

CHAPTER 2023-310

Committee Substitute for Senate Bill No. 1278

An act relating to direct-support organizations; amending s. 402.57, F.S.; authorizing the Department of Children and Families to establish a direct-support organization for a specified purpose; specifying criteria for the direct-support organization; requiring the direct-support organization to operate under written contract with the department; providing requirements for the contract; requiring the Secretary of Children and Families to appoint a board of directors for the direct-support organization; providing for appointment of board members; authorizing the department to allow the direct-support organization to use, without charge, the department's fixed property, facilities, and personnel services, subject to certain requirements; defining the term "personnel services"; authorizing the direct-support organization to collect, expend, and provide funds for specified purposes; prohibiting the use of such funds for lobbying purposes; authorizing moneys to be held in a separate depository account in the name of the direct-support organization, subject to certain requirements; requiring the direct-support organization to provide for annual audits; providing for future repeal; amending s. 1001.453, F.S.; authorizing district school boards to contract with direct-support organizations for personal services or operations, subject to certain limitations; revising the amount of expenditures and expenses a direct-support organization must have to be required to provide for an annual financial audit; authorizing district school boards to contract with a vendor for such audits; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 402.57, Florida Statutes, is amended to read:

402.57 Direct-support ~~organizations~~ organization.—

(1) DEPARTMENT OF CHILDREN AND FAMILIES.—The Department of Children and Families is authorized to create a direct-support organization, the sole purpose of which is to support the department in carrying out its purposes and responsibilities.

(a) The direct-support organization must be:

1. A not-for-profit corporation incorporated under chapter 617 and approved by the Department of State as a not-for-profit corporation;

2. Organized and operated to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make

expenditures to or for the direct or indirect benefit of the department and the individuals it serves; and

3. Determined by the department to be operating in a manner consistent with the goals and purposes of the department, the best interest of the state, and the needs of children and adults served by the department.

(b) The direct-support organization shall operate under a written contract with the department. The contract must provide for all of the following:

1. Department approval of the articles of incorporation and bylaws of the direct-support organization.

2. Submission of an annual budget for department approval.

3. Certification by the department that the direct-support organization is complying with the terms of the contract and operating in a manner consistent with the goals and purposes of the department and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

4. The reversion to the state of moneys and property held in trust by the direct-support organization for the benefit of those served by the department if the department ceases to exist or the reversion to the department if the direct-support organization is no longer approved to operate for the department, a county commission, or a circuit board or ceases to exist.

5. The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

6. The disclosure of material provisions of the contract, and the distinction between the department and the direct-support organization, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.

(c) The Secretary of Children and Families shall appoint the board of directors of the direct-support organization. The board members shall be appointed according to the organization's bylaws.

(d) The department may allow, without charge, appropriate use of fixed property, facilities, and personnel services of the department by the direct-support organization, subject to the requirements of this section. As used in this subsection, the term "personnel services" includes full-time or part-time personnel, as well as payroll processing services.

1. The department may not allow a direct-support organization to use any fixed property, facilities, or personnel services of the department if the direct-support organization does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

2. The department may prescribe any conditions with which a direct-support organization must comply to use fixed property, facilities, or personnel services of the department and shall adopt rules prescribing those conditions and the procedures by which the direct-support organization is governed.

(e) The direct-support organization may collect, expend, and provide funds for:

1. Addressing gaps in services for the children and adults served by the department.

2. Development, implementation, and operation of targeted prevention efforts.

3. Services and activities that support the goals of the department.

4. Functions of the direct-support organization’s board of directors, as necessary and approved by the department.

The funds of the direct-support organization may not be used for the purpose of lobbying as defined in s. 11.045.

(f) Any moneys may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the department.

(g) The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

(h) This subsection is repealed October 1, 2028, unless reviewed and saved from repeal by the Legislature.

(2) CHILDREN AND YOUTH CABINET.—The Department of Children and Families shall establish a direct-support organization to assist the Children and Youth Cabinet established in s. 402.56 in carrying out its purposes and responsibilities, primarily regarding fostering public awareness of children and youth issues and developing new partners in the effort to serve children and youth by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; and making expenditures to or for the benefit of the cabinet. The sole purpose for the direct-support organization is to support the cabinet.

(a) The direct-support organization must be:

1.(a) Incorporated under chapter 617 and approved by the Department of State as a Florida corporation not for profit.

2.(b) Organized and operated to make expenditures to or for the benefit of the cabinet.

~~3.~~(e) Approved by the department to be operating for the benefit of and in a manner consistent with the goals of the cabinet and in the best interest of the state.

(b)(2) The board of directors of the direct-support organization shall consist of seven members appointed by the Governor. Each member of the board of directors shall be appointed to a 4-year term. However, for the purpose of providing staggered terms, the initial appointments shall be for either 2 years or 4 years, as determined by the Governor.

(c)(3) The direct-support organization shall operate under a written contract with the department.

(d)(4) All moneys received by the direct-support organization must be deposited into an account of the direct-support organization and shall be used in a manner consistent with the goals of the cabinet.

(e)(5) This subsection ~~section~~ is repealed October 1, 2024, unless reviewed and saved from repeal by the Legislature.

Section 2. Paragraphs (a) and (c) of subsection (2) and subsection (4) of section 1001.453, Florida Statutes, are amended to read:

1001.453 Direct-support organization; use of property; board of directors; audit.—

(2) USE OF PROPERTY.—A district school board:

(a) Is authorized to:

1. Permit the use of property, facilities, and personal services of the district by a direct-support organization, subject to the provisions of this section; or

2. Contract with a direct-support organization for personal services or operations. However, a retiree of the Florida Retirement System must first satisfy the requirements for termination from employment provided in s. 121.021(39) before providing such services or operations for a Florida Retirement System employer, and is subject to the reemployment limitations provided in s. 121.091(9).

(c) ~~May~~ Shall not permit the use of property, facilities, or personal services ~~by~~ of a direct-support organization if such organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

(4) ANNUAL FINANCIAL AUDIT.—Each direct-support organization with more than ~~\$250,000~~ \$100,000 in expenditures or expenses shall provide for an annual financial audit of its accounts and records, to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General pursuant to s. 11.45(8) and the Commissioner of

Education. A district school board may contract with a vendor for an annual financial audit of a direct-support organization. The annual financial audit report shall be submitted within 9 months after the fiscal year's end to the district school board and the Auditor General. The Commissioner of Education, the Auditor General, and the Office of Program Policy Analysis and Government Accountability have the authority to require and receive from the organization or the district auditor any records relative to the operation of the organization. The identity of donors and all information identifying donors and prospective donors are confidential and exempt from ~~the provisions of s. 119.07(1),~~ and that anonymity shall be maintained in the auditor's report. All other records and information shall be considered public records for the purposes of chapter 119.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 29, 2023.

Filed in Office Secretary of State June 29, 2023.