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## MEMORANDUM

TO: Florida Chapter of the American Academy of Pediatrics  
FROM: Douglas S. Bell  
DATE: May 4, 2021  
SUBJECT: End of Session Report

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The Florida Legislature concluded its work on Friday, April 30. The smooth, on-time, conclusion was indicative of the general tone of the Session. The presiding officers steered clear of any public disagreements and avoided the tit-for-tat exchanges that can cause a session to get mired in acrimony. The Legislature also handled the mechanics of managing a legislative session during a pandemic. While public access was limited, the Legislature did its best to allow remote testimony, socially distanced meetings and many, many Zoom calls with constituents. Also, during the 60-day Session the Legislature successfully pivoted from building a budget based on billions of dollars in spending cuts to, within days, building a budget with billions of dollars in federal stimulus, most of which could only be spent in “non-recurring” budget items.

A successful session, however, does not mean everyone is happy with the result. In typical fashion the Session featured spirited debate on many partisan issues, perhaps another sign of a return to normalcy in Florida.

### **2021 Legislation of Interest to FCAAP**

#### **Child Protection Teams – SUPPORT – PASSED**

**HB 871** by Rep. John Snyder (R-Palm City) expands the immunity from civil liability to include any member of a CPT, which includes independent contractors. Therefore, any member of a CPT is immune from civil liability for actions arising out of the scope of his or her employment under the control, direction, and supervision of the state or any of its agencies or subdivisions. Currently, there are approximately 238 CPT members who are independent contractors.

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Link to Enrolled Version of HB 871:

<https://www.flsenate.gov/Session/Bill/2021/871/BillText/er>

### **Child Welfare – SUPPORT – PASSED**

**SB 96** by Senator Lauren Book (D-Plantation) and Senator Jason Brodeur (R-Sanford) is the work product of the Children, Family, and Elder Affairs Committee. Among the various aspects of Florida's child welfare system provisions, the bill seeks to strengthen abuse reporting requirements, provide additional supports for foster parents, establish multidisciplinary legal representation for parents and children in the dependency system, require critical incident rapid response teams to investigate child sexual abuse allegations. The Department of Children & Families delivers services by contract through private providers, including community-based care lead agencies (CBCs) delivering child welfare services and managing entities (MEs) delivering behavioral health services. This comprehensive piece of legislation was amended late in the session to incorporate provisions contained in SB 96, SB 92, SB 900, HB 1093, and SB 1844, as follows:

- child abuse hotline under s. 39.101, F.S. and child abuse reporting under s. 39.201, F.S.;
- confidentiality of records and reports of abuse, abandonment, or neglect under s. 39.202, F.S.;
- penalties relating to failure to report under s. 39.205, F.S.;
- protective investigations in institutional abuse cases under s. 39.302, F.S.;
- child advocacy centers under s. 39.3035, F.S.;
- multidisciplinary legal representation model (MLRM) program created under s. 39.4092, F.S.;
- parenting partnerships under s. 409.1415, F.S.;
- local animal control or cruelty ordinances under s. 828.27, F.S.; and
- education practices commission under s. 1012.795, F.S.

SB 96 is modified with respect to the provisions under s. 39.2015, F.S., relating to critical incident rapid response teams (CIRRT) to establish modified quality assurance investigations of sexual abuse allegations of certain children who are placed in out-of-home care effective October 1, 2021. SB 96 is also modified with respect to the reporting requirements related to the MLRM to impose a timeframe from October 1, 2022 through October 1, 2025.

The following provisions from SB 92:

- the family finding program under s. 39.4015, F.S.;
  - kinship navigator under s. 39.5086, F.S.;
  - conflicts of interest on the board of managing entities (ME) created under s. 394.90825, F.S., and lead agencies under s. 409.987, F.S.; and
  - information the DCF is required to post on its website under s. 409.996, F.S.
- The strike-all includes modified language from SB 92 requiring MEs and lead agencies to post information on its website to include certain salary information and

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copies of the last three years of their Form 990 tax returns. It also modifies the provisions related to development of an alternative approach when a lead agency is unable to competitively procure services.

SB 96 includes the following provisions in SB 900, including:

- confidential reports and records of abuse, abandonment, or neglect under s. 39.202, F.S.; and parenting partnerships under s. 409.1415, F.S.
- modifies SB 900 with respect to the provision related to increasing the capacity for the number of children placed in family foster homes, and authorizes the DCF to adopt rules to establish criteria for requesting a waiver and criteria to approve such waivers.

SB 96 includes the following provisions from HB 7039:

- requires the protective investigator to assess and take appropriate actions to protect children who are not the subject of the alleged sexual abuse allegations and who are accessible to the alleged perpetrator;
- requires lead agencies to publish on its website information regarding case managers who are assigned 25 or more cases, and include a statement regarding being contracted with the DCF in certain publications;
- requires the DCF to conduct an annual review of specified financial information of lead agencies, including developing a plan to achieve financial viability and requiring a report to be submitted to the President of the Senate, the Speaker of the House of Representative, and the Governor;
- requires lead agencies to fund increased costs of services in certain circumstances; and
- eliminates an obsolete provision under current law that requires the Florida Institute for Child Welfare to evaluate the Guardianship Assistance Program.

SB 96 includes all of the provisions in HB 1093 which clarify the goals to be achieved with respect to dependent children, specify the DCF's requirements regarding children's rights, including obligations to educate children of their rights and to document specified efforts, and district school boards' authority to establish education on child abuse, abandonment, or neglect.

SB 96 includes the provisions of HB 1447 which creates a Commission on Mental Health and Substance Abuse (Commission) adjunct to the DCF. The purpose of the Commission is to examine the methods of services provided in the State and improve the effectiveness of the programs. SB 96 provides for the composition of the Commission, its duties and other requirements, such as report that must be submitted within a specified time.

Link to Enrolled Version of SB 96:

<https://www.flsenate.gov/Session/Bill/2021/96/BillText/er>

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### **Informed Consent for Pelvic Examinations – SUPPORT – PASSED**

Legislation passed in 2020 requires certain health care practitioners and medical students to obtain written consent from a patient or a patient's representative before performing a pelvic exam. **SB 716** by Senator Lauren Book (D-Plantation) amends and narrows the definition of "pelvic examination" and amend the current law requiring written consent for all pelvic examinations performed by health care practitioners and trainees.

The legislation revises the definition of pelvic examination to mean a manual examination of the organs of the female reproductive system and revises the emergency exception to the informed consent requirement allowing a health care practitioner to perform a pelvic examination without the written consent of the patient if the pelvic examination is necessary for the provision of emergency services and care or the patient has an emergency medical condition. The legislation adds two exceptions to the informed consent requirement allowing a health care practitioner to perform a pelvic examination without the written parental consent if the pelvic examination is administered to conduct a:

- Child protective investigation; or a
- Criminal investigation involving child abuse or neglect.

Link to Enrolled Version of SB 716:

<https://www.flsenate.gov/Session/Bill/2021/716/BillText/er>

### **Child Abuse Pediatric Fellowship – SUPPORT – PASSED**

**HB 3807** by Rep. Cyndi Stevenson and **Senate Form 1703** by Senator Gayle Harrell (R-Stuart) provide \$300,000 in funding for a Child Abuse Pediatric Fellowship at the University of Florida in Jacksonville.

**This budget project was funded on Line Item 149 for \$300,000 in the Budget Conference Report for Senate Bill 2500.**

Link to Conference Report for SB 2500:

<https://www.flsenate.gov/Session/Bill/2021/2500/Amendment/511738>

### **Child Protection Teams Funding Increase – SUPPORT – FAILED TO PASS DURING BUDGET CONFERENCE**

Unfortunately, this budget project was not funded for \$560,132 in the final **Budget Conference Report for SB 2500** to ensure each child protection team is funded at the Fiscal Year 2020-2021 contract amount.

Link to Conference Report for SB 2500:

<https://www.flsenate.gov/Session/Bill/2021/2500/Amendment/511738>

### **Tobacco 21 – OPPOSE – PASSED**

**SB 1080** by Senator Travis Hutson (R-Elkton) raises the minimum age to purchase tobacco and nicotine products to 21 which is already established in federal law. The legislation also maintains the status quo on flavored vaping products and proposes to regulate vaping products separately from tobacco products by creating a separate licensing structure for

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the sale of “nicotine dispensing devices” and nicotine products under Chapter 569, Part II, Florida Statutes, which would regulate the sale of vaping products.

Link to Enrolled Version of SB 1080:

<https://www.flsenate.gov/Session/Bill/2021/1080/BillText/er>

### **PA Independent Practice – NEUTRAL – PASSED**

**HB 431** by Rep. Bob Rommel (R-Naples), as originally filed, broadened the scope of practice for physician assistants (PAs) by allowing licensed PAs to practice autonomously. FCCAP worked to remove the autonomous practice provisions in the original bill and worked to craft language to ensure that the appropriate supervision remains in place for physician assistants.

HB 431 includes the following provisions:

- Expands the number of PAs that a physician can supervise to 10.
- Clarifies that PA charts do not need to be reviewed or co-signed by the supervising physician.
- Requires the supervising physician’s name on PA prescriptions.
- Authorizes PAs to prescribe a 14-day supply of Schedule II psychiatric mental health controlled substances for minors under 18 provided the PA is under the supervision of a pediatrician, family practice physician, internal medicine physician, or psychiatrist.
- Excludes medical use marijuana certifications from the list of documents that a PA can authenticate with their signature, certification, stamp, verification, affidavits, or endorsement.
- Clarifies that PAs may authenticate medical examinations for workers’ compensation claims, except for the medical examination(s) required for the evaluation and assignment of the claimant's date of MMI and impairment rating, if any.
- Adds the American Osteopathic Association as an approved continuing medical education provider for the controlled substance course required of PAs for licensure renewal.

Link to Enrolled Version of HB 431:

<https://www.flsenate.gov/Session/Bill/2021/431/BillText/er>

### **Administration of Vaccines – MONITOR – PASSED**

**SB 768** by Senator Dennis Baxley (R-Ocala) expands the scope of authority for Florida-licensed pharmacists to administer immunizations and vaccines. The legislation authorizes pharmacists and registered pharmacy interns to administer any immunization or vaccine to an adult that is:

- Listed in the federal Centers for Disease Control and Prevention’s (CDC) recommended vaccine or vaccine licensed in the United States by the U.S. Food and Drug Administration (FDA).

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- Listed in the CDC's Health Information for International Travel;
- Authorized vaccine for emergency use by the FDA.

The legislation also repeals the specific statutory limitation to the 2015 CDC-recommended vaccines, effectively updating the reference to the CDC's Recommended Immunization Schedule as of April 30, 2021. The Board of Pharmacy (BOP) may authorize additional adult immunizations and vaccines that may be administered by pharmacists and pharmacy interns as they are added to the lists of approved immunizations and vaccines noted above.

Finally, the FCAAP worked to significantly narrow the scope of the bill so that it only authorizes pharmacists to provide influenza vaccines to individuals age 7 and older within the framework of an established protocol under a supervising physician (rather than allowing pharmacists, pharmacy interns, and pharmacy techs to administer vaccines to all children, regardless of age).

Link to Enrolled Version of SB 768:

<https://www.flsenate.gov/Session/Bill/2021/768/BillText/er>

### **Discipline of Pediatricians – PASSED**

**SB 1934** by Senator Lauren Book (D-Plantation) adds to the list of offenses that are grounds for disciplinary action against the license of any health care practitioner regulated by the Department of Health (DOH), for:

- Being convicted, found guilty, pleading guilty, or pleading nolo contendere, regardless of adjudication, to any of the crimes listed in s. 456.074(5), F.S., as amended; or
- Attempting, soliciting, or conspiring to commit an act that would constitute a crime listed in s. 456.074(5), F.S., or similar crime in another jurisdiction.

The legislation also adds homicide, as well as certain offenses involving minors, to the list of offenses that require DOH to issue an Emergency Suspension Order (ESO). The legislation directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to analyze state laws and rules relating to grounds for health care practitioner discipline and ESOs of licenses, specifically with respect to criminal offenses, and to report to Executive and Legislative Branch leadership by January 1, 2022.

Link to Enrolled Version of SB 1934:

<https://www.flsenate.gov/Session/Bill/2021/1934/BillText/er>

### **Medicaid Eligibility – SUPPORT – PASSED DURING BUDGET CONFERENCE**

A budget conforming bill, **SB 2518** by the Appropriations Committee, extends postpartum Medicaid eligibility for pregnant women to 12 months and continues the policy of retroactive Medicaid eligibility for non-pregnant adults to the first day of the month in which an application for Medicaid is submitted. Most of the funding for the \$240 extension will come from pass-through funds from the federal government with the state committing about \$92 million. Currently, pregnant women are covered for only two months after the

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birth of a child. According to AHCA, the additional months of eligibility under the House's conforming bill will apply to about 97,600 Florida women each year.

Link to Budget Conference Report for SB 2518:

<https://www.flsenate.gov/Session/Bill/2021/2518/Amendment/523362>

### **Emergency Preparedness & Response Fund – SUPPORT – PASSED**

**SB 2006** by Senator Danny Burgess (R-Zephyrhills) and the Senate Select Committee on Pandemic Preparedness and Response amends the State Emergency Management Act to better address the threat posed by a pandemic or other public health emergency. The legislation:

- Authorizes the Governor, the presiding officers of the Legislature, the Lieutenant Governor, the Surgeon General, and the Director of the Division of Emergency Management to disseminate public service announcements during an emergency.
- Requires the Division of Emergency Management to acquire and maintain a supply of personal protective equipment.
- Creates a resumption that K-12 public schools should remain open during an extended public health emergency so long as the health and safety of students and school personnel can be maintained.
- Requires emergency orders by subdivision that infringe rights or liberties, be narrowly tailored to serve a “compelling public health or safety purpose” and limits those emergency orders to 7 days.
- Authorizes the Governor to invalidate an order that unnecessarily restricts individual rights or liberties.
- Prohibits governmental, educational, and business entities to require proof of COVID-19 vaccination or recovery to receive services.

**SB 1892** by Senator Manny Diaz (R-Hialeah) creates the Emergency Preparedness and Response Fund within the Executive Office of the Governor. Moneys specifically appropriated to the fund are available as a primary funding source for the Governor for purposes of preparing or responding to a disaster declared by the Governor as a state of emergency that exceeds regularly appropriated funding sources. In accordance the Florida Constitution, the fund terminates on July 1, 2025 and before it terminates the Division of Emergency Management and the Governor must recommend to the Legislature whether to recreate the fund or allow it to terminate.

Link to Enrolled Version of SB 2006:

<https://www.flsenate.gov/Session/Bill/2021/2006/BillText/er>

Link to Enrolled Version of SB 1892:

<https://www.flsenate.gov/Session/Bill/2021/1892/BillText/er>

### **Dispensing Medicinal Drugs – SUPPORT – PASSED**

**SB 262** by Senator Gayle Harrell (R-Stuart) authorizes hospitals to dispense 48-hour supply of medicinal drugs to the patient of an emergency room of the hospital or a patient discharged from a hospital.

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Link to Enrolled Version of SB 262:

<https://www.flsenate.gov/Session/Bill/2021/262/BillText/er>

### **Nonopioid Alternatives – SUPPORT – PASSED**

**SB 530** by Senator Keith Perry (R-Gainesville) modifies the existing requirements regarding the non-opioid alternative pamphlets by allowing practitioners to provide each patient with an electronically transmitted copy of the DOH pamphlet as an alternative to a printed pamphlet.

Link to Enrolled Version of SB 530:

<https://www.flsenate.gov/Session/Bill/2021/530/BillText/er>

### **Health Education Instruction – OPPOSE – PASSED**

**HB 545** by Rep. Linda Chaney (R-St. Petersburg Beach) requires each school district to notify parents of the right to make a written request to exempt his or her child from the teaching of reproductive health or any disease, including HIV/AIDS. This notification must be through publication on the district's website homepage and include the process for a parent to exercise this right. The notification must also include a link for a student's parent to access and review the instructional materials. The bill also mandates that all instructional materials used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment, as a part of a required course must be annually approved by a district school board in an open, noticed public meeting.

Link to Enrolled Version of HB 545:

<https://www.flsenate.gov/Session/Bill/2021/545/BillText/er>

**HB 519** by Rep. Clay Yarborough (R-Jacksonville) provides additional requirements for health education taught in schools. The legislation provides that the instruction must be age-appropriate and developmentally appropriate K-12 health education and that the health education curriculum for students in grades 6 through 12 must include an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy. The legislation also modifies the existing health education requirement to specify that instruction on abstinence and the consequences of teen pregnancy applies only to students in grades 6 through 12.

Link to Enrolled Version of HB 519:

<https://www.flsenate.gov/Session/Bill/2021/519/BillText/er>

### **“Parents’ Bill of Rights” – OPPOSE – PASSED**

**HB 241** by Rep. Erin Grall (R-Vero Beach) creates the “Parents’ Bill of Rights”. Of interest to healthcare providers, HB 241 (Grall) lists the following parental rights:

- The right, pursuant to s. 1002.20(13), F.S., to access and review all school records relating to the minor child.
- The right to make health care decisions for his or her minor child, unless otherwise prohibited by law.



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- The right to access and review all medical records of the minor child, unless prohibited by law or if the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement agency or official requests that the information not be released.

Also, the bill provides that each district school board shall, in consultation with parents, teachers, and administrators, develop and adopt a policy to promote parental involvement in the public school system. Such policy must include:

- Procedures pursuant to s. 1002.20(3)(d), for a parent to withdraw his or her minor child from statutorily required reproductive health and STI education;
- Procedures, pursuant to s. 1006.28(2)(a)2., for a parent to object to instructional materials and other materials used in the classroom. Such objections may be based on beliefs regarding morality, sex, and religion or the belief that such materials are harmful.
- Procedures for a parent to learn about:
  - The right to exempt his or her child from receiving instruction on reproductive health or any disease, including HIV/AIDS.
  - The right to exempt his or her minor child from immunizations.

A district school board may provide the information required in this section electronically or post such information on its website. If requested by a parent in writing, the district must provide this information within 10 days.

Except as otherwise provided by law, health care practitioner and providers:

- May not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor child without first obtaining written parental consent.
- May not allow a medical procedure to be performed on a minor child in its facility without first obtaining written parental consent.

This section does not apply to an abortion, which is governed by chapter 390. A violation of this section regarding parental consent for healthcare services is a first degree misdemeanor.

Link to Enrolled Version of HB 241:

<https://www.flsenate.gov/Session/Bill/2021/241/BillText/er>

### **Sex-specific Student Athletic Teams or Sports – OPPOSE – PASSED**

Provisions contained in **SB 2012** by Senator Kelli Stargel (R-Lakeland) and **HB 1475** by Rep. Kaylee Tuck (R-Lake Placid) were amended late in the session by the House to **SB 1028** relating to charter schools. Specifically, the amended bill:

- Creates the Fairness in Women’s Sports Act.
- Requires interscholastic, intercollegiate, intramural, or club athletic teams or sports sponsored by a public secondary school or public postsecondary institution to be designated as one of the following based on the biological sex at birth of team members:
  - Males, men, or boys;

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- Females, women, or girls; or
- Coed or mixed, including both males and females.
- Specifies athletic teams or sports designated for males, men, or boys may be open to students of the female sex.
- Specifies athletic teams or sports designated for females, women, or girls may not be open to students of the male sex.
- Establishes that a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex if the statement was filed at or near the time of the student's birth.
- Provides private causes of action for injunctive relief, damages, and any other relief available under law for students, schools, and public postsecondary institutions harmed by a violation of the bill's provisions. All such civil actions must be brought within two years after the alleged harm occurred.

Link to Enrolled Version of SB 1028:

<https://www.flsenate.gov/Session/Bill/2021/1028/BillText/er>

### **Involuntary Examinations of Minors – SUPPORT – PASSED**

**SB 590** by Senator Gayle Harrell deals with Baker Act examinations of minors and requires schools to notify a parent before a student is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination. Relative to the Baker Act provisions, SB 590 does the following:

- Clarifies that the school or law enforcement personnel must make a reasonable attempt to contact a mental health professional, who may initiate an involuntary examination, unless the child poses an imminent danger to themselves or others before initiating an involuntary examination.
- Provides that the school or law enforcement personnel's contact with a mental health professional may be in person or using telehealth.
- Specifies that the mental health professional may be available to the school district either by contract or by interagency agreement with one or more local community behavioral health providers, MRT, or be a direct or contract school district employee.
- Replaces the term "immediate notification" with "reasonable attempt of notification".

Link to Enrolled Version of SB 590:

<https://www.flsenate.gov/Session/Bill/2021/590/BillText/er>

### **Safety of Religious Institutions – OPPOSE – PASSED**

**HB 259** by Rep. Jayer Williamson (R-Pensacola) authorizes a licensee to carry a concealed firearm for any lawful purpose, including safety, security, and personal protection, on any property owned, rented, leased, borrowed, or lawfully used by a church, synagogue, or other religious institution unless the religious institution has a policy specifically prohibiting the carrying of concealed firearms. Additionally, the legislation specifies that it

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does not limit the private property rights of a church, synagogue, or other religious institution to exercise control over property that the church, synagogue, or other religious institution owns, rents, leases, borrows, or lawfully uses and authorizes a church, synagogue, or other religious institution to prohibit firearms on its property without adopting a policy specifically prohibiting firearms.

Link to Enrolled Version of HB 259:

<https://www.flsenate.gov/Session/Bill/2021/259/BillText/er>

### **Students with Disabilities – SUPPORT – PASSED**

**HB 149** by Rep. Bobby DuBose (D-Ft. Lauderdale) revises the circumstances and procedures required for restraining students with a disability in public schools and prohibit the use of seclusion. The legislation also provides enhanced mechanisms for monitoring specified classrooms. Additionally, schools within the Broward County school district, as part of the Video Cameras in Public School Classrooms Pilot Program, to install a video camera, upon the request of a parent, in self-contained classrooms where students with a disability are enrolled and specifies the circumstances under which the video recording may be viewed.

Link to Enrolled Version of HB 149:

<https://www.flsenate.gov/Session/Bill/2021/149/BillText/er>

### **Child Safety Alarm Act – SUPPORT – PASSED**

**SB 252** by Senator Linda Stewart (D-Orlando) creates the "Child Safety Alarm Act" and requires that after January 1, 2022, vehicles used by child care facilities to transport children must be equipped with an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area. The legislation requires the Department of Children and Families (DCF) to adopt minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

Link to Enrolled Version of SB 252:

<https://www.flsenate.gov/Session/Bill/2021/252/BillText/er>

### **"Kaia Rolle Act" – SUPPORT – PASSED**

Among many other provisions, **HB 7051** by the House Judiciary Committee and Senator Randolph Bracy (D-Orlando) prohibits a child younger than 7 years of age from being taken into custody, arrested, charged, or adjudicated delinquent for a delinquent act or violation of law, unless the violation of law is a forcible felony.

Link to Enrolled Version of HB 7051:

<https://www.flsenate.gov/Session/Bill/2021/7051/BillText/er>

### **Maternal Health Outcomes – SUPPORT – PASSED**

The Department of Health's Office of Minority Health and Health Equity administers multiple health promotion programs including the Closing the Gap (CTG) grant program. The grant program was created by the Legislature in 2000 to improve health outcomes and

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eliminate racial and ethnic health disparities in Florida by providing one-year grants to increase community-based health and disease prevention activities. Grant projects funded through the CTG grant program must address racial and ethnic disparities associated with one or more of the following priority areas:

- Increasing adult and child immunization rates in certain racial and ethnic populations.
- Improving neighborhood social determinates of health, such as transportation, safety, and food access.
- Decreasing racial and ethnic disparities in maternal and infant mortality rates, oral health care, or morbidity and mortality rates related to cancer, HIV/AIDS, cardiovascular disease, diabetes, Alzheimer's disease and related dementia, sickle cell disease, and Lupus.

**HB 1381** by Rep. Kamia Brown (D-Ocoee) allows the CTG grant program to fund projects directed at decreasing racial and ethnic disparities in severe maternal morbidity and other maternal outcomes. The legislation also adds maternal health programs to existing community-based programs the DOH is required to coordinate and creates telehealth minority maternity care pilot programs in Duval and Orange Counties to expand the capacity for positive maternal health outcomes in racial and ethnic minority populations. The pilot programs are required to use telehealth or coordinate with prenatal home visiting programs to provide services and education to eligible pregnant women and provide training to participating health care practitioners and other perinatal professionals.

Link to Enrolled Version of HB 1381:

<https://www.flsenate.gov/Session/Bill/2021/1381/BillText/er>

### **Consumer Protection Against Fraud During a Pandemic – MONITOR – PASSED**

**HB 9** by Rep. Ardian Zika (R-Land O' Lakes) establishes criminal penalties and authorizes civil remedies for those knowingly and willfully making a false or misleading statement or disseminating false or misleading information regarding the availability of, or access to, a COVID-19 vaccine.

Link to Enrolled Version of HB 9:

<https://www.flsenate.gov/Session/Bill/2021/9/BillText/er>

### **Protecting DNA Privacy Act – MONITOR – PASSED**

**HB 833** by Representative Josie Tomkow (R-Polk City) amends the statutes dealing with the unlawful use of DNA. Specifically, HB 833 prohibits DNA analysis and disclosure of results of such analysis without authorization and prohibits the transfer of a DNA sample without express consent. DNA sample is defined to mean any human biological specimen from which DNA can be extracted. The bill provides criminal penalties for specified violations. HB 833 provides an exemption for research institutions and data banking.

Link to Enrolled Version of HB 833:

<https://www.flsenate.gov/Session/Bill/2021/833/BillText/er>

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### **Rare Disease Advisory Council – PASSED**

**SB 272** by Senator Dennis Baxley (R-Ocala) establishes the Rare Disease Advisory Council as an adjunct to the Department of Health. The Council is tasked with providing recommendations to improve the health outcomes of Floridians who have a rare disease, defined as a disease that affects fewer than 200,000 people in the United States. The legislation establishes the membership of the 20-member Council with 10 members appointed by the Governor and 5 members each, appointed by the Senate President and House Speaker. SB 272 requires the Council to first meet on October 1, 2021 and provide its recommendations to the Governor and the State Surgeon General by July 1 of each year, beginning in 2022. The legislation also requires the Council to have two physicians who are licensed under ch. 458 or ch. 459, practice in Florida, and have experience treating rare diseases.

Link to Enrolled Version of SB 272:

<https://www.flsenate.gov/Session/Bill/2021/272/BillText/er>

### **Juvenile Diversion Program Expunction – PASSED**

**SB 274** by Senator Keith Perry (R-Gainesville) permits a juvenile who completed a diversion program for any offense, including felony offenses, to apply to have the nonjudicial arrest record expunged. This expands the current law which only permits juvenile diversion expunction for misdemeanor offenses. Additionally, the legislation permits a juvenile who completes a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record. Current law only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge their participation in the program and the expunction.

Link to Enrolled Version of SB 274:

<https://www.flsenate.gov/Session/Bill/2021/274/BillText/er>

### **Early Learning – PASSED**

**HB 419** by Representative Erin Grall (R-Vero Beach ) deletes the Office of Early Learning from within the Office of Independent Education and Parental Choice of the Department of Education, establishes the Division of Early Learning within the department, revises approved child care or early education settings for the placement of certain children, and revises the requirements of the Gold Seal Quality Care program. The bill also requires students enrolled in the Voluntary Prekindergarten Education Program to participate in a specified screening and progress monitoring program and revises the early learning coalitions' responsibilities and duties. Finally, the bill authorizes certain students who enrolled in the Voluntary Prekindergarten Education Program to receive intensive reading interventions using specified funds.

Link to Enrolled Version of HB 419:

<https://www.flsenate.gov/Session/Bill/2021/419/BillText/er>

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### **Payments for Birth-related Neurological Injuries – PASSED**

**SB 1786** by Senator Danny Burgess (R-Zephyrhills) overhauls Florida's Birth-Related Neurological Injury Compensation Association's (NICA) Plan which was created in 1988 by the Legislature in an effort to manage both the spiraling medical malpractice costs and the diminished availability of liability insurance. The Plan pays for the care of infants born with certain neurological injuries and is available to eligible families without litigation. The legislation includes the following provisions:

- Increases the maximum amount that may be awarded to parents or legal guardians of an infant who has sustained a birth-related neurological injury from \$100,000 to \$250,000 for pending petitions or claims filed under the Plan seeking compensation on or after January 1, 2021.
- Requires the maximum award amount to increase by 3 percent each year on January 1 each year.
- Provides for retroactive application to parents or legal guardians who received an award before January 1, 2021, and whose child currently receives benefits under the plan. They must receive a retroactive payment in an amount sufficient to bring the total award paid to the parents or legal guardians to \$250,000.
- Increases the death benefit for an infant who sustained a birth-related neurological injury from \$10,000 to \$50,000, prospectively and retroactively.
- Provides an annual benefit of up to \$10,000 for psychotherapeutic services from providers licensed under chapter 490 or chapter 491 for immediate family members who reside with the infant.
- Increases the annual special benefit or quality of life benefit from \$500 to \$2,500 per calendar year which apply retroactively.
- Provides transportation-related assistance, including, but not limited to:
  - For the life of the child, reliable transportation for the care of the child and that will accommodate the child's needs, when it becomes necessary for wheelchair transportation. This may include the purchase of a van by the plan or modification of an existing vehicle; and
  - Reimbursement for all medically necessary travel, including travel to the pharmacy each month to purchase the child's prescription medications.
- Provides increased housing assistance from a maximum of \$100,000 for the lifetime of the child, including home construction and modification costs. Currently, the plan provides a lifetime benefit of \$30,000.
- Requires a review by the Agency for Health Care Administration to the Senate President, the House Speaker, and the Chief Financial Officer regarding Medicaid third-party benefits payable by and recoverable from the plan by November 1, 2021.
- Creates of a code of ethics for specified staff and the board of directors of NICA and prohibits a participating physician who is named in a pending petition for a claim from being appointed to the board.
- Allows the Governor or the Chief Financial Officer to remove a director from office for misconduct, malfeasance, misfeasance, or neglect of duty in office.

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- Mandates that the Association will notice board meetings by publication on the association's website not fewer than 7 days before the meeting, will furnish annually to each parent and legal guardian receiving benefits under the plan, either by mail or electronically, a list of expenses compensable under the plan, and will publish a report on its website by January 1, 2022.
- Requires an annual report by NICA to the Governor, the Senate President, the House Speaker, and the Chief Financial Officer regarding claims, reimbursement, and other information by November 1, 2021. The first annual report must include an actuarial analysis of the fiscal impacts of revising certain eligibility standards and benefits, the number of petitions filed for compensation, the number of claimants awarded compensation, the number of claimants denied compensation, and the reasons for the denial of compensation.
- Requires the Auditor General to conduct and complete an initial operational audit of the association by August 15, 2021 and conduct an audit at least once every three years thereafter.
- Adds three members to the association's board of directors, specifically, a parent or a legal guardian representative of a plan participant, a representative of an advocacy organization for children with disabilities, and a citizen representative who is not affiliates with any of the other groups.
- Specifies that a plan beneficiary may file a petition with the Division of Administrative Hearings to resolve a dispute relating to reimbursements of actual expenses.

Link to Enrolled Version of SB 1786:

<https://www.flsenate.gov/Session/Bill/2021/1786/BillText/er>

### **Preemption of Firearms & Ammunition Regulation – PASSED**

**SB 1884** by Senator Ray Rodrigues (R-Estero) revises the Legislature's preemption of the field of the regulation of firearms and ammunition. Current law provides a person or certain organizations with the right to seek declaratory or injunctive relief and actual damages due to a local ordinance, regulation, measure directive, rule enactment, order, or written policy regulating firearms or ammunition. The bill provides that the right to maintain a legal action against a preempted local regulation applies even if the local regulation is unwritten.

Existing s. 790.33, F.S., preempts the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the state. Any person or organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated in violation of s. 790.33, F.S., may file suit against the governmental entity for a declaratory judgment and injunctive relief. If a court determines the plaintiff is the prevailing party, the plaintiff may recover actual damages of up to \$100,000 in addition to any attorney fees. The bill also provides a mechanism for a

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plaintiff to recover damages and attorney fees when a government entity changes its regulation while the regulation is being challenged under s. 790.33, F.S. Specifically, when a government entity voluntarily changes the regulation that was challenged pursuant to a complaint, the plaintiff challenging that regulation is considered the prevailing party and may recover actual damages and attorney fees.

Link to Enrolled Version of SB 1884:

<https://www.flsenate.gov/Session/Bill/2021/1884/BillText/er>