

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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TAY&JEO:jlj:jf

November 2, 1999

After consulting with Kevin Lewis of the Department of Health and Family Services, I made the following modifications to the department's requested changes:

1. I did not include in proposed s. 253.12 (3) (a) 1. d. (directing the department to include in its registry any information that would facilitate referrals) any reference to sub. (5) (which relates to confidentiality of patient-identifying information). All of the information included in the registry is subject to the confidentiality provisions. So to the extent that the confidentiality provisions are relevant, the reference is superfluous and would call into question whether other information would also be subject to the confidentiality requirements.

2. In proposed s. 253.12 (5) I refer to an "agency with which the department contracts to administer the children with special health care needs program."

3. I did not include the civil and criminal immunity provision because it was difficult for either Kevin or me to conceive of how liability would attach for the mere reporting of information required to be reported.

In addition, upon a closer reading of the department's request, the intent of proposed s. 253.12 (4) (c) and (d) was unclear. Those paragraphs refer to "findings" under the provision requiring the establishment of a registry, but a registry is not generally established to yield "findings." This particular registry, in fact, is to be established to provide what appears to be general information that could facilitate research. Please review s. 253.12 (4) (c) and (d) to determine if I have captured the department's intent.

Finally, since the terms of the board members are now specified, it is customary to stagger the terms, which is what I have done in this draft. That is done to prevent a periodic complete turnover of a council (or other body), which would hamper a council's ability to accomplish its goals. On the other hand, if the department intends this council to exist only for 4 years, staggered terms are inappropriate and an in-text sunset of the council may be desirable.

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Proposed s. 253.12 (6), like s. 253.12 (8), stats., refers to "information" collected under s. 253.12. One reading of this language is that once the information is reported,

it can never be used in court, even if a litigant has a source for the information that is independent of (or even entirely unrelated to) the report required under s. 253.12. Is that your intent? Or do you mean to make the fact that a report was made and the report itself inadmissible for purposes of proving the information contained in them?

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