

Capitol Update

February 27, 2018 Volume 18, Issue 6

Pay Fair for Care!

Florida families and providers must be able to recruit and retain dedicated people to work with the direct care needs of persons with developmental disabilities. Higher wages for direct care staff are needed to resolve a shortage of direct care workers that has become a crisis and must be resolved. For families, the combination of concerns about the quality of care, less provider availability and fewer service options poses a distinct threat to the health, safety and quality of life of individuals with disabilities. To help strengthen this service system, as well as maintain current services with a choice of providers, rates must increase! The Council is working with the [House Health Care Appropriations Subcommittee](#) and the [Senate Appropriations Subcommittee on Health and Human Services](#). You can share your opinion with the committee members.

The Arc of Florida and Florida ARF have joined the Council in the Pay Fair for Care Campaign. [Click here](#) to learn more!

Seclusion and Restraint in the Public School System

Seclusion and restraint are highly dangerous interventions that have led to death, injury, and trauma in children. Most of the children who are restrained are students with developmental disabilities. Restraint techniques should not be used when less restrictive measures would resolve the issue. Please [click here](#) for the Council's Position.

In 2010, the Florida legislature passed the meaningful protections of strong data collection provisions, parental notification, the ban of restraints that interfere with breathing, and provisions to monitor schools for compliance with the law including the requirement to report if each restraint incident involved a threat of serious bodily injury. Yet, the statute does not explicitly limit restraint and seclusion to such emergencies. This year there is great legislative interest and effort to improve statutory guidelines for the prevention and reduction of restraint and the prohibition of seclusion in the public school system.

[SB 0260 Students with Disabilities in Public Schools by Book](#) was amended by the Education Committee on February 6, 2018. The committee substitute retains the substance of the bill with the following modifications:

- Defines student to mean a student with a disability.
- Explicitly prohibits the use of a prone or supine restraint.
- Prohibits the use of a mechanical restraint, defines mechanical restraint, identifies types of mechanical restraints, and clarifies that calming blankets do not constitute a mechanical restraint.
- Provides that documentation, reporting, and monitoring requirements in law also apply to the use of exclusionary or nonexclusionary time.
- Requires a school to make redacted copies of documentation related to the use of restraint or exclusionary or nonexclusionary time available to the public through the Department of Education's website by October 1, 2018.

The Council is supporting the Senate version of the bill that definition of student is broadened to include all students with disabilities as written in the Senate bill (CS260). [HB 63 - Students with Disabilities in Public Schools by Edwards-Walpole, Rodrigues \(R\) Co-sponsors: Cortes \(J\), Donalds, Harrell, Jenne, Plasencia, Willhite](#) CS Sponsors: [PreK-12 Quality Subcommittee](#) defines students as

those having both a functional behavioral analysis and a behavioral intervention plan. Most students with disabilities do not have one of these plans and fewer have both plans. The Senate version of the bill defines student as a student with a disability.

The Senate bill only has one committee to go to meet the House version already on second reading. Time is running out. The Council will be urging the [Senate Rules Committee](#) to hear the bill.

Please contact these Committee members and share your opinion.

[HB 63 - Students with Disabilities in Public Schools by Edwards-Walpole, Rodrigues \(R\) Co-sponsors: Cortes \(J\), Donalds, Harrell, Jenne, Plasencia, Willhite CS Sponsors: PreK-12 Quality Subcommittee](#)

Summary

This bill provides requirements for use of restraint, and exclusionary and nonexclusionary timeout. The bill prohibits seclusion, prone and supine restraint. The bill does not clearly define the parameters for the use of mechanical restraint. The bill revises school district policies and procedures. The bill also requires continuing education and in service training relating to students with certain disabilities. Effective Date: July 1, 2018. **The Council is supporting this bill if the definition of student is broadened to include all students with disabilities as written in the Senate bill (CS260). Currently the House bill defines students as those having both a functional behavioral analysis and a behavioral intervention plan. Most students with disabilities do not have one of these plans and fewer have both plans. The Senate version of the bill defines student as a student with a disability.**

Actions

HOUSE Placed on Calendar, on 2nd reading

Similar Bills

[SB 0260 Students with Disabilities in Public Schools by Book](#)

09/22/17 SENATE Referred to Education; Health Policy; Rules

02/13/18 SENATE Now in Rules

[SB 648 - Employment Services for Persons with Disabilities - by Baxley](#)

Summary

This bill specifies that individuals with disabilities who work in state sponsored work experience activities are considered state employees for workers' compensation purposes, etc. Effective Date: 7/1/2018. **The Council is supporting this bill.**

Actions

02/22/18 SENATE Favorable by Appropriations; 20 Yeas, 0 Nays

SENATE Placed on Calendar, on 2nd reading

Identical Bills

[HB 1437 Employment Services for Persons with Disabilities by Abruzzo](#)

02/22/18 - HOUSE Placed on Special Order Calendar, 02/28/18

[HB 1373 - Persons with Developmental Disabilities by Stevenson](#)

Summary

The bill prohibits granting new or renewing existing licenses for comprehensive transitional education programs (CTEP's) after specified dates. This statutory change would end the CTEP license category in a two-step phase out process. First, there would be no new CTEP licenses after July 1, 2018, and then no renewal of any existing CTEP licenses after December 31, 2020. The CTEP model is institutional in nature and contrary to the Agency for Persons with Disabilities of serving clients in smaller, community-based settings. This licensure elimination is controversial and may be amended off this bill.

The bill revises competency assessment and validation requirements for direct service providers who administer or supervise self-administration of medication. Effective Date: July 1, 2018. **The Council is supporting this bill, however the CTEP language has been removed and the medication language has been expanded after an agreement with providers.**

Actions

HOUSE Placed on Special Order Calendar, 02/28/18

Identical Bill

[SB 1788 Agency for Persons With Disabilities by Passidomo](#)

02/22/18 SENATE Favorable with CS by Appropriations; 20 Yeas, 0 Nays

02/23/18 SENATE Committee Substitute Text (C2) Filed

[HB 985 - Involuntary Commitment - by Gonzalez](#)

Summary

This bill requires the Agency for Persons with Disabilities (APD) to provide eligibility determinations before involuntary commitment to the agency and requires the court to conduct annual hearings on the continued need for involuntary placement in residential services. The bill provides for the participation of guardian or guardian advocate in placement determinations and requires the court to hold competency hearings within a specified timeframe when the defendant is competent to proceed. The bill also provides limitations on conditional release for community-based competency training for the defendant who is incompetent to proceed. Effective Date: July 1, 2018. **The Council is supporting this bill.**

Actions

02/19/18 HOUSE Placed on Calendar, on 2nd reading

Identical Bills

[SB 1280 Involuntary Commitment by Steube](#)

02/15/18 SENATE Now in Appropriations Subcommittee on Health and Human Services

[HB 57 - Appointment of Attorneys for Dependent Children with Special Needs - by White, Williams Co-Sponsors: Geller, Killebrew](#)

Summary

This bill designates this act as "Pro Bono Matters Act of 2018" and requires payment of due process costs of litigation of all pro bono attorneys appointed to represent dependent children with special needs. The bill is subject to appropriation and review. Effective Date: upon becoming a law.

Actions

02/14/18 HOUSE Read Second Time; Substituted for SB 0146; Laid on Table, Refer to SB 0146

Identical Bills

[SB 0146 Appointment of Attorneys for Dependent Children with Special Needs by Bean](#)

02/14/18 - HOUSE Substituted for HB 0057; Read Second Time; Read Third Time; Passed (Vote: 109 Yeas / 0 Nays)

[SB 242 - Developmental Disabilities by Baxley CS Sponsors: Children, Families, and Elder Affairs](#)

Summary

Developmental Disabilities; Revising the term "developmental disability" to include the disorder and symptoms attributable to Duchenne muscular dystrophy, etc. Effective Date: 7/1/2018. **The Council is neutral on this bill.**

Actions

09/22/17 SENATE Referred to Children, Families, and Elder Affairs; Banking and Insurance; Appropriations; Rules

01/16/18 SENATE Favorable with CS by Children, Families, and Elder Affairs; 5 Yeas, 0 Nays

01/17/18 SENATE Committee Substitute Text (C1) Filed

01/19/18 SENATE Now in Banking and Insurance

Similar Bills

[HB 0969 Developmental Disabilities by Burgess](#)

12/20/17 - HOUSE Now in Children, Families & Seniors Subcommittee

[HB 7085- Health Care Disaster Preparedness and Response by Health & Human Services Committee, Massullo, Jr. CS Sponsors: Appropriations Committee](#)

Summary

This bill directs the Department of Health, in coordination with Division of Emergency Management and local emergency management agencies, to maintain a statewide registry of persons with special needs and requires nursing homes, assisted living facilities, home health agencies and nurse registries to have an emergency management plan and to conduct staff training etc. Effective Date: July 1, 2018. **The Council is monitoring this bill. On February 22, 2018, the Appropriations Committee adopted one strike all amendment in the bill attached that:**

- Increases the timeframe for local emergency management agencies to notify registrants of eligibility to shelter in a special need shelter from 10 days to 30 days.
- Expressly authorizes local emergency management agencies to participate in community education and public outreach with DOH for the special needs registry and special needs shelters.
- Provides the Department of Health with an exception to the public records exemption for the information collected for the registration of people in the special needs shelter registry.
- Requires the Surgeon General or a designee to be on all multi-agency special needs discharge planning teams.
- Requires APD licensed facilities, nursing homes, home health agencies, nurse registries, and ALFs to submit comprehensive emergency management plans for review after any significant modification to a previously approved plan.
- Removes the requirement that the appropriate local authority complete its review of Nurse Registry or HHA emergency management plans within 90 days after licensure.
- Requires DOH to have direct access to the database AHCA will establish for emergency operations reporting by facilities.
- Specifies that training on the emergency plan for new employees does not have to include testing of the implementation of the plan if it is impracticable.
- Moves authority for AHCA to inspect ALFs from the Resident Bill of Rights section to the section authorizing AHCA's right of entry and inspections of ALFs.
- Provides an appropriation to AHCA and DOH to implement the bill.

Actions

HOUSE Placed on Special Order Calendar, 02/28/18

Compare Bills

[HB 0597 Health Care Facility Regulation by Yarborough](#)

02/07/18 - HOUSE Placed on Calendar, on 2nd reading

[SB 0622 Health Care Facility Regulation by Grimsley](#)

02/05/18 - SENATE Now in Rules