund includes one half of all punitive damages awarded, and moneys received by the Attorney General for attorney’s fees and costs of investigation or litigation under this authority. 1

According to experts in elder law, the financial exploitation of elderly citizens is a significant and growing problem. Perpetrators are most often persons in whom elderly citizens place trust and confidence, such as a family member, a long-term business associate or an employed caretaker, to manage their funds, assets and property. A four year national study determined that more than 550,000 cases of elder abuse, neglect and self-neglect were reported in 1996, and estimated that many more go unreported.

The study ranked in order of frequency the types of elder mistreatment:

- Neglect;
- Emotional/Psychological Abuse;
- Physical Abuse;
- Financial/Material Exploitation; and
- Abandonment.

*Last Action: 3/25/04 SENATE On Committee agenda – Health, Aging, and Long-Term Care*



*Bills Heard this Week (continued)*

**SJR 2506 – State Budget Planning & Spending**

Senate Joint Resolution 2506 limits the amount of nonrecurring general revenue, which may be appropriated for recurring purposes in any fiscal year to 3 percent of the total general revenue funds available, unless otherwise approved by a three-fifths vote of the Legislature. The joint resolution also establishes a Joint Legislative Budget Commission, which shall issue long-range fiscal plans and hold public hearings.

Among others, the joint resolution also requires termination trust funds four years following their creation and provides for the preparation and biennial revision of a long-range state planning document.

*Last Action: 3/25/04 SENATE Favorable by Appropriations*

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