

Tab 1 **SB 450** by **Wright**; (Similar to H 00875) Sheltering or Aiding Unmarried Minors

Tab 2 **SB 534** by **Grall**; (Identical to H 00521) Equitable Distribution of Marital Assets and Liabilities

Tab 3 **SB 1394** by **Gruters**; (Similar to H 01309) Mental Health

962208 D S CF, Gruters Delete everything after 01/22 03:36 PM

Tab 4 **SB 1486** by **Collins**; (Similar to H 01083) Child Permanency

951078 D S TP CF, Collins Delete everything after 01/17 09:20 AM

Tab 5 **SB 1636** by **Gruters**; (Similar to H 01583) Substance Use Disorder Treatment Services

667440 A S CF, Rouson Delete L.45 - 62: 01/22 03:36 PM

Tab 6 **SB 1758** by **Brodeur**; (Similar to H 01271) Individuals with Disabilities

931526 D S CF, Brodeur Delete everything after 01/22 03:34 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS
Senator Garcia, Chair
Senator Thompson, Vice Chair

MEETING DATE: Tuesday, January 23, 2024
TIME: 3:30—5:30 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Building*

MEMBERS: Senator Garcia, Chair; Senator Thompson, Vice Chair; Senators Avila, Baxley, Book, Bradley, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 450 Wright (Similar H 875)	Sheltering or Aiding Unmarried Minors; Creating a presumption of knowledge upon proof that an unmarried minor has not attained 18 years of age for the purpose of unlawfully sheltering or aiding unmarried minors; providing a defense to unlawfully sheltering or aiding unmarried minors; increasing criminal penalties for unlawfully sheltering or aiding unmarried minors, etc.	CJ 01/10/2024 Favorable CF 01/23/2024 RC
2	SB 534 Grall (Identical H 521)	Equitable Distribution of Marital Assets and Liabilities; Requiring a court to consider certain factors when determining if extraordinary circumstances exist; prohibiting certain interspousal gifts unless certain requirements are met; providing that certain actions do not change whether certain real property is marital property; providing that business interest in a closely held business is a marital asset, etc.	JU 01/16/2024 Favorable CF 01/23/2024 RC
3	SB 1394 Gruters (Similar H 1309)	Mental Health; Requiring the Department of Children and Families to contract with managing entities to provide community mobile support teams; providing the purpose of the community mobile support teams; providing requirements for support team crisis counselors, etc.	CF 01/23/2024 AHS FP

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, January 23, 2024, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1486 Collins (Similar H 1083)	Child Permanency; Requiring the Department of Children and Families to conduct a records check through the Comprehensive Child Welfare Information System on all persons being considered for placement of a child; allowing any person to have access to certain identifying child records under specified circumstances; revising a criterion for guardianship assistance payments made to guardians who have entered into a guardianship assistance agreement; authorizing the court to review the department's denial of an application to adopt a child, etc.	CF 01/17/2024 Temporarily Postponed CF 01/23/2024 AHS FP
5	SB 1636 Gruters (Similar H 1583, Compare H 1065, S 1180)	Substance Use Disorder Treatment Services; Creating the Substance Use Disorder Housing Advisory Council; authorizing addiction treatment services to be provided through for-profit providers; providing that the certification of recovery residences that meet specified standards protects certain persons, etc.	CF 01/23/2024 AHS FP
6	SB 1758 Brodeur (Similar H 1271, Compare H 1047, S 1170)	Individuals with Disabilities; Requiring the Agency for Persons with Disabilities to develop and implement an online application process; revising which types of clients are eligible for an individual support plan; clarifying the timeframe within which a family or individual support plan must be developed, etc.	CF 01/23/2024 FP

Other Related Meeting Documents

By Senator Wright

8-00518-24

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1 A bill to be entitled
2 An act relating to sheltering or aiding unmarried
3 minors; amending ss. 984.085 and 985.731, F.S.;
4 creating a presumption of knowledge upon proof that an
5 unmarried minor has not attained 18 years of age for
6 the purpose of unlawfully sheltering or aiding
7 unmarried minors; providing a defense to unlawfully
8 sheltering or aiding unmarried minors; increasing
9 criminal penalties for unlawfully sheltering or aiding
10 unmarried minors; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 984.085, Florida Statutes, is amended to
15 read:

16 984.085 Sheltering unmarried minors; aiding unmarried minor
17 runaways; presumption; defense; penalty ~~violations~~.-

18 (1) (a) A person who is not an authorized agent of the
19 Department of Juvenile Justice or the Department of Children and
20 Families may not knowingly shelter an unmarried minor for more
21 than 24 hours without the consent of the minor's parent or
22 guardian or without notifying a law enforcement officer of the
23 minor's name and the fact that the minor is being provided
24 shelter.

25 (b) A person may not knowingly provide aid to an unmarried
26 minor who has run away from home without first contacting the
27 minor's parent or guardian or notifying a law enforcement
28 officer. The aid prohibited under this paragraph includes
29 assisting the minor in obtaining shelter, such as hotel

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30 lodgings.

31 (c) Proof that an unmarried minor has not attained 18 years
32 of age creates a presumption that the person knew the minor's
33 age or acted in reckless disregard thereof.

34 (2) It is a defense to a violation under this section that
35 the defendant had reasonable cause to believe that his or her
36 action was necessary to preserve the minor from danger to his or
37 her welfare.

38 (3) A person who violates this section commits a felony of
39 the third ~~misdemeanor of the first~~ degree, punishable as
40 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

41 Section 2. Section 985.731, Florida Statutes, is amended to
42 read:

43 985.731 Sheltering unmarried minors; aiding unmarried minor
44 runaways; presumption; defense; penalty violations.-

45 (1) (a) A person who is not an authorized agent of the
46 department or the Department of Children and Families may not
47 knowingly shelter an unmarried minor for more than 24 hours
48 without the consent of the minor's parent or guardian or without
49 notifying a law enforcement officer of the minor's name and the
50 fact that the minor is being provided shelter.

51 (b) A person may not knowingly provide aid to an unmarried
52 minor who has run away from home without first contacting the
53 minor's parent or guardian or notifying a law enforcement
54 officer. The aid prohibited under this paragraph includes
55 assisting the minor in obtaining shelter, such as hotel
56 lodgings.

57 (c) Proof that an unmarried minor has not attained 18 years
58 of age creates a presumption that the person knew the minor's

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59 age or acted in reckless disregard thereof.

60 (2) It is a defense to a violation under this section that
61 the defendant had reasonable cause to believe that his or her
62 action was necessary to preserve the minor from danger to his or
63 her welfare.

64 (3) A person who violates this section commits a felony of
65 the third ~~misdemeanor of the first~~ degree, punishable as
66 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

67 Section 3. This act shall take effect October 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 450

INTRODUCER: Senator Wright

SUBJECT: Sheltering or Aiding Unmarried Minors

DATE: January 21, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Hall</u>	<u>Tuszynski</u>	<u>CF</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 450 amends ss. 984.085 and 985.731, F.S., to create a presumption and defense to the crime of sheltering or aiding an unmarried minor. Those sections provide that a person:

- Who is not an authorized agent of the Department of Children and Families (DCF) or the Department of Juvenile Justice (DJJ) may not knowingly shelter an unmarried minor for more than 24 hours without the consent of the minor’s parent or guardian or without notifying a law enforcement office of the minor’s name and the fact that the minor is being provided shelter.
- May not knowingly provide aid to an unmarried minor who has run away from home without first contacting the minor’s parent or guardian or notifying a law enforcement officer. The aid prohibited includes assisting the minor in obtaining shelter, such as hotel lodgings.

The bill increases the crime of sheltering or aiding an unmarried minor from a first degree misdemeanor to a third degree felony.

The bill provides that proof that an unmarried minor has not attained 18 years of age creates a presumption that the person knew the minor’s age or acted in reckless disregard thereof.

This bill creates a defense to the crime of unlawfully sheltering or aiding unmarried minors where the defendant had reasonable cause to believe that his or her action was necessary to preserve the minor from danger to his or her welfare.

The bill may have an indeterminate fiscal impact on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Federal law provides a definition for the term “homeless children and youths,” which means individuals who lack a fixed, regular, and adequate nighttime residence and includes children and youths who are:

- Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
- Living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
- Living in emergency or transitional shelters or are abandoned in hospitals;
- Utilizing for a primary nighttime residence a place that is a public or private place but not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Migratory children living in circumstances described above.¹

The term “unaccompanied youth” includes a youth not in the physical custody of a parent or guardian.²

Homeless and Runaway Children and Youth

Florida law defines the term “children and youths who are experiencing homelessness” to have the same meaning as “homeless children and youths” under federal law and described above.³

Homeless Children and Youth

Each year, an estimated 3.5 million youth and young adults experience homelessness in the United States, 700,000 of which are unaccompanied minors—meaning they are not part of a family or accompanied by a parent or guardian. These estimates indicate that approximately one in 10 adults’ ages 18 to 25, and one in 30 youth ages 13 to 17 will experience homelessness each year.⁴

The Voices of Youth Count from Chapin Hall at the University of Chicago found, in part, that one in 10 young adults ages 18-25, and at least one in 30 adolescents ages 13-17, experience some form of homelessness unaccompanied by a parent or guardian over the course of a year.

- 29% of homeless youth report having substance abuse problems.
- 69% of homeless youth report mental health problems.
- 33% of homeless youth report having once been a part of the foster care system.
- 50% of homeless youth have been in the juvenile justice system, in jail, or detention.
- Black youth face an 83% increased risk, and Hispanic youth 33% increased risk, than their white peers.
- LGBTQ youth were more than twice as likely to have experienced homelessness.

¹ 42 USC s. 11434a.

² *Id.*

³ Section 1003.01(4), F.S.

⁴ National Network for Youth, *Youth Homelessness*, available at <https://nn4youth.org/learn/youth-homelessness/> (last visited Jan 18, 2024).

- The lack of a high school diploma or General Equivalency Diploma is the number one correlate for elevated risk of youth homelessness.⁵

As of 2022, Florida had an estimated 19,519 people experiencing homelessness on any given day, as reported by the U.S. Department of Housing and Urban Development (HUD), which is 11.9 in every 10,000 people.⁶ Of that total, 6,440 people were in families with children, 1,011 were unaccompanied homeless youth, 2,279 were veterans, and 4,233 were chronically homeless individuals.⁷

The Florida Department of Education (FDOE) reports that 78,277 students experienced homelessness in the 2021-2022 school year, this is a 23 percent increase from the 2020-2021 school year. While the data shows an increase in youth homelessness in the 2021-2022 school year, research has indicated an estimated 420,000 fewer youth experiencing homelessness were identified during school year 2019-2020.⁸

Runaway Youth

Research shows that almost 7 percent of youth, or 1.5 million children and adolescents, run away each year.⁹ Youth most often runaway from home and become homeless due to family conflicts, abuse, and/or neglect.¹⁰ The risk factors for running away from home or state care are multifaceted, and there is no typical endangered runaway. The National Center for Missing & Exploited Children defines an Endangered Runaway as a child under the age of 18 who is missing on his or her own accord and whose whereabouts are unknown to their parent or legal guardian.¹¹ These children are highly vulnerable and can experience homelessness when they are missing. Research indicates that 77 percent of endangered runaways reported were between 15-17 years old. It also states that 87 percent of missing children reported risk factors that put the youth at an increased risk of running away or becoming homeless. Those risk factors include:

- Physical or sexual abuse
- Family conflict
- Lack of acceptance of gender identity or sexual orientation
- Struggling to manage mental health
- Substance abuse
- Medical issue/developmental or physical disability
- Pregnancy

⁵ *Id.*

⁶ U.S. Department of Housing and Urban Development, *2022 Annual Homelessness Assessment Report (AHAR) to Congress*, available at <https://www.huduser.gov/portal/sites/default/files/pdf/2022-ahar-part-1.pdf> (last visited Jan. 18, 2024).

⁷ *Id.*

⁸ Florida's Council on Homelessness, *2023 Annual Report*, pg. 16, available at <https://www.myflfamilies.com/sites/default/files/2023-07/Florida%27s%20Council%20On%20Homelessness%20Annual%20Report%202023.pdf#:~:text=The%20number%20of%20people%20experiencing%20unsheltered%20homelessness%20in%20Florida%20increased,the%20number%20of%20unsheltered%20homeless> (last visited Jan. 18, 2024).

⁹ National Conference of State Legislatures, *Youth Homelessness Overview*, available at <https://www.ncsl.org/human-services/youth-homelessness-overview> (last visited Jan. 18, 2024).

¹⁰ *Id.*

¹¹ National Center for Missing & Exploited Children, *Endangered Runaways*, available at [Endangered Runaways \(missingkids.org\)](https://www.missingkids.org) (last visited Jan. 18, 2024).

- Online enticement
- To be with a friend, romantic partner, or biological family
- Gang activity
- Child sex trafficking
- Social rejection or bullying¹²

Risk of Human Trafficking

Homeless and runaway youth experience the risk factors of trafficking at a higher rate, such as mental health issues, addiction, poverty, unemployment, and a history of abuse. As a result, they are more susceptible to human trafficking and other forms of exploitation.¹³ According to research, an estimated 4.2 million young people (ages 13-25) experience homelessness annually, including 700,000 unaccompanied minor youth ages 13 to 17. Many of those young people will become victims of sex or labor trafficking. Research from numerous studies have found trafficking rates among youth experiencing homelessness ranging from 19 percent to 40 percent. Using the lower-end estimate of 1 in 5 youth experiencing homelessness also being trafficked for sex, labor, or both, this means that approximately 800,000 youth who experience homelessness are also survivors of trafficking.¹⁴

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.¹⁵ While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, factory work, and agricultural work.¹⁶

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,¹⁷ purchasing, patronizing, procuring, or obtaining¹⁸ another person for the purpose of exploitation of that person.¹⁹

¹² National Center for Missing & Exploited Children, *Endangered Runaways*, available at <https://www.missingkids.org/theissues/runaways> (last visited Jan. 18, 2024).

¹³ United Way, *The intersection between Housing Instability and Human Trafficking*, Richards, Daniele, April 25, 2022, available at <https://www.unitedway.org/blog/the-intersection-between-housing-instability-and-human-trafficking> (last visited Jan. 18, 2024).

¹⁴ Human Trafficking Search, *The Intersection Between Youth Homelessness and Human Trafficking*, available at [The Intersection Between Youth Homelessness and Human Trafficking - Human Trafficking Search](https://www.humantraffickingsearch.org/the-intersection-between-youth-homelessness-and-human-trafficking) (last visited Jan. 18, 2024).

¹⁵ Section 787.06, F.S.

¹⁶ *Id.*

¹⁷ Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

¹⁸ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

¹⁹ Section 787.06(2)(d), F.S.

Human trafficking includes two types of exploitation: commercial sexual exploitation (CSE) and forced labor.²⁰ In 2022, according to the Department of Children and Families, 354 youth were verified as victims of commercial sexual exploitation (CSE) in Florida. The number has decreased from 2021, when 379 youth were verified.²¹

Sheltering or Aiding Unmarried Minors

Florida law provides criminal penalties under two sections of law for sheltering or aiding unmarried minors.

Sections 984.085 and 985.731, F.S., provides it is a first degree misdemeanor²² for a person:

- Who is not an authorized agent of the DCF or the DJJ to knowingly shelter an unmarried minor for more than 24 hours without the consent of the minor's parent or guardian or without notifying a law enforcement officer of the minor's name and the fact that the minor is being provided shelter.
- To knowingly provide aid to an unmarried minor who has run away from home without first contacting the minor's parent or guardian or notifying a law enforcement officer. The aid prohibited under this paragraph includes assisting the minor in obtaining shelter, such as hotel lodgings.^{23,24}

III. Effect of Proposed Changes:

The bill amends ss. 984.085 and 985.731, F.S., to create a presumption and defense to the crime of sheltering or aiding an unmarried minor. Those sections provide that a person:

- Who is not an authorized agent of the DCF or the DJJ may not knowingly shelter an unmarried minor for more than 24 hours without the consent of the minor's parent or guardian or without notifying a law enforcement office of the minor's name and the fact that the minor is being provided shelter.
- May not knowingly provide aid to an unmarried minor who has run away from home without first contacting the minor's parent or guardian or notifying a law enforcement officer. The aid prohibited includes assisting the minor in obtaining shelter, such as hotel lodgings.

The bill increases the crime of sheltering or aiding an unmarried minor from a first degree misdemeanor to a third degree felony.

The bill provides that proof that an unmarried minor has not attained 18 years of age creates a presumption that the person knew the minor's age or acted in reckless disregard thereof.

²⁰ Section 787.06, F.S.

²¹ Office of Program Policy Analysis & Government Accountability, *Annual Report on Commercial Sexual Exploitation of Children in Florida, 2023*, available at <https://oppaga.fl.gov/Documents/Reports/23-08.pdf> (last visited Jan. 18, 2024).

²² A misdemeanor of the first degree is punishable by a term of imprisonment not exceeding 1 year, as provided in s. 775.082 or s. 775.083, F.S.

²³ Section 984.085, F.S.

²⁴ Section 985.731, F.S.

This bill creates a defense to the crime of unlawfully sheltering or aiding unmarried minors where the defendant had reasonable cause to believe that his or her action was necessary to preserve the minor from danger to his or her welfare.

The bill provides an effective date of October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on the Department of Corrections due to the enhanced penalties under the bill and the possibility of offenders receiving prison sentences.

Per FDLE, in FY 22-23, there were 8 arrests and 1 guilty/convicted for a violation of s. 984.085, F.S., and there were 17 arrests and 4 guilty/convicted for a violation of

s. 985.731, F.S. In FY 22-23, the incarceration rate for a Level 1, 3rd degree felony was 9.5 percent. The bill may have a positive insignificant fiscal impact.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 984.085 and 985.731.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²⁵ Office of Economic and Demographic Research *SB 450 Preliminary Estimate*, (on file with the Senate Committee on Criminal Justice).

By Senator Grall

29-01012-24

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1 A bill to be entitled
2 An act relating to equitable distribution of marital
3 assets and liabilities; amending s. 61.075, F.S.;
4 revising the definition of the term "good cause";
5 requiring a court to consider certain factors when
6 determining if extraordinary circumstances exist;
7 prohibiting certain interspousal gifts unless certain
8 requirements are met; providing that certain actions
9 do not change whether certain real property is marital
10 property; providing that business interest in a
11 closely held business is a marital asset; requiring a
12 court to consider certain factors when determining the
13 value of such interest; revising and providing
14 definitions; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (d) of subsection (5) and subsection
19 (6) of section 61.075, Florida Statutes, are amended to read:

20 61.075 Equitable distribution of marital assets and
21 liabilities.—

22 (5) If the court finds good cause that there should be an
23 interim partial distribution during the pendency of a
24 dissolution action, the court may enter an interim order that
25 shall identify and value the marital and nonmarital assets and
26 liabilities made the subject of the sworn motion, set apart
27 those nonmarital assets and liabilities, and provide for a
28 partial distribution of those marital assets and liabilities. An
29 interim order may be entered at any time after the date the

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30 dissolution of marriage is filed and served and before the final
31 distribution of marital and nonmarital assets and marital and
32 nonmarital liabilities.

33 (d) As used in this subsection, the term "good cause" means
34 extraordinary circumstances that justify ~~require~~ an interim
35 partial distribution. In determining if extraordinary
36 circumstances exist for purposes of this subsection, the court
37 must consider the following:

38 1. Whether there is a need for funds in order to avoid or
39 prevent the loss of an asset through repossession or
40 foreclosure, the loss of housing, the default by either party of
41 a marital debt, or the levy of a tax lien.

42 2. Whether there is a need for funds to pay an expense for
43 a dependent child if nonpayment of the expense would be
44 detrimental to the child.

45 3. Whether one or both parties have a need to access funds
46 in order to pay a reasonable amount of the attorney fees, court
47 costs, or other suit money for maintaining or defending a
48 proceeding under this chapter.

49 4. Any other circumstances that justify the entry of an
50 order granting an interim partial equitable distribution.

51 (6) As used in this section:

52 (a)1. "Marital assets and liabilities" include all of the
53 following:

54 a. Assets acquired and liabilities incurred during the
55 marriage, individually by either spouse or jointly by them.

56 b. The enhancement in value and appreciation of nonmarital
57 assets resulting from the efforts of either party during the
58 marriage or from the contribution to or expenditure thereon of

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59 marital funds or other forms of marital assets, or both.

60 c. The paydown of principal of a note and mortgage secured
61 by nonmarital real property and a portion of any passive
62 appreciation in the property, if the note and mortgage secured
63 by the property are paid down from marital funds during the
64 marriage. The portion of passive appreciation in the property
65 characterized as marital and subject to equitable distribution
66 is determined by multiplying a coverture fraction by the passive
67 appreciation in the property during the marriage.

68 (I) The passive appreciation is determined by subtracting
69 the value of the property on the date of the marriage or the
70 date of acquisition of the property, whichever is later, from
71 the value of the property on the valuation date in the
72 dissolution action, less any active appreciation of the property
73 during the marriage as described in sub-subparagraph b., and
74 less any additional encumbrances secured by the property during
75 the marriage in excess of the first note and mortgage on which
76 principal is paid from marital funds.

77 (II) The coverture fraction must consist of a numerator,
78 defined as the total payment of principal from marital funds of
79 all notes and mortgages secured by the property during the
80 marriage, and a denominator, defined as the value of the subject
81 real property on the date of the marriage, the date of
82 acquisition of the property, or the date the property was
83 encumbered by the first note and mortgage on which principal was
84 paid from marital funds, whichever is later.

85 (III) The passive appreciation must be multiplied by the
86 coverture fraction to determine the marital portion of the
87 passive appreciation of the property.

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88 (IV) The total marital portion of the property consists of
89 the marital portion of the passive appreciation, the mortgage
90 principal paid during the marriage from marital funds, and any
91 active appreciation of the property during the marriage as
92 described in sub-subparagraph b., not to exceed the total net
93 equity in the property at the date of valuation.

94 (V) The court shall apply the formula specified in this
95 subparagraph unless a party shows circumstances sufficient to
96 establish that application of the formula would be inequitable
97 under the facts presented.

98 d. Interspousal gifts during the marriage. An interspousal
99 gift of real property may not be made in the absence of a
100 writing that complies with the requirements of s. 689.01. The
101 joinder of a spouse in the execution of a deed with the sole
102 purpose of the conveyance of homestead real property to any
103 person or entity other than the other spouse or both spouses
104 jointly does not change the character of the real property being
105 conveyed, or any proceeds from the sale thereof, to marital
106 property.

107 e. All vested and nonvested benefits, rights, and funds
108 accrued during the marriage in retirement, pension, profit-
109 sharing, annuity, deferred compensation, and insurance plans and
110 programs.

111 f. The marital interests in a closely held business. The
112 court shall determine the value of the marital interests in a
113 closely held business as follows:

114 (I) The standard of value of a closely held business is
115 fair market value. The term "fair market value" means the price
116 at which property would change hands between a willing and able

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117 buyer and a willing and able seller, with neither party under
118 compulsion to buy or sell, and when both parties have reasonable
119 knowledge of the relevant facts.

120 (II) If there is goodwill separate and distinct from the
121 continued presence and reputation of the owner spouse, it is
122 considered enterprise goodwill, which is a marital asset that
123 must be valued by the court.

124 (III) The court must consider evidence that a covenant not
125 to compete or a similar restrictive covenant may be required
126 upon the sale of the closely held business, but such evidence
127 alone does not preclude the court from finding enterprise
128 goodwill.

129 2. All real property held by the parties as tenants by the
130 entirety, whether acquired before ~~prior to~~ or during the
131 marriage, is ~~shall be~~ presumed to be a marital asset. If, in any
132 case, a party makes a claim to the contrary, the burden of proof
133 is ~~shall be~~ on the party asserting the claim that the subject
134 property, or some portion thereof, is nonmarital.

135 3. All personal property titled jointly by the parties as
136 tenants by the entirety, whether acquired before ~~prior to~~ or
137 during the marriage, is ~~shall be~~ presumed to be a marital asset.
138 In the event a party makes a claim to the contrary, the burden
139 of proof is ~~shall be~~ on the party asserting the claim that the
140 subject property, or some portion thereof, is nonmarital.

141 4. The burden of proof to overcome the gift presumption is
142 ~~shall be~~ by clear and convincing evidence.

143 (b) "Nonmarital assets and liabilities" include all of the
144 following:

145 1. Assets acquired and liabilities incurred by either party

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146 prior to the marriage, and assets acquired and liabilities
147 incurred in exchange for such assets and liabilities.~~†~~

148 2. Assets acquired separately by either party by
149 noninterspousal gift, bequest, devise, or descent, and assets
150 acquired in exchange for such assets.~~†~~

151 3. All income derived from nonmarital assets during the
152 marriage unless the income was treated, used, or relied upon by
153 the parties as a marital asset.~~†~~

154 4. Assets and liabilities excluded from marital assets and
155 liabilities by valid written agreement of the parties, and
156 assets acquired and liabilities incurred in exchange for such
157 assets and liabilities.~~†~~ and

158 5. Any liability incurred by forgery or unauthorized
159 signature of one spouse signing the name of the other spouse.
160 Any such liability is ~~shall be~~ a nonmarital liability only of
161 the party having committed the forgery or having affixed the
162 unauthorized signature. In determining an award of attorney
163 ~~attorney's~~ fees and costs pursuant to s. 61.16, the court may
164 consider forgery or an unauthorized signature by a party and may
165 make a separate award for attorney ~~attorney's~~ fees and costs
166 occasioned by the forgery or unauthorized signature. This
167 subparagraph does not apply to any forged or unauthorized
168 signature that was subsequently ratified by the other spouse.

169 6. Real property acquired separately by either party by
170 noninterspousal gift, bequest, devise, or descent for which
171 legal title has not been transferred to the parties as tenants
172 by the entirety in accordance with this section.

173 Section 2. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 534

INTRODUCER: Senator Grall

SUBJECT: Equitable Distribution of Marital Assets and Liabilities

DATE: January 21, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Hall</u>	<u>Tuszynski</u>	<u>CF</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 534 amends s. 61.075, F.S., which governs the equitable distribution of marital assets and liabilities in dissolution of marriage actions, to establish consistency regarding what qualifies as good cause for an interim partial distribution and to clarify and expand upon existing lists of marital and non-marital assets and liabilities identified in the statute.

Specifically, the bill provides that when determining whether extraordinary circumstances, and therefore good cause, exist for an interim partial distribution, the court must consider the need to:

- Prevent the loss of important assets or defaults on marital debts.
- Pay for dependent child-related expenses.
- Pay for dissolution of marriage proceeding-related expenses, including attorney fees.
- Address any other circumstances justifying entry of an order for interim partial distribution.

With respect to the statutory list of marital assets and liabilities, the bill:

- Clarifies that interspousal gifts of real property must be made consistent with statutory real estate conveyance requirements.
- Provides that joinder of a spouse in the execution of a deed conveying homestead real property to a third party does not change the property's character, or proceeds from its sale, to marital property.
- Includes marital interests in a closely held business as marital assets, and prescribes a method for establishing the value of those interests.

With respect to the statutory list of non-marital assets and liabilities, the bill includes real property acquired separately by either spouse by non-interspousal gift, bequest, devise, or descent, for which legal title has not been transferred to the parties as tenants by the entirety.

The bill takes effect on July 1, 2024.

II. Present Situation:

Dissolution of Marriage

In Florida, a divorce is called a “dissolution of marriage.”¹ Fault has been abolished as a ground for a dissolution of marriage;² the person seeking dissolution only needs to show either that the marriage is “irretrievably broken,” or that the other spouse has been adjudged mentally incapacitated under state law for a period of at least three years.³

Either spouse can file for a dissolution of marriage.⁴ The spouse seeking the dissolution must demonstrate that a marriage exists, one party has been a state resident for at least six months immediately preceding the filing of the petition,⁵ and the marriage is irretrievably broken.⁶ The reason for the irretrievable breakdown may be considered under certain limited circumstances in the determination of alimony, equitable distribution of marital assets and liabilities, and the development of a parenting plan.⁷

Equitable Distribution

Like in most states,⁸ Florida has enacted a statute, s. 61.075, F.S., which requires the equitable distribution of marital assets in dissolution of marriage proceedings. The court is required to conduct a hearing and make certain written findings regarding any contested property, including its value and status as a marital or non-marital asset, after which it can equitably distribute the marital property.⁹

In distributing the marital assets and liabilities between the parties, the court must begin with the premise that the distribution should be equal, unless there is a justification for an unequal distribution based on all relevant factors,¹⁰ including:

- The contribution to the marriage by each spouse, including contributions to the care and education of the children, and services as homemaker.
- The economic circumstances of the parties.
- The duration of the marriage.
- Any interruption of personal careers or educational opportunities of either party.
- The contribution of one spouse to the personal career or educational opportunity of the other spouse.

¹ The Florida Bar, *Consumer Pamphlet: Divorce in Florida*, available at <https://www.floridabar.org/public/consumer/pamphlet010/> (last visited Jan. 18, 2024).

² *Id.*

³ Section 61.052(1), F.S.

⁴ *See* s. 61.043, F.S. (noting that proceedings are commenced when one party files a petition in circuit court and serves a copy of same with a copy of the summons upon the other party to the marriage).

⁵ Section 61.021, F.S.

⁶ Section 61.052(2), F.S.

⁷ The Florida Bar, *Consumer Pamphlet: Divorce in Florida*, <https://www.floridabar.org/public/consumer/pamphlet010/> (last visited Jan. 18, 2024).

⁸ 25A FLA. JUR. 2D, *Family Law* s. 844.

⁹ *Lord v. Lord*, 220 So. 3d 575, 576 (Fla. 4th DCA 2017).

¹⁰ The equitable distribution of marital assets is based on fairness. *Weimer v. Weimer*, 677 So. 2d 86, 88 (Fla. 4th DCA 1996).

- The desirability of retaining any asset, including an interest in a business, corporation, or professional practice, intact and free from any claim or interference by the other party.
- The contribution of each spouse to the acquisition, enhancement, and production of income or the improvement of, or the incurring of liabilities to, both the marital assets and the non-marital assets of the parties.
- The desirability of retaining the marital home as a residence for any dependent child of the marriage, or any other party, when:
 - It would be equitable to do so;
 - It is in the best interest of the child or that party; and
 - It is financially feasible for the parties to maintain the residence until the child is emancipated or until exclusive possession is otherwise terminated by a court of competent jurisdiction.
- The intentional dissipation, waste, depletion, or destruction of marital assets after the filing of the petition or within two years prior to the filing of the petition.
- Any other factors necessary to do equity and justice between the parties.¹¹

Marital and Non-Marital Assets and Liabilities

Generally, “marital assets” are assets acquired by the parties during their marriage from their work efforts, services, and earnings.¹² The equitable distribution statute includes a list of what, for purposes of the statute, are deemed marital assets and liabilities:

- Assets acquired and liabilities incurred during the marriage, individually by either spouse or jointly by them.
- The enhancement in value and appreciation of non-marital assets resulting from the efforts of either party during the marriage, or from the contribution to or expenditure thereon, of marital funds or other forms of marital assets, or both.
- The paydown of principal of a note and mortgage secured by non-marital real property, and a portion of any passive appreciation in the property pursuant to a statutory formula, if the note and mortgage secured by the property are paid down from marital funds during the marriage.
- Interspousal gifts during the marriage.
- All vested and non-vested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs.¹³

Certain other assets are statutorily presumed to be marital assets unless demonstrated otherwise. Specifically, all real property held by the parties as tenants by the entirety, and personal property titled jointly by the parties as tenants by the entirety – whether acquired prior to or during the marriage – are presumed to be marital assets. If a party makes a claim to the contrary, the burden of proof is on the party asserting that some or all of the property is non-marital.¹⁴

The equitable distribution statute also includes a list of what, for purposes of the statute, are deemed non-marital assets and liabilities:

¹¹ Section 61.075(1)(a)-(j), F.S.

¹² *Hooker v. Hooker*, 220 So. 3d 397, 402 (Fla. 2017). In this context, it does not matter which party holds title to the asset. *Id.*

¹³ Section 61.075(6)(a)1., F.S.

¹⁴ Section 61.075(6)(a)2.-3., F.S.

- Assets acquired and liabilities incurred by either party prior to the marriage, and assets acquired and liabilities incurred in exchange for such assets and liabilities.
- Assets acquired separately by either party by non-interspousal gift, bequest, devise, or descent, and assets acquired in exchange for such assets.
- All income derived from non-marital assets during the marriage unless the income was treated, used, or relied upon by the parties as a marital asset.
- Assets and liabilities excluded from marital assets and liabilities by valid written agreement of the parties, and assets acquired and liabilities incurred in exchange for such assets and liabilities.
- Any liability incurred by forgery or unauthorized signature of one spouse signing the name of the other spouse. Any such liability is a non-marital liability only of the party having committed the forgery or having affixed the unauthorized signature.¹⁵

All assets acquired and liabilities incurred by either spouse subsequent to the date of the marriage, and not specifically established as non-marital assets or liabilities, are presumed to be marital assets and liabilities. Such presumption may be overcome by a showing that the assets and liabilities are non-marital assets and liabilities.¹⁶

Notable in this context is the 2017 Florida Supreme Court decision, *Hooker v. Hooker*.¹⁷ The *Hooker* decision upheld a trial court decision concluding that a property owner's spouse had gifted certain non-marital real property to the other spouse by the owner spouse's actions, even though the real property was originally non-marital and there was no written instrument conveying the property to the other spouse.¹⁸

Another notable issue is how goodwill should be categorized in connection with the valuation of business interests in dissolution of marriage proceedings. While not explicitly identified in statute, business interests in a closely held business acquired by a spouse during a marriage are marital assets, which must be valued and distributed pursuant to state law. The Fair Market Value standard is used to value the business or business interest; in this context, Fair Market Value is the price at which property would change hands between a willing and able buyer and a willing and able seller with neither party under compulsion to buy or sell, and when both parties have reasonable knowledge of the relevant facts.¹⁹ The value of a business in excess of the value of its assets less its liabilities is its goodwill. There are two kinds of goodwill – enterprise goodwill, which is a marital asset, and personal or professional goodwill, which is not a marital asset.²⁰

¹⁵ Section 61.075(6)(b), F.S.

¹⁶ Section 61.075(8), F.S.

¹⁷ 220 So. 3d 397 (Fla. 2017).

¹⁸ See *id.*; see also Family Law Section of the Florida Bar, *Untitled White Paper regarding Florida Statute s. 61.075, Equitable Distribution of Marital Assets and Liabilities*, undated (on file with the Senate Committee on Judiciary) (emphasizing that no written instrument comporting with s. 689.01, F.S., which regulates how real estate may be conveyed, has been executed).

¹⁹ See Large Business and International Division NRC Industry, Engineering Program, and the Small Business/Self-Employed Division, Estate and Gift Tax Program, *Valuation of Non-Controlling Interests in Electing S Corporations – A Job Aid for IRS Valuation Analysts*, Oct. 29, 2014, available at <https://www.irs.gov/businesses/valuation-of-assets> (attaching IRS Rev. Ruling 59-60 as Appendix A).

²⁰ See generally *Thompson v. Thompson*, 576 So. 2d 267 (Fla. 1991); *Schmidt v. Schmidt*, 120 So. 3d 31 (Fla. 4th DCA 2013).

In a 2013 Fourth District Court of Appeal decision, *Schmidt v. Schmidt*,²¹ the court concluded that if a potential buyer of a business requires a non-compete or non-solicitation agreement from a seller, then the goodwill involved is personal and not a marital asset, and therefore should not be included in the equitable distribution.²²

Interim Partial Distributions

If, during the pendency of a dissolution of marriage action, the court finds good cause that there should be an interim partial distribution, the court is authorized to enter an interim order identifying and valuing the marital and non-marital assets and liabilities, setting apart the non-marital assets and liabilities, and providing for a partial distribution of the marital assets and liabilities.²³

The interim order may be entered any time after the date the dissolution of marriage is filed and served, and before the final distribution of marital and non-marital assets and marital and non-marital liabilities.²⁴ It may only be entered upon good cause shown and upon a sworn motion establishing the specific factual bases for the motion. Either party may file the motion and must demonstrate why the matter should not be deferred until the final hearing.²⁵ In this context, “good cause” means extraordinary circumstances that require an interim partial distribution.²⁶ According to the Family Law Section of The Florida Bar, courts have inconsistently construed this “extraordinary circumstances” standard.²⁷

The court must specifically take into account and give appropriate credit for any partial distribution of marital assets or liabilities in its final allocation of marital assets or liabilities. It must also make specific findings in its interim order that any partial distribution will not cause inequity or prejudice to either party as to either party’s claims for support or attorney’s fees.²⁸ Any interim order partially distributing marital assets or liabilities must be pursuant to, and be consistent with, the factors in the statute²⁹ to the extent they relate to the assets or liabilities identified in the sworn motion.³⁰

III. Effect of Proposed Changes:

The bill amends s. 61.075, F.S., which governs the equitable distribution of marital assets and liabilities in dissolution of marriage actions, to establish consistency regarding what qualifies as good cause for an interim partial distribution, and to clarify and expand upon existing lists of marital and non-marital assets and liabilities identified in the statute.

²¹ 120 So. 3d 31 (Fla. 4th DCA 2013).

²² *Id.* at 33.

²³ Section 61.075(5), F.S.

²⁴ *Id.*

²⁵ Section 61.075(5)(a), F.S.

²⁶ Section 61.075(5)(d), F.S.

²⁷ Family Law Section of the Florida Bar, *Untitled White Paper regarding Florida Statute s. 61.075, Equitable Distribution of Marital Assets and Liabilities*, undated (on file with the Senate Committee on Judiciary).

²⁸ Section 61.075(5)(b), F.S.

²⁹ Specifically, ss. 61.075(1) and (3), F.S.

³⁰ Section 61.075(5)(c), F.S.

Interim Partial Distributions

Under existing law, in order to make an interim partial distribution during the pendency of a dissolution action, the court must find that there is good cause for the interim partial distribution. Good cause means that extraordinary circumstances must exist that require the interim partial distribution. However, there has been a lack of consistency in state courts regarding what constitutes “extraordinary circumstances.”

To address this problem, the bill directs the court to consider the following criteria when determining whether extraordinary circumstances exist for purposes of the statute:

- Whether there is a need for funds in order to avoid or prevent the loss of an asset through repossession or foreclosure, the loss of housing, the default by either party of a marital debt, or the levy of a tax lien.
- Whether there is a need for funds to pay an expense for a dependent child if nonpayment of the expense would be detrimental to the child.
- Whether one or both parties have a need to access funds in order to pay a reasonable amount of the attorney fees, court costs, or other suit money for maintaining or defending a proceeding under the dissolution of marriage statute.
- Any other circumstances that justify the entry of an order granting an interim partial equitable distribution.

Marital Assets and Liabilities

In order to address some of the issues raised by the *Hooker* and *Schmidt* decisions, the bill amends the list of marital assets and liabilities in the statute to:

- Clarify that an interspousal gift of real property may not be made in the absence of a writing that complies with certain statutory real estate conveyance requirements.³¹ The joinder of a spouse in the execution of a deed with the sole purpose of the conveyance of homestead real property to any person or entity other than the other spouse, or both spouses jointly, does not change the character of the real property being conveyed, or any proceeds from the sale thereof, to marital property.
- Include the marital interests in a closely held business. The court must determine the value of the marital interests in a closely held business as follows:
 - The standard of value of a closely held business is fair market value. The term “fair market value” means the price at which property would change hands between a willing and able buyer and a willing and able seller, with neither party under compulsion to buy or sell, and when both parties have reasonable knowledge of the relevant facts.
 - If there is goodwill separate and distinct from the continued presence and reputation of the owner spouse, it is considered enterprise goodwill, which is a marital asset that must be valued by the court.
 - The court must consider evidence that a covenant not to compete or a similar restrictive covenant may be required upon the sale of the closely held business, but such evidence alone does not preclude the court from finding enterprise goodwill.

³¹ Specifically, the requirements of s. 689.01, F.S.

Non-Marital Assets and Liabilities

The bill also amends the list of nonmarital assets and liabilities in the statute to include real property acquired separately by either party by noninterspousal gift, bequest, devise, or descent for which legal title has not been transferred to the parties as tenants by the entirety in accordance with the statute.³²

Effective Date

The bill takes effect on July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will reduce litigation costs to the private parties involved in dissolution of marriage proceedings by clarifying the extraordinary circumstances standard in connection with interim partial distribution requests; clarifying the circumstances under which non-marital real property becomes marital real property; and expressly identifying business interests in closely-held businesses as marital assets and providing for a proper valuation of the goodwill associated with them.

³² Section 61.075, F.S.

C. Government Sector Impact:

The bill will reduce litigation and improve judicial economy by amending state law to clarify the extraordinary circumstances standard in connection with interim partial distribution requests; clarifying the circumstances under which non-marital real property becomes marital real property; and expressly identifying business interests in closely-held businesses as marital assets, and providing for a proper valuation of the goodwill associated with them.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 61.075 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Gruters

22-00928-24

20241394__

1 A bill to be entitled
2 An act relating to mental health; amending s. 394.495,
3 F.S.; requiring the Department of Children and
4 Families to contract with managing entities to provide
5 community mobile support teams; providing the purpose
6 of the community mobile support teams; providing
7 requirements for support team crisis counselors;
8 providing requirements for managing entities in
9 creating the community mobile support teams; providing
10 an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (8) is added to section 394.495,
15 Florida Statutes, to read:

16 394.495 Child and adolescent mental health system of care;
17 programs and services.—

18 (8) (a) The department shall contract with managing entities
19 for community mobile support teams throughout this state to
20 place crisis counselors from community mental health centers
21 within local law enforcement agencies to conduct follow-up
22 contacts with children, adolescents, and adults who have been
23 involuntarily committed under the Baker Act by a law enforcement
24 officer. The purpose of the community mobile support teams
25 through their partnerships with law enforcement is to reduce
26 recidivism of law enforcement Baker Act commitments, reduce the
27 time burden of law enforcement completing follow-up work with
28 individuals after they have been subject to treatment under the
29 Baker Act, provide additional crisis intervention services,

22-00928-24

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30 engage individuals in ongoing mental health care, and provide a
31 source for mental health crisis intervention other than law
32 enforcement.

33 (b) A community mobile support team crisis counselor shall,
34 at a minimum:

35 1. Reach out to individuals who may need additional mental
36 health support following commitment under the Baker Act.

37 2. Conduct home visits to assist individuals in connecting
38 with appropriate aftercare services in their community following
39 their release from a mental health facility.

40 3. Provide support to the individuals during the transition
41 period from their Baker Act release to connection with aftercare
42 services.

43 4. Provide brief crisis counseling and assessment for
44 additional needs.

45 (c) When creating a community mobile support team, the
46 managing entity must, at a minimum:

47 1. Collaborate with local law enforcement agencies in the
48 planning, development, evaluation, and selection processes.

49 2. Require that services be made available 7 days a week.

50 3. Require the provider to establish independent response
51 protocols and memoranda of understanding with local law
52 enforcement agencies.

53 Section 2. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1394

INTRODUCER: Senator Gruters

SUBJECT: Mental Health

DATE: January 21, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski	CF	Pre-meeting
2.			AHS	
3.			FP	

I. Summary:

SB 1394 requires the Department of Children and Families to contract with managing entities to place crisis counselors within local law enforcement agencies to conduct follow-up contacts with children, adolescents, and adults who have been involuntarily committed under the Baker Act by a law enforcement officer.

The bill details the requirements of crisis counselors and the managing entities.

The bill has an indeterminate, but likely significant, negative fiscal impact on state government.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Mental Health and Mental Illness

Mental Health is a state of well-being in which the individual realizes his or her own abilities can cope with normal stresses of life, can work productively and fruitfully, and is able to contribute to his or her community.¹ The primary indicators used to evaluate an individual’s mental health are:²

- Emotional well-being: perceived life satisfaction, happiness, cheerfulness, peacefulness;
- Psychological well-being: self-acceptance, personal growth including openness to new experiences, optimism, hopefulness, purpose in life, control of one’s environment, spirituality, self-direction, and positive relationships; and

¹ World Health Organization, *Mental Health: Strengthening Our Response*, available at <https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response> (last visited January 20, 2024).

² Centers for Disease Control and Prevention, *Mental Health Basics*, available at <http://medbox.iiab.me/modules/en-cdc/www.cdc.gov/mentalhealth/basics.htm> (last visited January 20, 2024).

- Social well-being: social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, sense of community.

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood or behavior (or some combination thereof) associated with distress or impaired functioning.³ Thus, mental health refers to an individual's mental state of well-being whereas mental illness signifies an alteration of that well-being. Mental illness affects millions of people in the United States each year. More than one in five adults lives with a mental illness.⁴ Young adults aged 18-25 had the highest prevalence of any mental illness⁵ (33.7%) compared to adults aged 26-49 (28.1%) and aged 50 and older (15.0%).⁶

Mental Health Safety Net Services

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g., crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.

Behavioral Health Managing Entities

In 2001, the Legislature authorized DCF to implement and pilot behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.⁷ In 2008, the Legislature authorized DCF to implement MEs statewide.⁸ MEs were fully implemented statewide in 2013, serving all geographic regions.

DCF currently contracts with seven MEs for behavioral health services throughout the state. These entities do not provide direct services; rather, they allow the DCF's funding to be tailored to the specific behavioral health needs of various regions of the state. The regions are as follows:⁹

³ *Id.*

⁴ National Institute of Mental Health, *Mental Illness*, <https://www.nimh.nih.gov/health/statistics/mental-illness> (last visited January 20, 2024).

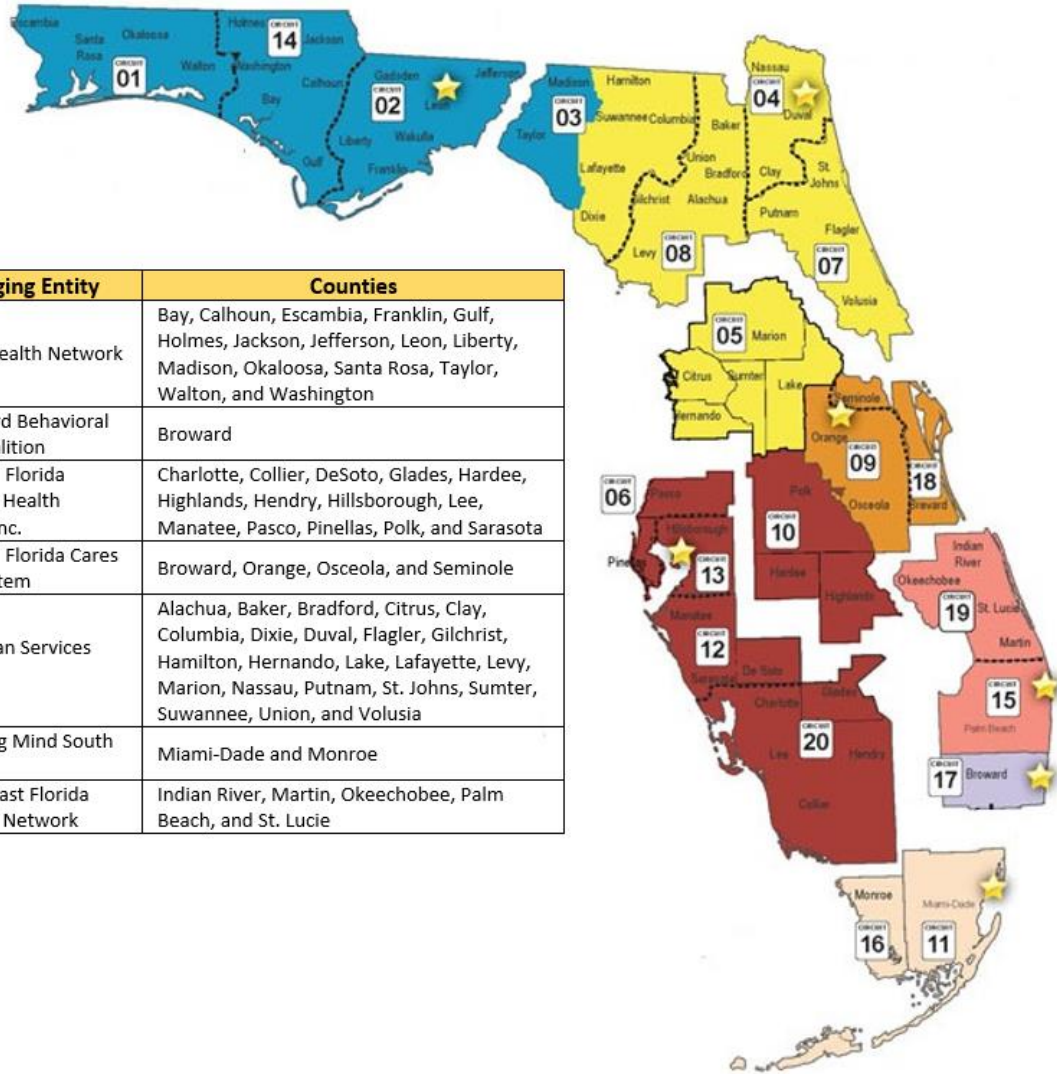
⁵ Any mental illness (AMI) is defined as a mental, behavioral, or emotional disorder. AMI can vary in impact, ranging from no impairment to mild, moderate, and even severe impairment (e.g., individuals with serious mental illness).

⁶ National Institute of Mental Health (NIH), *Mental Illness*, available at <https://www.nimh.nih.gov/health/statistics/mental-illness> (last visited January 20, 2024).

⁷ Ch. 2001-191, Laws of Fla.

⁸ Ch. 2008-243, Laws of Fla.

⁹ DCF, *Managing Entities*, available at <https://www.myflfamilies.com/services/samh/providers/managing-entities> (last visited January 20, 2024).



Managing Entity	Counties
NWF Health Network	Bay, Calhoun, Escambia, Franklin, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Walton, and Washington
Broward Behavioral Health Coalition	Broward
Central Florida Behavioral Health Network, Inc.	Charlotte, Collier, DeSoto, Glades, Hardee, Highlands, Hendry, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota
Central Florida Cares Health System	Broward, Orange, Osceola, and Seminole
Lutheran Services Florida	Alachua, Baker, Bradford, Citrus, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Hernando, Lake, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns, Sumter, Suwannee, Union, and Volusia
Thriving Mind South Florida	Miami-Dade and Monroe
Southeast Florida Behavioral Network	Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie

Coordinated System of Care

Managing entities are required to promote the development and implementation of a coordinated system of care.¹⁰ A coordinated system of care means a full array of behavioral and related services in a region or community offered by all service providers, providing service under contract with a managing entity or by another method of community partnership or mutual agreement.¹¹ A community or region provides a coordinated system of care for those with a mental illness or substance abuse disorder through a no-wrong-door model, to the extent allowed by available resources. MEs must submit detailed plans to enhance crisis services based on the no-wrong-door model or to meet specific needs identified in DCF’s assessment of behavioral health services in this state.¹² DCF must use performance-based contracts to awards grants.¹³

¹⁰ Section 394.9082(5)(d), F.S.

¹¹ Section 394.4573(1)(c), F.S.

¹² *Id.*

¹³ *Id.*

There are several essential elements, which make up a coordinated system of care, including:¹⁴

- Community interventions;
- Case management;
- Care coordination;
- Outpatient services;
- Residential services;
- Hospital inpatient care;
- Aftercare and post-discharge services;
- Medication assisted treatment and medication management; and
- Recovery support.

A coordinated system of care must include, but is not limited to, the following array of services:¹⁵

- Prevention services;
- Home-based services;
- School-based services;
- Family therapy;
- Respite services;
- Outpatient treatment;
- Crisis stabilization;
- Therapeutic foster care;
- Residential treatment;
- Inpatient hospitalization;
- Care management;
- Services for victims of sex offenses;
- Transitional services; and
- Trauma-informed services for children who have suffered sexual exploitation.

The Baker Act

The Florida Mental Health Act, commonly referred to as the Baker Act, was enacted in 1971 to revise the state's mental health commitment laws.¹⁶ The Act includes legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It, additionally, protects the rights of all individuals examined or treated for mental illness in Florida.¹⁷

Receiving Facilities

Individuals in an acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be

¹⁴ Section 394.4573(2), F.S.

¹⁵ Section 394.495(4), F.S.

¹⁶ The Baker Act is contained in Part I of Ch. 394, F.S.

¹⁷ Section 394.459, F.S.

provided on a voluntary or involuntary basis.¹⁸ Individuals receiving services on an involuntary basis must be taken to a facility that has been designated by DCF as a receiving facility.

Receiving facilities, often referred to as Baker Act receiving facilities, are public or private facilities designated by DCF to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.¹⁹ A public receiving facility is a facility that has contracted with a managing entity to provide mental health services to all persons, regardless of their ability to pay, and is receiving state funds for such purpose.²⁰ Funds appropriated for Baker Act services may only be used to pay for services diagnostically and financially eligible persons, or those who are acutely ill, in need of mental health services, and the least able to pay.²¹

Crisis Stabilization Units

Crisis Stabilization Units (CSUs) are public receiving facilities that receive state funding and provide a less intensive and less costly alternative to inpatient psychiatric hospitalization for individuals presenting as acutely mentally ill. CSUs screen, assess, and admit individuals brought to the unit under the Baker Act, as well as those individuals who voluntarily present themselves, for short-term services. CSUs provide services 24 hours a day, seven days a week, through a team of mental health professionals. The purpose of the CSU is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings, consistent with their mental health needs.²² Individuals often enter the public mental health system through CSUs.

Involuntary Examination

An involuntary examination is required if there is reason to believe that the person has a mental illness and, because of his or her mental illness, has refused voluntary examination, is likely to refuse to care for him or herself to the extent that such refusal threatens to cause substantial harm to that person's well-being, and such harm is unavoidable through the help of willing family members or friends, or will cause serious bodily harm to him or herself or others in the near future based on recent behavior.²³

An involuntary examination may be initiated by:

- A court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;²⁴ or
- A physician, clinical psychologist, psychiatric nurse, an autonomous advanced practice registered nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary

¹⁸ Section 394.4625 and 394.463, F.S.

¹⁹ Section 394.455(40), F.S. This term does not include a county jail.

²⁰ Section 394.455(38), F.S.

²¹ R. 65E-5.400(2), F.A.C.

²² Section 394.875, F.S.

²³ Section 394.463(1), F.S.

²⁴ Section 394.463(2)(a)1., F.S. The order of the court must be made a part of the patient's clinical record.

examination, including a statement of the professional's observations supporting such conclusion.²⁵

Unlike the discretion afforded courts and medical professionals, current law mandates that law enforcement officers must initiate an involuntary examination of a person who appears to meet the criteria by taking him or her into custody and delivering or having the person delivered to a receiving facility for examination.²⁶

Under the Baker Act, a receiving facility has up to 72 hours to examine an involuntary patient.²⁷ During those 72 hours, an involuntary patient must be examined to determine if the criteria for involuntary services are met.²⁸ Within that 72-hour examination period, one of the following must happen:²⁹

- The patient must be released, unless he or she is charged with a crime, in which case, law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to be placed and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 394.495, F.S., to require the DCF to contract with MEs throughout the state for community mobile support teams to place crisis counselors from community mental health centers within local law enforcement agencies. These crisis counselors are to conduct follow-up contacts with children, adolescents, and adults who have been involuntarily committed under the Baker Act by a law enforcement officer.

The bill provides the purpose of the partnership is to reduce recidivism of law enforcement Baker Act commitments, reduce the time burden of law enforcement completing follow-up work with individuals after they have been subject to treatment under the Baker Act, provide additional crisis intervention services, engage individuals in ongoing mental health care, and provide a source for mental health crisis intervention other than law enforcement.

The bill requires crisis counselors to, at a minimum:

- Reach out to individuals who may need additional mental health support following commitment under the Baker Act.
- Conduct home visits to assist individuals in connecting with appropriate aftercare services in their community following their release from a mental health facility.
- Provide support to the individuals during the transition period from their Baker Act release to connection with aftercare services.

²⁵ Section 394.463(2)(a)3., F.S. The report and certificate must be made a part of the patient's clinical record.

²⁶ Section 394.463(2)(a)2., F.S.

²⁷ Section 394.463(2)(g), F.S.

²⁸ Section 394.463(2)(f), F.S.

²⁹ Section 394.463(2)(g), F.S.

- Provide brief crisis counseling and assessment for additional needs.

The bill requires the managing entity to, at a minimum:

- Collaborate with local law enforcement agencies in the planning, development, evaluation, and selection processes.
- Require that services are available seven days a week.
- Require the provider to establish independent response protocols and memoranda of understanding with local law enforcement agencies.

Section 2 of the bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is an indeterminate, but likely significant, negative fiscal impact on state government. The language would require contracts between MEs and existing or new mobile response teams to employ a specific staff member to perform the duties detailed within the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 394.495 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (8) is added to section 394.495,
Florida Statutes, to read:

394.495 Child and adolescent mental health system of care;
programs and services.—

(8) (a) The department shall contract with managing entities
for community mobile support teams throughout this state to



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11 place crisis counselors from community mental health centers in
12 local law enforcement agencies. The counselors shall conduct
13 follow-up contacts with children, adolescents, and adults who
14 have been involuntarily committed under the Baker Act by a law
15 enforcement officer. The goal of the community mobile support
16 team through its partnership with law enforcement is to reduce
17 recidivism of involuntary commitments under the Baker Act by law
18 enforcement, reduce the time burden of law enforcement
19 completing follow-up work with persons after commitment under
20 the Baker Act, provide additional crisis intervention services,
21 assist persons with engagement in mental health care, and give
22 persons another option for mental health crisis intervention
23 other than the use of law enforcement.

24 (b) A community mobile support team crisis counselor shall,
25 at a minimum:

26 1. Provide follow-up care to individuals in the community
27 that law enforcement has identified as needing additional mental
28 health support.

29 2. Conduct home visits to assist a person with connecting
30 with the appropriate aftercare services in his or her community
31 following his or her discharge from a Baker Act receiving
32 facility.

33 3. Provide support to aid a person during the transition
34 period from his or her release from commitment under the Baker
35 Act to connection with aftercare services.

36 4. Provide brief crisis counseling and assessment for
37 additional needs.

38 (c) A community mobile support team shall offer, at a
39 minimum, all of the following services:



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- 40 1. Crisis assessment.
- 41 2. Community-based crisis counseling.
- 42 3. In-person, follow-up care after involuntary commitment
43 under the Baker Act by a law enforcement officer.
- 44 4. Assistance with accessing and engaging in aftercare
45 services.
- 46 5. Assistance with obtaining other necessary community
47 resources to maintain stability.
- 48 6. Coordination of safety planning.
- 49 (d) A community mental health center contracted by a
50 managing entity to provide a community mobile support team must:
 - 51 1. Collaborate with local law enforcement offices in the
52 planning, development, and program evaluation processes.
 - 53 2. Require that services be made available 7 days a week.
 - 54 3. Establish independent response protocols and memorandums
55 of understanding with local law enforcement agencies.

56 Section 2. This act shall take effect July 1, 2024.

57
58 ===== T I T L E A M E N D M E N T =====

59 And the title is amended as follows:

60 Delete everything before the enacting clause
61 and insert:

62 A bill to be entitled
63 An act relating to community mobile support teams;
64 amending s. 394.495, F.S.; requiring the Department of
65 Children and Families to contract with managing
66 entities for community mobile support teams to place
67 certain crisis counselors within local law enforcement
68 agencies to conduct follow-up contacts with certain



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69 persons; providing requirements for crisis counselors,
70 community mobile support teams, and certain community
71 mental health centers; providing an effective date.

By Senator Collins

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1 A bill to be entitled
2 An act relating to child permanency; amending s.
3 39.01, F.S.; defining the term "visitor"; amending s.
4 39.0138, F.S.; requiring the Department of Children
5 and Families to conduct a records check through the
6 Comprehensive Child Welfare Information System on all
7 persons being considered for placement of a child;
8 requiring the department to complete a name-based
9 check of federal criminal history records for certain
10 persons being considered for child placement when a
11 child has been sheltered; requiring a specified entity
12 to ensure that the fingerprints of the applicant and
13 the members of the applicant's household are submitted
14 to the Department of Law Enforcement by a specified
15 time, unless certain exemptions apply; requiring the
16 Department of Law Enforcement to forward the
17 fingerprints to the Federal Bureau of Investigation by
18 a specified time; prohibiting the Department of
19 Children and Families from placing a child in a home
20 if certain requirements are not met; requiring the
21 Department of Children and Families to seek a court
22 order to remove a child from a placement if certain
23 fingerprinting requirements are not met; amending s.
24 39.202, F.S.; allowing any person to have access to
25 certain identifying child records under specified
26 circumstances; creating s. 39.5035, F.S.; authorizing
27 specified persons to file both a petition alleging
28 dependency and a petition for permanent commitment of
29 a child whose parents are deceased and who does not

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30 have a legal custodian; requiring that both a petition
31 alleging dependency and a petition for permanent
32 commitment of a child be filed within specified
33 timeframes, as applicable; authorizing specified
34 persons to file a petition for the permanent
35 commitment of a child whose parents are deceased,
36 under certain circumstances; providing requirements
37 for the petition for the permanent commitment of the
38 child; requiring that adjudicatory hearings be held
39 within a specified timeframe; providing notice
40 requirements; providing requirements for the
41 adjudicatory hearing on the petition for the permanent
42 commitment of a child; requiring the court to enter
43 certain orders in certain circumstances within
44 specified timeframes after the adjudicatory hearing;
45 specifying requirements for disposition hearings;
46 amending s. 39.522, F.S.; authorizing a child's case
47 manager, an authorized agent of the department, or a
48 law enforcement officer to remove a child from a
49 court-ordered placement under certain circumstances;
50 requiring the department to perform certain duties
51 within a specified timeframe after a child is removed
52 from placement if the child was not placed in licensed
53 care at the time of removal; requiring the court to
54 hold a hearing to determine whether the department had
55 probable cause to support the removal of the child;
56 requiring the court to enter certain orders, depending
57 on whether the court determines there is probable
58 cause to remove the child; requiring the court to

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59 conduct a hearing if a finding of probable cause for
60 the removal of the child is made and the child's
61 placement is modified, unless certain parties waive
62 this requirement; amending s. 39.6221, F.S.; revising
63 a condition for the placement of a child in permanent
64 guardianship; amending s. 39.6225, F.S.; revising a
65 criterion for guardianship assistance payments made to
66 guardians who have entered into a guardianship
67 assistance agreement; amending s. 39.801, F.S.;
68 authorizing the court to proceed with a hearing for
69 the termination of parental rights under certain
70 circumstances; amending s. 39.812, F.S.; authorizing
71 the court to review the department's denial of an
72 application to adopt a child; requiring that certain
73 provisions be carried out upon the court's review of a
74 denial of an application to adopt a child; revising
75 the conditions under which the department may remove a
76 child from the foster home the child was residing in
77 or the custodian the child was residing with;
78 requiring the department or its contracted licensed
79 child-placing agency to make every reasonable effort
80 to contact the adoptive family of the child once the
81 adoption is finalized; requiring the department or its
82 contracted licensed child-placing agency to record
83 certain information; amending s. 63.032, F.S.;
84 defining the term "licensed child-placing agency";
85 amending s. 63.062, F.S.; requiring the department to
86 consent to an adoption or attach to the petition to
87 adopt the court order finding that the adoption was

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88 unreasonably withheld in certain circumstances;
89 amending s. 63.093, F.S.; requiring the department to
90 contract with licensed child-placing agencies for
91 specified purposes beginning on a specified date;
92 requiring the department, through its contracted
93 licensed child-placing agency, to respond to certain
94 inquiries from an adoptive parent in a certain amount
95 of time; requiring the department, through its
96 contracted licensed child-placing agency, to refer an
97 adoptive parent to a certain training program;
98 requiring the department, through its contracted
99 licensed child-placing agency, to complete an adoptive
100 home study that must be updated on a specified
101 schedule; authorizing the updated placement or
102 licensing home study to serve as the adoption home
103 study under certain circumstances; requiring the
104 contracted licensed child-placing agency to approve or
105 deny a home study within a specified timeframe;
106 requiring the department to adopt certain rules to
107 eliminate certain practices; requiring the department
108 to annually report to the Governor and the Legislature
109 on the status of adoptions in this state; amending s.
110 63.097, F.S.; revising the amount of certain fees that
111 may be assessed without approval of the court;
112 prohibiting the court from approving certain fees if
113 the fees exceed the total amount of the Federal
114 Adoption Tax Credit for the current tax year; amending
115 s. 409.1451, F.S.; providing that aftercare services
116 are available to certain young adults who are eligible

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117 for either the Guardianship Assistance Program or the
118 adoption assistance program; amending s. 409.166,
119 F.S.; revising conditions for the department to
120 provide adoption assistance payments to adoptive
121 parents of certain children; repealing s. 409.1662,
122 F.S., relating to the adoption incentive program;
123 amending s. 409.1664, F.S.; defining the term "health
124 care practitioner"; authorizing specified persons to
125 receive a lump sum monetary benefit for the adoption
126 of certain children in the welfare system; increasing
127 the amount of a lump sum monetary benefit specified
128 persons are authorized to receive for such adoptions;
129 authorizing health care practitioners to apply for the
130 monetary benefit if certain requirements are met;
131 requiring a health care practitioner to apply to the
132 Department of Health to obtain the benefit; allowing a
133 health care practitioner to obtain adoption assistance
134 for which he or she may qualify under applicable
135 statutes; authorizing the department to adopt rules
136 that may provide for an application process that
137 health care practitioners may use to apply for
138 monetary benefits; amending s. 409.988, F.S.; deleting
139 provisions that require a lead agency to serve certain
140 children; providing effective dates.

141

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

143

144 Section 1. Subsection (88) is added to section 39.01,
145 Florida Statutes, to read:

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146 39.01 Definitions.—When used in this chapter, unless the
147 context otherwise requires:

148 (88) "Visitor" means a person who:

149 (a) Provides care or supervision to children in the home;

150 or

151 (b) Is 14 years of age or older, other than a child in
152 care, and who will be in the child's home at least:

153 1. Five consecutive days; or

154 2. Any seven or more days in a period of a month.

155 Section 2. Subsections (1) and (5) of section 39.0138,
156 Florida Statutes, are amended to read:

157 39.0138 Criminal history and other records checks; limit on
158 placement of a child.—

159 (1) The department shall conduct a records check through
160 the Comprehensive State Automated Child Welfare Information
161 System ~~(SACWIS)~~ and a local and statewide criminal history
162 records check on all persons, including parents, being
163 considered by the department for placement of a child under this
164 chapter, including all nonrelative placement decisions, and all
165 members of the household, 12 years of age and older, of the
166 person being considered. For purposes of this section, a
167 criminal history records check may include, but is not limited
168 to, submission of fingerprints to the Department of Law
169 Enforcement for processing and forwarding to the Federal Bureau
170 of Investigation for state and national criminal history
171 information, and local criminal records checks through local law
172 enforcement agencies of all household members 18 years of age
173 and older and other frequent adult visitors to the home. An out-
174 of-state criminal history records check must be initiated for

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175 any person 18 years of age or older who resided in another state
176 if that state allows the release of such records. The department
177 must complete the records check within 14 business days after
178 receiving a person's criminal history results, unless additional
179 information is required to complete the processing. The
180 department shall establish by rule standards for evaluating any
181 information contained in the automated system relating to a
182 person who must be screened for purposes of making a placement
183 decision.

184 (5) When a child has been sheltered pursuant to s. 39.402
185 and must be placed in out-of-home care due to an emergency, the
186 department must complete a name-based check of federal criminal
187 history records to ascertain whether the applicant being
188 considered for placement or the adult household members residing
189 with the applicant will jeopardize the safety of the sheltered
190 child.

191 (a) If the name-based check of federal criminal history
192 records does not return any record of federal criminal history,
193 the department, vendor, entity, or agency authorized by s.
194 943.053(13) must ensure that the fingerprints of the applicant
195 and all adult members of the applicant's household are submitted
196 to the Department of Law Enforcement for state processing within
197 7 days after receipt of the results of the name-based check if
198 such persons are not exempted from the fingerprinting
199 requirements. The Department of Law Enforcement shall forward
200 the fingerprints to the Federal Bureau of Investigation for
201 national processing within 15 calendar days after the date the
202 Department of Law Enforcement received the fingerprints. The
203 department may not place a child in a home if the applicant or a

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204 member of the applicant's household is disqualified by the name-
205 based check or if their fingerprints are not submitted timely to
206 the Federal Bureau of Investigation.

207 (b) The department shall seek a court order to immediately
208 remove the child from the home if any applicant or adult
209 household member fails to provide fingerprints within 7 days
210 after the name-based check, unless such persons are exempted
211 from the fingerprint requirements ~~The department may place a~~
212 ~~child in a home that otherwise meets placement requirements if a~~
213 ~~name check of state and local criminal history records systems~~
214 ~~does not disqualify the applicant and if the department submits~~
215 ~~fingerprints to the Department of Law Enforcement for forwarding~~
216 ~~to the Federal Bureau of Investigation and is awaiting the~~
217 ~~results of the state and national criminal history records~~
218 ~~check.~~

219 Section 3. Paragraph (o) of subsection (2) of section
220 39.202, Florida Statutes, is amended to read:

221 39.202 Confidentiality of reports and records in cases of
222 child abuse or neglect; exception.—

223 (2) Except as provided in subsection (4), access to such
224 records, excluding the name of, or other identifying information
225 with respect to, the reporter which shall be released only as
226 provided in subsection (5), shall be granted only to the
227 following persons, officials, and agencies:

228 (o) Any person in the event that the cause of the death of
229 a child, as determined by the department at the completion of
230 its investigation in accordance with s. 39.301(16), was ~~to be a~~
231 ~~result of~~ abuse, abandonment, or neglect. Information
232 identifying the person reporting abuse, abandonment, or neglect

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233 ~~may shall~~ not be released. Any information otherwise made
234 confidential or exempt by law ~~may shall~~ not be released pursuant
235 to this paragraph.

236 Section 4. Section 39.5035, Florida Statutes, is created to
237 read:

238 39.5035 Deceased parents; special procedures.—

239 (1) (a) If both parents of a child are deceased, or the last
240 known living parent dies and a legal custodian has not been
241 appointed for the child through a probate or guardianship
242 proceeding, an attorney for the department, a guardian ad litem,
243 or any other person who has knowledge of the facts alleged or is
244 informed of such facts and believes that they are true may
245 initiate a proceeding by filing both a petition alleging
246 dependency and a petition for the permanent commitment of the
247 child. Both the petition alleging dependency and the petition
248 for the permanent commitment of the child must be filed within
249 21 days after the shelter hearing for a child who has been
250 placed in shelter status by order of the court and has not yet
251 been adjudicated dependent. In all other cases, both the
252 petition alleging dependency and the petition for the permanent
253 commitment of the child must be filed within a reasonable time
254 after the petitioner first becomes aware of the facts supporting
255 the petitions.

256 (b) If both parents die or the last known living parent
257 dies after a child has already been adjudicated dependent, an
258 attorney for the department, a guardian ad litem, or any other
259 person who has knowledge of the facts alleged or is informed of
260 them and believes that they are true may file a petition for
261 permanent commitment of the child. The petition must be filed

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262 within a reasonable time after the petitioner first becomes
263 aware of the facts that support the petition for permanent
264 commitment.

265 (2) A petition for the permanent commitment of the child
266 must fulfill all of the following requirements:

267 (a) Be in writing.

268 (b) Identify the alleged deceased parent or parents and
269 provide facts that establish that both parents of the child are
270 deceased or the last known living parent is deceased and that a
271 legal custodian has not been appointed for the child through a
272 probate or guardianship proceeding.

273 (c) Be signed by the petitioner under oath stating the
274 petitioner's good faith in filing the petition.

275 (3) When a petition for the permanent commitment of the
276 child has been filed, the clerk of the court shall set the case
277 before the court for an adjudicatory hearing. The adjudicatory
278 hearing must be held as soon as practicable after either
279 petition is filed and no later than 30 days after the filing
280 date.

281 (4) Notice of the date, time, and place of the adjudicatory
282 hearing and a copy of the petition must be served on the
283 following persons:

284 (a) Any person who has physical custody of the child.

285 (b) A living relative of each parent of the child, unless a
286 living relative cannot be found after a diligent search or
287 inquiry.

288 (c) The guardian ad litem for the child or the
289 representative of the guardian ad litem program, if a guardian
290 ad litem has been appointed.

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291 (5) Adjudicatory hearings must be conducted by a judge,
292 without a jury, applying the rules of evidence used in civil
293 cases and adjourning the hearings from time to time as
294 necessary. At the hearing, the judge shall determine whether the
295 petitioner has established by clear and convincing evidence that
296 both parents of the child are deceased, or that the last known
297 living parent is deceased and the other parent cannot be found
298 after diligent search or inquiry, and that a legal custodian has
299 not been appointed for the child through a probate or
300 guardianship proceeding. A certified copy of the death
301 certificate for a parent is sufficient evidence of proof of the
302 parent's death.

303 (6) If, within 30 days after an adjudicatory hearing on a
304 petition for the permanent commitment of the child, the court
305 finds that the petitioner:

306 (a) Has met the clear and convincing standard, the court
307 must enter a written order adjudicating the child dependent and
308 permanently committing the child to the custody of the
309 department for the purpose of adoption. A disposition hearing
310 must be scheduled no later than 30 days after the entry of the
311 order, in which hearing the department must provide to the court
312 a case plan that identifies the permanency goal for the child.
313 Reasonable efforts must be made to place the child in a timely
314 manner in accordance with the permanency plan and to complete
315 all steps necessary to finalize the permanent placement of the
316 child. Thereafter, until the adoption of the child is finalized
317 or the child reaches 18 years of age, whichever occurs first,
318 the court shall hold hearings every 6 months to review the
319 progress being made toward permanency for the child.

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320 (b) Has not met the clear and convincing standard and that
321 a preponderance of the evidence establishes that the child does
322 not have a parent or legal custodian capable of providing
323 supervision or care, the court must enter a written order
324 adjudicating the child dependent. A disposition hearing must be
325 scheduled no later than 30 days after the entry of the order as
326 provided in s. 39.521.

327 (c) Has not met the clear and convincing standard and that
328 a preponderance of the evidence does not establish that the
329 child does not have a parent or legal custodian capable of
330 providing supervision or care, the court must enter a written
331 order so finding and dismissing the petition.

332 Section 5. Subsection (7) is added to section 39.522,
333 Florida Statutes, to read:

334 39.522 Postdisposition change of custody.—

335 (7) Notwithstanding any other provision of this section, a
336 child's case manager, an authorized agent of the department, or
337 a law enforcement officer may at any time remove a child from a
338 court-ordered placement and take the child into custody if the
339 child's current caregiver requests immediate removal of the
340 child from the home. An authorized agent of the department or a
341 law enforcement officer may also remove a child from a court-
342 ordered placement and take the child into custody if there is
343 probable cause as required in s. 39.401(1)(b).

344 (a) If, at the time of the removal, the child was not
345 placed in licensed care in the department's custody, the
346 department must file a motion to modify placement within 1
347 business day after the child is taken into custody. Unless all
348 parties and the current caregiver agree to the change of

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349 placement, the court shall set a hearing within 24 hours after
350 the filing of the motion. At the hearing, the court shall
351 determine whether the department has established probable cause
352 to support the immediate removal of the child from his or her
353 current placement. The court may base its determination on a
354 sworn petition, testimony, or an affidavit and may hear all
355 relevant and material evidence, including oral or written
356 reports, to the extent of its probative value even though it
357 would not be competent evidence at an adjudicatory hearing.

358 (b) If the court finds that probable cause is not
359 established to support the removal of the child from the
360 placement, the court must order that the child be returned to
361 his or her current placement. Such a finding does not preclude a
362 party from filing a subsequent motion pursuant to subsection
363 (2).

364 (c) If the current caregiver admits to a need for a change
365 of placement or if probable cause is established to support the
366 removal, the court must enter an order changing the placement of
367 the child. If the child is not placed in foster care, the new
368 placement for the child must meet the home study criteria in
369 this chapter.

370 (d) If the child's placement is modified based on a
371 probable cause finding, the court must conduct a hearing under
372 the procedures in subsection (2) or subsection (3), unless
373 waived by all parties and the caregiver.

374 Section 6. Paragraph (a) of subsection (1) of section
375 39.6221, Florida Statutes, is amended to read:

376 39.6221 Permanent guardianship of a dependent child.—

377 (1) If a court determines that reunification or adoption is

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378 not in the best interest of the child, the court may place the
379 child in a permanent guardianship with a relative or other adult
380 approved by the court if all of the following conditions are
381 met:

382 (a) The child has been in the placement for not less than
383 the preceding 6 months, or the preceding 3 months if the
384 caregiver has been named as the successor guardian on the
385 child's guardianship assistance agreement.

386 Section 7. Subsection (9) of section 39.6225, Florida
387 Statutes, is amended to read:

388 39.6225 Guardianship Assistance Program.—

389 (9) Guardianship assistance payments shall only be made for
390 a young adult whose permanent guardian entered into a
391 guardianship assistance agreement after the child attained 14 ~~16~~
392 years of age but before the child attained 18 years of age if
393 the child is:

394 (a) Completing secondary education or a program leading to
395 an equivalent credential;

396 (b) Enrolled in an institution that provides postsecondary
397 or vocational education;

398 (c) Participating in a program or activity designed to
399 promote or eliminate barriers to employment;

400 (d) Employed for at least 80 hours per month; or

401 (e) Unable to participate in programs or activities listed
402 in paragraphs (a)-(d) full time due to a physical, intellectual,
403 emotional, or psychiatric condition that limits participation.

404 Any such barrier to participation must be supported by
405 documentation in the child's case file or school or medical
406 records of a physical, intellectual, emotional, or psychiatric

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407 condition that impairs the child's ability to perform one or
408 more life activities.

409 Section 8. Present paragraph (d) of subsection (3) of
410 section 39.801, Florida Statutes, is redesignated as paragraph
411 (e), and a new paragraph (d) is added to that subsection, to
412 read:

413 39.801 Procedures and jurisdiction; notice; service of
414 process.—

415 (3) Before the court may terminate parental rights, in
416 addition to the other requirements set forth in this part, the
417 following requirements must be met:

418 (d) Personal appearance of any person at the advisory
419 hearing as provided in s. 39.013(13) obviates the necessity of
420 serving process on that person, and the court may proceed with
421 the advisory hearing and any subsequently noticed hearing.

422 Section 9. Subsection (4) and present subsections (5) and
423 (6) of section 39.812, Florida Statutes, are amended, and
424 subsection (7) is added to that section, to read:

425 39.812 Postdisposition relief; petition for adoption.—

426 (4) The court shall retain jurisdiction over any child
427 placed in the custody of the department until the child is
428 adopted. After custody of a child for subsequent adoption has
429 been given to the department, the court has jurisdiction for the
430 purpose of reviewing the status of the child and the progress
431 being made toward permanent adoptive placement. As part of this
432 continuing jurisdiction, the court may:

433 (a) For good cause shown by the guardian ad litem for the
434 child, ~~the court may~~ review the appropriateness of the adoptive
435 placement of the child.

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436 (b) Review the department's denial of an application to
437 adopt a child. The department's decision to deny an application
438 to adopt a child is reviewable only as provided in this section
439 and is not subject to chapter 120.

440 1. If the department denies an application to adopt, the
441 written notification of denial provided to the applicant must be
442 filed with the court and copies provided to all parties within
443 10 business days after the decision.

444 2. A denied applicant may file a motion to review the
445 department's denial within 30 days after the issuance of the
446 department's written notification of the decision to deny the
447 application.

448 3. A denied applicant has standing under this chapter only
449 to file the motion to review in subparagraph 2. and to present
450 evidence in support of the motion. Such standing is terminated
451 upon entry of the court's order.

452 4. The motion to review under subparagraph 2. must allege
453 the department unreasonably withheld its consent to the adoption
454 and must request that the court allow the denied applicant to
455 file a petition to adopt the child under chapter 63 without the
456 department's consent.

457 5. The court shall hold a hearing within 30 days after the
458 filing of the motion to review. The court may only consider
459 whether the department's denial of the application was
460 consistent with department policies and made in an expeditious
461 manner. The standard of review is whether the department's
462 denial of the application was an abuse of discretion.

463 6. If the department selected a different applicant to
464 adopt the child, the selected applicant may participate in the

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465 hearing as a participant as defined in s. 39.01(57) and may be
466 granted leave by the court to be heard without the necessity of
467 filing a motion to intervene.

468 7. The court shall enter a written order within 15 days
469 after the conclusion of the hearing, either denying the motion
470 to review or finding that the department unreasonably withheld
471 its consent and authorizing the denied applicant to file a
472 petition to adopt the child under chapter 63 without the
473 department's consent.

474 (5) When a licensed foster parent or court-ordered
475 custodian has applied to adopt a child who has resided with the
476 foster parent or custodian for at least 6 months and who has
477 previously been permanently committed to the legal custody of
478 the department and the department does not grant the application
479 to adopt, the department may not, in the absence of a prior
480 court order authorizing it to do so, remove the child from the
481 foster home or custodian, except when:

482 (a) There is probable cause to believe that the child is at
483 imminent risk of abuse or neglect;

484 (b) A motion filed under paragraph (4)(b) to review the
485 department's denial of an application has been denied by the
486 court;

487 (c) ~~(b)~~ Thirty days have expired following written notice to
488 the foster parent or custodian of the denial of the application
489 to adopt, within which period no formal challenge of the
490 department's decision has been filed; or

491 (d) ~~(e)~~ The foster parent or custodian agrees to the child's
492 removal.

493 (6) ~~(5)~~ The petition for adoption must be filed in the

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494 division of the circuit court which entered the judgment
495 terminating parental rights, unless a motion for change of venue
496 is granted pursuant to s. 47.122. A copy of the consent executed
497 by the department must be attached to the petition, ~~unless~~
498 ~~waived pursuant to s. 63.062(7)~~. The petition must be
499 accompanied by a statement, signed by the prospective adoptive
500 parents, acknowledging receipt of all information required to be
501 disclosed under s. 63.085 and a form provided by the department
502 which details the social and medical history of the child and
503 each parent and includes the social security number and date of
504 birth for each parent, if such information is available or
505 readily obtainable. The prospective adoptive parents may not
506 file a petition for adoption until the judgment terminating
507 parental rights becomes final. An adoption proceeding under this
508 subsection is governed by chapter 63.

509 (7) (a) ~~(6) (a)~~ Once a child's adoption is finalized, the
510 department or its contracted licensed child-placing ~~community-~~
511 ~~based care lead~~ agency must make a reasonable effort to contact
512 the adoptive family by telephone 1 year after the date of
513 finalization of the adoption as a postadoption service. For
514 purposes of this subsection, the term "reasonable effort" means
515 the exercise of reasonable diligence and care by the department
516 or its contracted licensed child-placing ~~community-based care~~
517 ~~lead~~ agency to make contact with the adoptive family. At a
518 minimum, the department or its contracted licensed child-placing
519 agency must document the following:

520 1. The number of attempts made by the department or its
521 contracted licensed child-placing ~~community-based care lead~~
522 agency to contact the adoptive family and whether those attempts

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523 were successful;

524 2. The types of postadoption services that were requested
525 by the adoptive family and whether those services were provided
526 by the department or its contracted licensed child-placing
527 ~~community-based care lead~~ agency; and

528 3. Any feedback received by the department or its
529 contracted licensed child-placing ~~community-based care lead~~
530 agency from the adoptive family relating to the quality or
531 effectiveness of the services provided.

532 (b) The department or its contracted licensed child-placing
533 ~~community-based care lead~~ agency must report annually to the
534 department on the outcomes achieved and recommendations for
535 improvement under this subsection.

536 Section 10. Effective July 1, 2025, present subsections
537 (12) through (19) of section 63.032, Florida Statutes, are
538 redesignated as subsections (13) through (20), respectively, and
539 a new subsection (12) is added to that section, to read:

540 63.032 Definitions.—As used in this chapter, the term:

541 (12) "Licensed child-placing agency" has the same meaning
542 as in s. 39.01.

543 Section 11. Subsection (7) of section 63.062, Florida
544 Statutes, is amended to read:

545 63.062 Persons required to consent to adoption; affidavit
546 of nonpaternity; waiver of venue.—

547 (7) If parental rights to the minor have previously been
548 terminated, the adoption entity with which the minor has been
549 placed for subsequent adoption may provide consent to the
550 adoption. In such case, no other consent is required. If the
551 minor has been permanently committed to the department for

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552 subsequent adoption, the department must consent to the adoption
553 or, in the alternative, the court order finding that the
554 department unreasonably withheld its consent entered under s.
555 39.812(4) must be attached to the petition to adopt and ~~the~~
556 ~~consent of the department shall be waived upon a determination~~
557 ~~by the court that such consent is being unreasonably withheld~~
558 and if the petitioner must file ~~has filed~~ with the court a
559 favorable preliminary adoptive home study as required under s.
560 63.092.

561 Section 12. Section 63.093, Florida Statutes, is amended to
562 read:

563 63.093 Adoption of children from the child welfare system.—

564 (1) Beginning July 1, 2025, the department shall contract
565 with one or more licensed child-placing agencies to provide
566 adoptive services to prospective adoptive parents, to complete
567 the adoption processes for children permanently committed to the
568 department, and to support adoptive families. The department may
569 permit a contracted licensed child-placing agency to subcontract
570 the duties required in this section.

571 (2) The department, through its contracted licensed child-
572 placing ~~or community-based care lead agency as defined in s.~~
573 ~~409.986(3), or its subcontracted agency, must respond to an~~
574 initial inquiry from a prospective adoptive parent within 7
575 business days after receipt of the inquiry. The response must
576 inform the prospective adoptive parent of the adoption process
577 and the requirements for adopting a child from the child welfare
578 system.

579 (3) ~~(2)~~ The department, through its contracted licensed
580 child-placing ~~or community-based care lead agency, or its~~

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581 ~~subcontracted~~ agency, must refer a prospective adoptive parent
582 who is interested in adopting a child in the custody of the
583 department to a department-approved adoptive parent training
584 program. A prospective adoptive parent must successfully
585 complete the training program, unless the prospective adoptive
586 parent is a licensed foster parent or a relative or nonrelative
587 caregiver who has:

588 (a) Attended the training program within the last 5 years;
589 or

590 (b) Had the child who is available for adoption placed in
591 their home for 6 months or longer and has been determined to
592 understand the challenges and parenting skills needed to
593 successfully parent the child who is available for adoption.

594 (4)~~(3)~~ A prospective adoptive parent must complete an
595 adoption application created by the department.

596 (5)~~(4)~~ Before a child is placed in an adoptive home, the
597 department, through its contracted licensed child-placing
598 ~~community-based care lead agency or its subcontracted agency,~~
599 must complete an adoptive home study of a prospective adoptive
600 parent that includes observation, screening, and evaluation of
601 the child and the prospective adoptive parent. An adoptive home
602 study must be updated every ~~is valid for~~ 12 months from after
603 the date on which the study was approved. If the child was
604 placed before the termination of parental rights, the updated
605 placement or licensing home study may serve as the adoption home
606 study. In addition, the department, through its contracted
607 licensed child-placing ~~community-based care lead agency or its~~
608 ~~subcontracted agency,~~ must complete a preparation process, as
609 established by department rule, with the prospective adoptive

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610 parent.

611 ~~(6)(5)~~ At the conclusion of the adoptive home study and
612 preparation process, a decision shall be made about the
613 prospective adoptive parent's appropriateness to adopt. This
614 decision shall be reflected in the final recommendation included
615 in the adoptive home study. If the recommendation is for
616 approval, the adoptive parent application file must be submitted
617 to the department, through its contracted licensed child-placing
618 ~~community-based care lead agency or its subcontracted agency,~~
619 for approval. The contracted licensed child-placing ~~community-~~
620 ~~based care lead agency or its subcontracted agency~~ must approve
621 or deny the home study within 14 business days after receipt of
622 the recommendation.

623 (7) The department shall adopt rules that eliminate
624 duplicative practices and delays in the adoption home study
625 process for active service members seeking to adopt in this
626 state, including, but not limited to, giving credit for adoption
627 classes that have been taken in another state that substantially
628 complies with s. 409.175(14) (b).

629 (8) By November 15 of each year, the department shall
630 report to the Governor, the President of the Senate, and the
631 Speaker of the House of Representatives on the status of
632 adoptions in this state.

633
634 Notwithstanding subsections (2) and (3) ~~(1) and (2)~~, this
635 section does not apply to a child adopted through the process
636 provided in s. 63.082(6).

637 Section 13. Present subsection (6) of section 63.097,
638 Florida Statutes, is redesignated as subsection (7), a new

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639 subsection (6) is added to that section, and subsection (3) of
640 that section is amended, to read:

641 63.097 Fees.—

642 (3) Approval of the court is ~~not~~ required when ~~until~~ the
643 total of amounts permitted under subsection (2) exceeds:

644 (a) \$2,500 ~~\$5,000~~ in legal or other fees;

645 (b) \$800 in court costs; or

646 (c) \$2,500 ~~\$5,000~~ in reasonable and necessary living and
647 medical expenses.

648 (6) Excluding reasonable, medically necessary expenses, the
649 court may not approve the fees per child contemplated by this
650 section if they exceed the total amount of the Federal Adoption
651 Tax Credit for the current tax year.

652 Section 14. Paragraph (a) of subsection (2) and subsection
653 (3) of section 409.1451, Florida Statutes, are amended to read:

654 409.1451 The Road-to-Independence Program.—

655 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

656 (a) A young adult is eligible for services and support
657 under this subsection if he or she:

658 1. Was living in licensed care on his or her 18th birthday
659 or is currently living in licensed care; or was at least 14 ~~16~~
660 years of age and was adopted from foster care or placed with a
661 court-approved dependency guardian after spending at least 6
662 months in licensed care within the 12 months immediately
663 preceding such placement or adoption;

664 2. Spent at least 6 months in licensed care before reaching
665 his or her 18th birthday;

666 3. Earned a standard high school diploma pursuant to s.
667 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent

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668 pursuant to s. 1003.435;

669 4. Has been admitted for enrollment as a full-time student
670 or its equivalent in an eligible postsecondary educational
671 institution as provided in s. 1009.533. For purposes of this
672 section, the term "full-time" means 9 credit hours or the
673 vocational school equivalent. A student may enroll part-time if
674 he or she has a recognized disability or is faced with another
675 challenge or circumstance that would prevent full-time
676 attendance. A student needing to enroll part-time for any reason
677 other than having a recognized disability must get approval from
678 his or her academic advisor;

679 5. Has reached 18 years of age but is not yet 23 years of
680 age;

681 6. Has applied, with assistance from the young adult's
682 caregiver and the community-based lead agency, for any other
683 grants and scholarships for which he or she may qualify;

684 7. Submitted a Free Application for Federal Student Aid
685 which is complete and error free; and

686 8. Signed an agreement to allow the department and the
687 community-based care lead agency access to school records.

688 (3) AFTERCARE SERVICES.—

689 (a)1. Aftercare services are available to a young adult who
690 has reached 18 years of age but is not yet 23 years of age and
691 is:

692 a. Not in foster care.

693 b. Temporarily not receiving financial assistance under
694 subsection (2) to pursue postsecondary education.

695 c. Eligible for either the Guardianship Assistance Program
696 pursuant to s. 39.6225(9) or the adoption assistance program

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697 pursuant to s. 409.166(4)(d), but the young adult is not
698 participating in either program.

699 2. Subject to available funding, aftercare services as
700 specified in subparagraph (b)8. are also available to a young
701 adult who is between the ages of 18 and 22, is receiving
702 financial assistance under subsection (2), is experiencing an
703 emergency situation, and whose resources are insufficient to
704 meet the emergency situation. Such assistance shall be in
705 addition to any amount specified in paragraph (2)(b).

706 (b) Aftercare services include, but are not limited to, the
707 following:

708 1. Mentoring and tutoring.

709 2. Mental health services and substance abuse counseling.

710 3. Life skills classes, including credit management and
711 preventive health activities.

712 4. Parenting classes.

713 5. Job and career skills training.

714 6. Counselor consultations.

715 7. Temporary financial assistance for necessities,
716 including, but not limited to, education supplies,
717 transportation expenses, security deposits for rent and
718 utilities, furnishings, household goods, and other basic living
719 expenses.

720 8. Temporary financial assistance to address emergency
721 situations, including, but not limited to, automobile repairs or
722 large medical expenses.

723 9. Financial literacy skills training under s.
724 39.6035(1)(c).

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726 The specific services to be provided under this paragraph shall
727 be determined by an assessment of the young adult and may be
728 provided by the community-based care provider or through
729 referrals in the community.

730 (c) Temporary assistance provided to prevent homelessness
731 shall be provided as expeditiously as possible and within the
732 limitations defined by the department.

733 Section 15. Paragraph (d) of subsection (4) of section
734 409.166, Florida Statutes, is amended to read:

735 409.166 Children within the child welfare system; adoption
736 assistance program.—

737 (4) ADOPTION ASSISTANCE.—

738 (d) Effective January 1, 2019, adoption assistance payments
739 may be made for a child whose adoptive parent entered into an
740 initial adoption assistance agreement after the child reached 14
741 ~~16~~ years of age but before the child reached 18 years of age.
742 Such payments may be made until the child reaches age 21 if the
743 child is:

744 1. Completing secondary education or a program leading to
745 an equivalent credential;

746 2. Enrolled in an institution that provides postsecondary
747 or vocational education;

748 3. Participating in a program or activity designed to
749 promote or eliminate barriers to employment;

750 4. Employed for at least 80 hours per month; or

751 5. Unable to participate in programs or activities listed
752 in subparagraphs 1.-4. full time due to a physical, an
753 intellectual, an emotional, or a psychiatric condition that
754 limits participation. Any such barrier to participation must be

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755 supported by documentation in the child's case file or school or
756 medical records of a physical, an intellectual, an emotional, or
757 a psychiatric condition that impairs the child's ability to
758 perform one or more life activities.

759 Section 16. Effective July 1, 2025, section 409.1662,
760 Florida Statutes, is repealed.

761 Section 17. Section 409.1664, Florida Statutes, is amended
762 to read:

763 409.1664 Adoption benefits for qualifying adoptive
764 employees of state agencies, veterans, servicemembers, ~~and~~ law
765 enforcement officers, and health care practitioners.-

766 (1) As used in this section, the term:

767 (a) "Child within the child welfare system" has the same
768 meaning as provided in s. 409.166(2).

769 (b) "Health care practitioner" means a person listed in s.
770 456.001(4) who holds an active status license from the
771 Department of Health and whose individual income does not exceed
772 \$150,000.

773 (c) "Qualifying adoptive employee" means a full-time or
774 part-time employee of a state agency, a charter school
775 established under s. 1002.33, or the Florida Virtual School
776 established under s. 1002.37, who is not an independent
777 contractor and who adopts a child within the child welfare
778 system pursuant to chapter 63 on or after July 1, 2015. The term
779 includes instructional personnel, as defined in s. 1012.01, who
780 are employed by the Florida School for the Deaf and the Blind,
781 and includes other-personal-services employees who have been
782 continuously employed full time or part time by a state agency
783 for at least 1 year.

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784 (d) "Servicemember" has the same meaning as in s.
785 250.01(19).

786 (e) "State agency" means a branch, department, or agency of
787 state government for which the Chief Financial Officer processes
788 payroll requisitions, a state university or Florida College
789 System institution as defined in s. 1000.21, a school district
790 unit as defined in s. 1001.30, or a water management district as
791 defined in s. 373.019.

792 (f) "Veteran" has the same meaning as in s. 1.01(14).

793 (2) A qualifying adoptive employee, veteran, ~~or~~
794 servicemember, law enforcement officer, or health care
795 practitioner who adopts a child within the child welfare system
796 who is difficult to place as described in s. 409.166(2)(d)2. is
797 eligible to receive a lump-sum monetary benefit in the amount of
798 \$25,000 ~~\$10,000~~ per such child, subject to applicable taxes. A
799 ~~law enforcement officer who adopts a child within the child~~
800 ~~welfare system who is difficult to place as described in s.~~
801 ~~409.166(2)(d)2. is eligible to receive a lump-sum monetary~~
802 ~~benefit in the amount of \$25,000 per such child, subject to~~
803 ~~applicable taxes.~~ A qualifying adoptive employee, veteran, ~~or~~
804 servicemember, law enforcement officer, or health care
805 practitioner who adopts a child within the child welfare system
806 who is not difficult to place as described in s. 409.166(2)(d)2.
807 is eligible to receive a lump-sum monetary benefit in the amount
808 of \$10,000 ~~\$5,000~~ per such child, subject to applicable taxes. A
809 ~~law enforcement officer who adopts a child within the child~~
810 ~~welfare system who is not difficult to place as described in s.~~
811 ~~409.166(2)(d)2. is eligible to receive a lump-sum monetary~~
812 ~~benefit in the amount of \$10,000 per each such child, subject to~~

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813 ~~applicable taxes.~~ A qualifying adoptive employee of a charter
814 school or the Florida Virtual School may retroactively apply for
815 the monetary benefit provided in this subsection if such
816 employee was employed by a charter school or the Florida Virtual
817 School when he or she adopted a child within the child welfare
818 system pursuant to chapter 63 on or after July 1, 2015. A
819 veteran or servicemember may apply for the monetary benefit
820 provided in this subsection if he or she is domiciled in this
821 state and adopts a child within the child welfare system
822 pursuant to chapter 63 on or after July 1, 2020. A law
823 enforcement officer may apply for the monetary benefit provided
824 in this subsection if he or she is domiciled in this state and
825 adopts a child within the child welfare system pursuant to
826 chapter 63 on or after July 1, 2022. A health care practitioner
827 may apply for the monetary benefit provided in this subsection
828 if he or she is domiciled in this state and adopts a child in
829 the child welfare system pursuant to chapter 63 on or after July
830 1, 2024.

831 (a) Benefits paid to a qualifying adoptive employee who is
832 a part-time employee must be prorated based on the qualifying
833 adoptive employee's full-time equivalency at the time of
834 applying for the benefits.

835 (b) Monetary benefits awarded under this subsection are
836 limited to one award per adopted child within the child welfare
837 system.

838 (c) The payment of a lump-sum monetary benefit for adopting
839 a child within the child welfare system under this section is
840 subject to a specific appropriation to the department for such
841 purpose.

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842 (3) A qualifying adoptive employee must apply to his or her
843 agency head, or to his or her school director in the case of a
844 qualifying adoptive employee of a charter school or the Florida
845 Virtual School, to obtain the monetary benefit provided in
846 subsection (2). A veteran or servicemember must apply to the
847 department to obtain the benefit. A law enforcement officer must
848 apply to the Department of Law Enforcement to obtain the
849 benefit. A health care practitioner must apply to the Department
850 of Health to obtain the benefit. Applications must be on forms
851 approved by the department and must include a certified copy of
852 the final order of adoption naming the applicant as the adoptive
853 parent. Monetary benefits shall be approved on a first-come,
854 first-served basis based upon the date that each fully completed
855 application is received by the department.

856 (4) This section does not preclude a qualifying adoptive
857 employee, veteran, servicemember, ~~or~~ law enforcement officer, or
858 health care practitioner from receiving adoption assistance for
859 which he or she may qualify under s. 409.166 or any other
860 statute that provides financial incentives for the adoption of
861 children.

862 (5) Parental leave for a qualifying adoptive employee must
863 be provided in accordance with the personnel policies and
864 procedures of his or her employer.

865 (6) The department may adopt rules to administer this
866 section. The rules may provide for an application process such
867 as, but not limited to, an open enrollment period during which
868 qualifying adoptive employees, veterans, servicemembers, ~~or~~ law
869 enforcement officers, or health care practitioners may apply for
870 monetary benefits under this section.

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871 (7) The Chief Financial Officer shall disburse a monetary
872 benefit to a qualifying adoptive employee upon the department's
873 submission of a payroll requisition. The Chief Financial Officer
874 shall transfer funds from the department to a state university,
875 a Florida College System institution, a school district unit, a
876 charter school, the Florida Virtual School, or a water
877 management district, as appropriate, to enable payment to the
878 qualifying adoptive employee through the payroll systems as long
879 as funds are available for such purpose.

880 (8) To receive an approved monetary benefit under this
881 section, a veteran or servicemember must be registered as a
882 vendor with the state.

883 (9) Each state agency shall develop a uniform procedure for
884 informing employees about this benefit and for assisting the
885 department in making eligibility determinations and processing
886 applications. Any procedure adopted by a state agency is valid
887 and enforceable if the procedure does not conflict with the
888 express terms of this section.

889 Section 18. Effective July 1, 2025, paragraph (a) of
890 subsection (1) of section 409.988, Florida Statutes, is amended
891 to read:

892 409.988 Community-based care lead agency duties; general
893 provisions.—

894 (1) DUTIES.—A lead agency:

895 (a) ~~1.~~ Shall serve:

896 ~~a.~~ all children referred as a result of a report of abuse,
897 neglect, or abandonment to the department's central abuse
898 hotline, including, but not limited to, children who are the
899 subject of verified reports and children who are not the subject

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900 of verified reports but who are at moderate to extremely high
901 risk of abuse, neglect, or abandonment, as determined using the
902 department's risk assessment instrument, regardless of the level
903 of funding allocated to the lead agency by the state if all
904 related funding is transferred.

905 ~~b. Children who were adopted from the child welfare system~~
906 ~~and whose families require postadoption supports.~~

907 2. The lead agency may also serve children who have not
908 been the subject of reports of abuse, neglect, or abandonment,
909 but who are at risk of abuse, neglect, or abandonment, to
910 prevent their entry into the child protection and child welfare
911 system.

912 Section 19. Except as otherwise expressly provided in this
913 act, this act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1486
 INTRODUCER: Senator Collins
 SUBJECT: Child Permanency
 DATE: January 15, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	Pre-meeting
2.			AHS	
3.			FP	

I. Summary:

SB 1486 makes numerous changes to Chapters 39, 409, and 63, F.S., to reduce barriers in dependency proceedings, ensure the safety of children in out-of-home care, increase the time to permanency, and expand the financial opportunities to children in, or formerly in, the foster care system and adoptive parents. Specifically, the bill:

- Revises the process for background screening process for out-of-home placements.
- Creates a process to commit a child to the legal custody of the Department of Children and Families (DCF) to seek adoption for a child whose parents die while the child is in the dependency system or who otherwise does not have a legal guardian to care for the child and must rely on the DCF for services, but is not a victim of abuse, abandonment, or neglect.
- Creates an emergency modification of placement process to address child safety of children in out-of-home care that is separate from a shelter hearing.
- Reduces the number of months required to close a case to permanent guardianship and allow a guardian to receive Guardianship Assistance Program (GAP) benefits from 6 to 3 months if the caregiver was previously named as a successor guardian.
- Reduces the child-age eligibility requirement for a guardian or adoptive parent to receive GAP payments or adoption assistance payments.
- Eliminates the requirement to personally serve a parent with a petition when the parent appears at a termination of parental rights hearing, aligning statute with the dependency hearing process.
- Shifts the judicial review of the DCF’s decision on adoption applications made to the DCF under Ch. 39, F.S., from a separate administrative process under Ch. 120, F.S., to the judge assigned to the dependency processing who has the most familiarity with the child and family.
- Removes the requirement for Community-based care (CBC) lead agencies to provide adoption services and, instead, requires the DCF to contract with a child-placing agency to provide such services.

- Reduces the fee amounts private adoption entities can charge prospective adoptive parents without court approval.
- Expands those who may participate in the adoption benefits program to include certain health care practitioners.
- Repeals the adoption incentive program that awarded incentive payments to CBCs.
- Expands independent living services for young adults aging out of foster care by decreasing the eligibility age for Postsecondary Education Services and Supports and allowing young adults to receive Aftercare if eligible for the extended GAP program or the extended adoption assistance program but is not participating in either program.

The bill has an indeterminate, but significant, negative fiscal impact on state government and the private sector. *See* Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2024, with the exception of sections 10 and 16, which have an effective date of July 1, 2025.

II. Present Situation:

An estimated 3.9 million referrals of alleged child abuse and neglect were made nationwide in 2021.¹ Of that 3.9 million, approximately 2 million met the requirements for an investigation² leading to approximately 588,000 children with a finding of maltreatment.³ More than 4.28 million children live in a Florida, a vast majority of which, never come to the attention of Florida's child welfare system.⁴ In 2021, the Department of Children and Families (DCF) investigated 256,060 reports of potential child abuse, and approximately 11 percent (or 27,394) of those investigations results in a finding of maltreatment.⁵

The United States Congress appropriates federal funds through various grants to the DCF to supplement state general revenue funds for the implementation of child welfare programs.⁶ The DCF uses these funds to contract with local community non-profits to provide child welfare services.⁷

The DCF uses a centralized child welfare information system known as Florida Safe Families Network (FSFN) and is in the middle of a multi-year project to transition from old federal guidelines that required a Statewide Automated Child Welfare System (SACWIS) to new federal

¹ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Report on Child Maltreatment 2021*, p. 8, available at: <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2021.pdf> (last visited Jan. 14, 2024).

² *Id.* at p. 13; referred to as "screened in referrals."

³ *Id.* at 21; referred to as "victims of abuse and neglect."

⁴ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Child Population Data for Florida, available at <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/florida.html> (last visited Jan. 14, 2024).

⁵ *Id.*

⁶ The main federal grant programs that supplement state-level child welfare programs are Titles IV-E and IV-B of the Social Security Act.

⁷ Part V of ch. 409, F.S.

guidelines that require a Comprehensive Child Welfare Information System (CCWIS).⁸ This transition will modernize and enhance the data capabilities of the DCF.

Florida's Child Welfare System – Generally

Chapter 39, F.S., creates Florida's dependency system charged with protecting children who have been abused, neglected, or abandoned. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The DCF and CBCs work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.⁹

Child welfare services are directed toward the prevention of child abuse, abandonment, and neglect.¹⁰ The DCF practice model is based on the safety of the child within his or her home, using in-home services, such as parenting coaching and counseling to maintain and strengthen the child's natural supports in the home environment.¹¹ These services are coordinated by the DCF-contracted community-based care lead agencies (CBCs).¹² The DCF remains responsible for a number of child welfare services, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.¹³ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.¹⁴

Department of Children and Families

The DCF's statutory mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹⁵ The DCF must develop a strategic plan to fulfill this mission and establish measurable goals, objectives, performance standards, and quality assurance requirements to ensure the DCF is accountable to taxpayers.¹⁶

The DCF is required to provide services relating to¹⁷:

- Adult protection.
- Child care regulation.

⁸ The Children's Bureau, CCWIS Status, available at <https://www.acf.hhs.gov/cb/training-technical-assistance/ccwis-status> (last visited Jan. 14, 2024).

⁹ Chapter 39, F.S.

¹⁰ Section 39.001(8), F.S.

¹¹ See generally: The Department of Children and Families, *Florida's Child Welfare Practice Model*, available at: <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/floridas-child-welfare-practice-model> (last visited Jan. 14, 2024).

¹² Section 409.986(1), F.S.; See generally The Department of Children and Families (The DCF), About Community-Based Care, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited Jan. 14, 2024).

¹³ Office of Program Policy Analysis and Government Accountability, Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care, Report 06-50, June 2006, available at <https://oppaga.fl.gov/Products/ReportDetail?rn=06-50> (last visited Jan. 14, 2024).

¹⁴ *Id.*

¹⁵ Section 20.19(1)(a), F.S.

¹⁶ Section 20.19(1)(b), F.S.

¹⁷ Section 20.19(4)(a), F.S.

- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

The DCF must deliver services by contract through private providers to the extent allowed by law and funding.¹⁸ These private providers include CBCs delivering child welfare services.¹⁹

Community-Based Care System

The DCF, through CBCs, administer a system of care²⁰ to children and families that is required to focus on:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had their children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency, including providing adoption and postadoption services; and
- Transition to independence and self-sufficiency.²¹

The CBCs must give priority to services that are evidence-based and trauma informed.²² The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.²³

The Dependency System Process – Generally

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in an out-of-home placement, adjudicate the child dependent, and if necessary, terminate parental rights and free that child for adoption. Steps in the dependency process usually include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.

¹⁸ Section 20.19(1)(d), F.S.

¹⁹ Part V of ch. 409, F.S. and s. 394.9082, F.S.

²⁰ Section 409.986(1), F.S.; See generally The Department of Children and Families (The DCF), About Community-Based Care, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited Jan. 14, 2024).

²¹ *Id.*; Also see generally s. 409.988, F.S.

²² Section 409.988(3), F.S.

²³ The DCF, Lead Agency Information, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited Jan. 14, 2024).

- Case planning for the parents to address the problems resulting in their child’s dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child’s parent or another option to establish permanency, such as adoption after termination of parental rights.²⁴

Dependency Proceeding	Description of Process	Controlling Statute(s)
Removal	The DCF may remove a child from his or her home after a protective investigation determines that conditions in that child’s home are unsafe and a safety plan cannot make the conditions safe.	s. 39.401, F.S.
Shelter Hearing	The court must hold a shelter hearing within 24 hours after removal. At this hearing, the judge determines whether there was probable cause to remove the child and whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	The DCF must file a petition for dependency within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	The court must hold an arraignment and shelter review within 28 days of the shelter hearing. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any previous shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	The court must hold an adjudicatory trial within 30 days of arraignment. The judge determines whether a child is dependent during this trial.	s. 39.507, F.S.
Disposition Hearing	The court must hold a disposition hearing within 15 days of arraignment (if the parents admits or consents to adjudication) or 30 days of adjudication if a court finds the child dependent. At this hearing, the judge reviews the case plan and placement of the child and orders the case plan and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition Change of Custody Hearing	The court may change the temporary out-of-home placement of a child at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement at least every 6 months, or upon motion of a party.	s. 39.701, F.S.

²⁴ The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. S. 63.022, F.S.

Dependency Proceeding	Description of Process	Controlling Statute(s)
Petition for Termination of Parental Rights	If the DCF determines that reunification is no longer a viable goal and termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	The court must hold an advisory hearing as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	The court must hold an adjudicatory trial within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

Central Abuse Hotline

The DCF is required to operate and maintain a central abuse hotline (hotline)²⁵ to receive reports of known or suspected instances of child abuse,²⁶ abandonment,²⁷ or neglect,²⁸ or instances when a child does not have a parent, legal custodian or adult relative available to provide supervision and care.²⁹ The hotline must operate 24 hours a day, 7 days a week, and accept reports in writing via fax, web-based reporting,³⁰ web-based chat, or a single statewide toll-free telephone number.³¹

If the hotline determines a report meets the statutory criteria for child abuse, abandonment, or neglect, a child protective investigation must be completed by a DCF child protective

²⁵ Hereinafter cited as “hotline”. “Florida Abuse Hotline” means the DCF’s central abuse reporting intake assessment center, which receives and processes reports of known or suspected child abuse, neglect or abandonment 24 hours a day, seven days a week. Chapter 65C-30.001, F.A.C.

²⁶ Section 39.01(2), F.S., defines “abuse” as any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired.

²⁷ Section 39.01(1), F.S., defines “abandoned” or “abandonment” as a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. “Establish or maintain a substantial and positive relationship” means, in part, frequent and regular contact with the child, and the exercise of parental rights and responsibilities.

²⁸ Section 39.01(50), F.S., states “neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired, except when such circumstances are caused primarily by financial inability unless services have been offered and rejected by such person.

²⁹ Section 39.201(4), F.S.

³⁰ Section 39.201(2)(j), F.S., requires the DCF to update the web-based reporting form to include fields for specified information and allow a reporter to save and return to a report at a later time.

³¹ Section 39.201(4) and (5), F.S.

investigator (CPI).³² The CPI must either implement a safety plan for the child, which allows the child to remain in the home with in-home services or take the child into custody. If the child cannot safely remain in the home with a safety plan, the DCF must file a shelter petition and remove the child from his or her current home and temporarily places them in out-of-home care.³³

Hotline reports and child welfare records are confidential.³⁴ However, the law requires the DCF to release records to “any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect.”³⁵ Current law does not detail or specify whom must make the determination that the death was the result of abuse, abandonment, or neglect or when that determination must occur. This lack of specificity has caused issues with the DCF being unaware of “determinations” made by other entities and being unknowingly liable for the release of records.³⁶

In-Home Services

The DCF is required to make all efforts to keep children with their families and provide interventions that allow children to remain safely in their own homes.³⁷ CPIs and CBC case managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes.

As of September 30, 2023, 8,136 children were receiving in-home services.³⁸

Out-of-Home Placements

When a CPI determines that in-home services are not enough to ensure a child’s safety, the CPI removes the child from the home and places him or her in a safe and appropriate temporary out-of-home placement, which can include placement with:

³² Section 39.201 (4), F.S. Hereinafter cited as “CPI.” The DCF recruits qualified professional staff to serve as child protective investigators. Preference is given to individuals who have baccalaureate and master’s degrees in social work, psychology, sociology, counseling, special education, education, human development, child development, family development, marriage and family therapy, nursing, or individuals with a combination of relevant work and volunteer experience that demonstrate a commitment to helping children and families. All CPIs are required to complete training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age developed by the Child Protection Team Program within the Department of Health, and training that is either focused on serving a specific population, including, but not limited to, medically fragile children, sexually exploited children, children under 3 years of age, or families with a history of domestic violence, mental illness, or substance abuse, or focused on performing certain aspects of child protection practice, including, but not limited to, investigation techniques and analysis of family dynamics. Section 402.402, F.S. See also: s. 39.01, F.S. defines “Protective investigator” as an authorized agent of the department who receives and investigates reports of child abuse, abandonment, or neglect; who, as a result of the investigation, may recommend that a dependency petition be filed for the child; and who performs other duties necessary to carry out the required actions of the protective investigation function.

³³ Section 39.201, F.S.

³⁴ Section 39.202(1), F.S.

³⁵ Section 39.202(2)(o), F.S.

³⁶ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 3-4, (on file with the Senate Committee on Children, Families, and Elder Affairs).

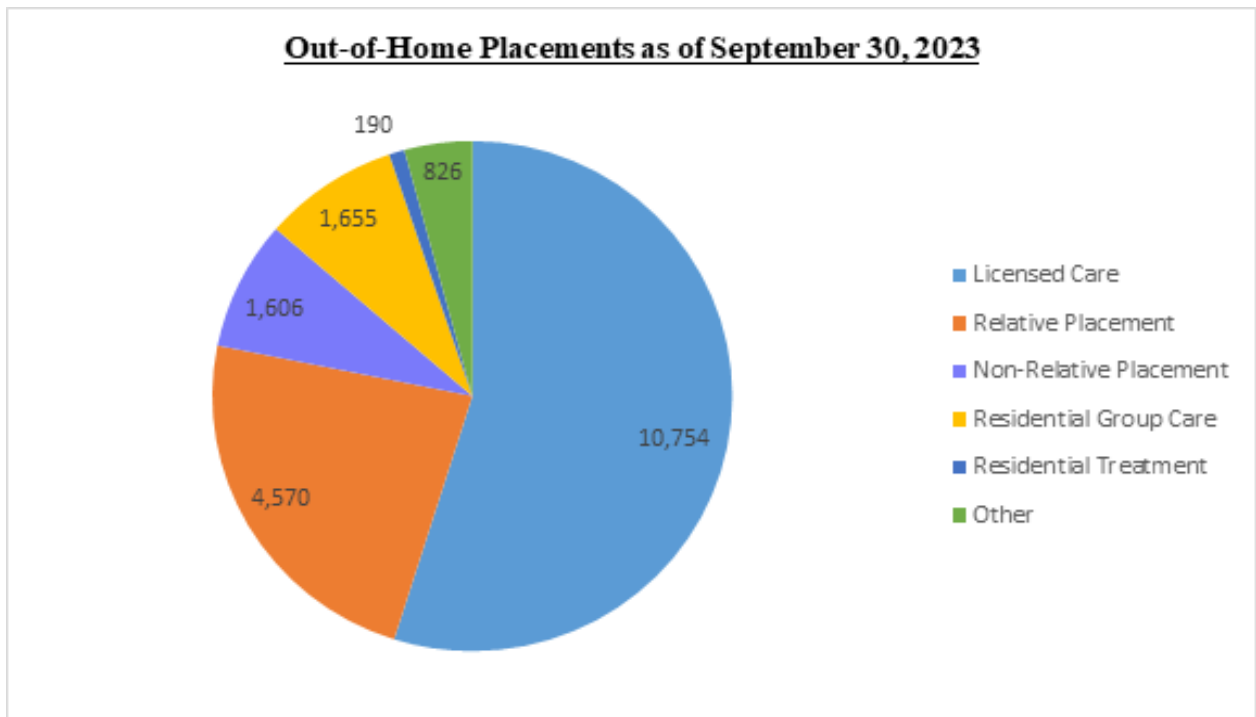
³⁷ Sections 39.402(7), 39.521(1)(f), and 39.701(d), F.S.

³⁸ The Department of Children and Families, *Child Welfare Key Indicators Monthly Report October 2023*, available at: <https://www.myflfamilies.com/KIDS/ROA/child-welfare-key-indicators-reports> (last visited Jan. 14, 2024).

- a nonoffending parent;
- relative caregiver;
- adoptive parent of the child’s sibling;
- fictive kin who has a close existing relationship to the child;
- nonrelative caregiver that does not have an existing relationship with the child; or
- licensed foster care, group care or residential care.³⁹

Out-of-home placements provide housing, support, and services to a child until the conditions in his or her home are safe enough to return or the child achieves permanency with another family through another permanency option, like adoption.⁴⁰

Children in out-of-home care should be placed in the least restrictive, most family-like environment in close proximity to parents.⁴¹ CBCs are responsible for placing children in the most appropriate available setting after conducting an assessment using child-specific factors.⁴² The following chart demonstrates the number of children in out-of-home care in the state as of September 30, 2023.



Source: Department of Children and Families, Child Welfare Key Indicators Monthly Report, October 2023, p. 31

³⁹ Section 39.4021, F.S.

⁴⁰ The Office of Program Policy and Government Accountability, Program Summary, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited Jan. 14, 2024).

⁴¹ Sections 39.001(1) and 39.4021(1), F.S.

⁴² Rule 65C-28.004, F.A.C., provides that the child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement.

Background Screening Requirements for Out-of-Home Placements

Statute requires the DCF to conduct local and criminal history records on all persons being considered as a placement option, including all “household members” 12 years of age and older⁴³ A criminal history records check may include, but is not limited to, submission of fingerprints to the Florida Department of Law Enforcement (FDLE) for processing and forwarding to the Federal Bureau of Investigation (FBI) for state and national criminal history information, and a local criminal records checks through local law enforcement agencies for all household members 18 years of age and older and other visitors to the home.

The DCF uses the FBI’s criminal history record databases to complete criminal history records checks⁴⁴ State statute must be in compliance with federal law and rules to allow a state agency to access the FBI’s criminal history information. Section 39.0138, F.S., was previously approved and the FBI’s Criminal Justice Information Law Unit (CJILU) authorized the DCF to conduct finger-based background checks of any person being considered for placement of dependent children. However, in 2020, changes were made to s. 39.0138, F.S., which prompted a review by the CJLIU.

The review found the definition of “visitor” to be too broad and timeframes and processes for the background check were not explicitly stated.⁴⁵ For DCF to continue using the FBI system Florida statute must come into compliance with federal standards.⁴⁶

In state fiscal year 2022-23 the DCF utilized the FBI’s system to:

- Complete 33,380 screenings for placement of children and adoptions, of which 929 were denied.
- Conduct 7,527 screenings for emergency placement, of which 7,373 were approved and 154 were disqualified.

Emergency Postdisposition Change of Placements

Section 39.522, F.S., details the process for a dependency court to grant changes of placement for children who are in the dependency system. The law allows a petition to be brought before the court alleging the need for the change of placement of child who is placed by the DCF under protective supervision. If any party⁴⁷ to the child’s case or the current caregiver denies the need for the change, the court must hear from all parties through an evidentiary hearing. Upon the admission of a need for a change or after such hearing and finding of a need for change of placement, the court must enter an order changing the placement, modifying the conditions of

⁴³ Section 39.0138, F.S.

⁴⁴ Pub. L. 92-544 provides the authority for the DCF to utilize the FBI’s criminal history record databases.

⁴⁵ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 3, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴⁶ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 3, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴⁷ “Party” is defined as the parent or parents of the child, the petitioner, the department, the guardian ad litem or the representative of the guardian ad litem program when the program has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child’s best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child. S. 39.01, F.S.

protective supervision, or continuing the conditions of protective supervision as ordered. The standard for postdisposition change of placement is the best interests of the child.⁴⁸

When determining whether a change of legal custody or placement is in the best interests of the child, the court must consider 15 best interest factors,⁴⁹ and any report filed by the multidisciplinary team. The court must also consider the priority of placements established in law when deciding what placement is in the child's best interest.⁵⁰

Importantly, s. 39.522(2), F.S., does not provide for an emergency hearing when a child's placement must be immediately modified. Because there is no emergency process for modification of placement, when a child is at risk of abuse, abandonment, or neglect in his or her current placement, the DCF has been exercising its shelter power to protect the child.⁵¹ This requires the court to conduct a shelter hearing for the child already under the DCF's supervision. This leads to confusion as to whether the standard to be used to move the child is probable cause to shelter or best interests of the child to modify placement.⁵²

During state fiscal year 2022-23, dependency courts granted a postdisposition change of placement for 6,672 children in the dependency system.⁵³

Termination of Parental Rights

To free a child for adoption, the DCF must terminate the legal relationship between the child and his or her parents in a proceeding known as a termination of parental rights. Once this process has occurred and parental rights have been terminated, the court retains jurisdiction over the

⁴⁸ Section 39.01375, F.S.

⁴⁹ Section 39.01375, F.S. lists 15 factors the court must consider when determining whether a proposed placement change is in a child's best interest: The child's age; the physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement; the stability and longevity of the child's current placement; the established bonded relationship between the child and the current or proposed caregiver; the reasonable preference of the child, if the child is of a sufficient age and capacity to express a preference; the recommendation of the child's current caregiver, if applicable; the recommendation of the child's guardian ad litem, if one has been appointed; the child's previous and current relationship with a sibling and if the change of legal or physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024, F.S.; the likelihood of the child attaining permanency in the current or proposed placement; the likelihood the child will be required to change schools or child care placement, the impact of such change on the child, and the parties' recommendations as to the timing of the change, including an education transition plan required under s. 39.4023, F.S.; the child's receipt of medical, behavioral health, dental, or other treatment services in the current placement; the availability of such services and the degree to which they meet the child's needs; and whether the child will be able to continue to receive services from the same providers and the relative importance of such continuity of care; the allegations of any abuse, abandonment, or neglect, including sexual abuse and human trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect; the likely impact on activities that are important to the child and the ability of the child to continue such activities in the proposed placement; the likely impact on the child's access to education, Medicaid, and independent living benefits if moved to the proposed placement; and any other relevant factor.

⁵⁰ Section 39.4021(2)(a), F.S. lists the priority of placements that must be considered, as follows: 1. Nonoffending parent; 2. Relative caregiver; 3. Adoptive parent of the child's sibling, when the DCF or CBC is aware of such sibling; 4. Fictive kin with a close existing relationship with the child; 5. Nonrelative caregiver that does not have an existing relationship with the child; 6. Licensed foster care; 7. Group or congregate care.

⁵¹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 6, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵² *Id.*

⁵³ *Id.*

child until the child is adopted.⁵⁴ The DCF, the guardian ad litem assigned to the child's case, or any other person knowledgeable of the facts of the case is permitted to file a petition for the termination of parental rights with the court.⁵⁵

During the dependency phase of a dependency case, personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.⁵⁶ However, there is no similar provision during the termination of parental rights phase of the case.⁵⁷ Because of this, when a case has entered the termination of parental rights phase, even if a parent arrives to a hearing, the DCF must personally serve that parent and the hearing must be reset to a later date. When hearings are conducted remotely, the DCF is not able to personally serve the parent during the hearing; therefore, the hearing cannot be re-held until service by a formal process server is completed.⁵⁸ This can result in delays in the termination of parental rights process and permanency for children.

Permanency

Florida law requires a permanency hearing no later than 12 months after the child was removed from his or her home or within 30 days after a court determines that reasonable efforts to return the child to either parent are not required, whichever occurs first.⁵⁹ The purpose of the permanency hearing is for the court to determine when the child will achieve permanency or whether modifying the permanency goal is in the child's best interest.⁶⁰ A permanency hearing must be held at least every 12 months for any child who continues to be supervised by the DCF.⁶¹

The permanency goals under Florida law⁶², listed in order of preference are:

- Reunification;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship under s. 39.6221, F.S.;
- Permanent placement with a fit and willing relative under s. 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.

Adoptions

Child Welfare Adoptions and Adoption Decision Review Process

The Florida Adoptions Act, codified in Ch. 63, F.S., applies to all adoptions, whether private or from the child welfare system, involving the following entities⁶³:

- The DCF under Chapter 39, F.S.;

⁵⁴ Section 39.811, F.S.

⁵⁵ Section 39.802, F.S.

⁵⁶ Section 39.502(2), F.S.

⁵⁷ *See generally*, Part X of Ch. 39, F.S.

⁵⁸ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 4-6, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵⁹ Section 39.621 (1), F.S.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Section 39.621, F.S.

⁶³ Ch. 63, F.S.

- Child-placing agencies licensed by the DCF under s. 63.202, F.S.;
- Child-caring agencies registered under s. 409.176, F.S.;
- An attorney licensed to practice in Florida; or
- A child-placing agency licensed in another state which is licensed by the DCF to place children in Florida.

Ultimately, if the court is unable to reunify a child to his or her home due to safety concerns, the child welfare system may seek a permanent home for that child through the adoption process.⁶⁴ Adoption is the act of creating a legal relationship between a parent and child where one did not previously exist, declaring the child to be legally the child of the adoptive parents and entitled to all rights and privileges and subject to all obligations of a child born to the adoptive parents.⁶⁵ Adoption is one of the legally recognized child-welfare permanency goals that may be ordered by a court for a child within the child welfare system.⁶⁶

To free a child for adoption, the DCF must terminate the legal relationship between the child and his or her current parents in a proceeding known as a termination of parental rights. Once this process has occurred and parental rights have been terminated, the court retains jurisdiction over the child until the child is adopted.⁶⁷ The DCF may place the child with a licensed child-placing agency, a registered child-caring agency, or a family home for prospective adoption if given custody of a child that has been made available for a subsequent adoption under ch. 39, F.S.⁶⁸

The DCF's ability to place a child in its custody for adoption and the court's review of that placement is controlled by s. 39.812, F.S. The DCF may place a child in a home and the DCF's consent alone, in all cases, is sufficient. The dependency court retains jurisdiction over any child placed in the custody of the DCF until the child is adopted. After custody of a child for subsequent adoption has been given to the DCF, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction the court may review the appropriateness of the adoptive placement upon good cause shown by the Guardian ad Litem for the child.

Adoption Decision Review Process

When a child is available for adoption, the DCF, through its contractors, receives applications to adopt the child.⁶⁹ Some applicants are denied because their adoption home study is denied based on criminal history.⁷⁰ When there are two or more families with approved home studies, the DCF sends these conflicting applications through the adoption applicant review committee (AARC)

⁶⁴ Section 39.811(2), F.S.; See generally Parts VIII and X of ch. 39, F.S.

⁶⁵ Section 39.01 (5), F.S.

⁶⁶ Section 39.01(59), F.S., defines "permanency goal" to mean the living arrangement identified for the child to return to or identified as the permanent living arrangement of the child. The permanency goal is also the case plan goal. If concurrent case planning is being used, reunification may be pursued at the same time as another permanency goal is pursued. See also Section 39.621(3), F.S.

⁶⁷ Section 39.811(9), F.S.

⁶⁸ Section 39.812(1), F.S.; See generally Parts VIII and X of ch. 39, F.S.

⁶⁹ Rule 65C-16.004, F.A.C.

⁷⁰ Rule 65C-16.007, F.A.C.

for resolution.⁷¹ The decision of the AARC is then reviewed and the DCF issues its consent to one applicant while communicating its denial to the other applicants through certified letter.⁷²

Unsuccessful applicants are able to seek review of the DCF action through the administrative hearing process under Chapter 120, F.S. Designated hearing officers at the DCF hear these reviews. The assignment of adoption decision disputes to the Chapter 120, F.S., process did not originate with, nor was it inspired by, legislative directive. This process arose due to the opinion in *Department of Children & Family Services v. I.B. and D.B.*⁷³ Notwithstanding this opinion, the Legislature’s overall intent in relation to permanency and the resolution of disputes in the dependency case is to proceed under Ch. 39, F.S. Furthermore, the Ch. 120, F.S., process precludes the selected applicant from participating, which is statutorily permissible in the dependency court proceeding.⁷⁴

Florida law also permits denied adoption applicants to initiate legal action under Chapter 63, F.S., by filing a petition for adoption.⁷⁵ Upon filing the petition, the petitioner must demonstrate that the DCF has unreasonably withheld its consent to the adoption.⁷⁶ Because Chapter 63, F.S., permits anyone who meets the requirements of s. 63.042(2), F.S., to adopt and any petitioner may argue the DCF’s consent to the adoption should be waived because it was unreasonably withheld, multiple parties may file a petition to adopt the same child.⁷⁷

There can be up to four proceedings simultaneously addressing the permanency or adoption of a single child using the same child-specific facts:

- The Chapter 39, F.S., dependency proceeding;
- The Chapter 63, F.S., adoption proceeding filed by the family who has the DCF’s consent;
- The Chapter 63, F.S., adoption proceeding filed by the applicant whose application was denied; and
- The Chapter 120, F.S., proceeding to dispute the adoption decision by the DCF.

The chart below includes the number of 120 adoption denial cases the DCF commenced and concluded each year, of those the number of cases that resulted in a different decision than the AARC recommendation and the number of DCA appeals and the outcome decisions.

Year	Chapter 120 Cases	AARC Decisions Overturned (by 120 Decision)	DCA Appeals	DCA Decisions Overturning Agency Decision
2019	58	0	2	0
2020	46	0	4	0
2021	42	1	2	0

⁷¹ Rule 65C-16.005(9), F.A.C.

⁷² *Id.*

⁷³ See generally 891 So. 2d 1168 (Fla. 1st DCA 2005).

⁷⁴ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 6, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁷⁵ Section 63.042(2), F.S.

⁷⁶ Section 63.062(7), F.S.

⁷⁷ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 8-10, (on file with the Senate Committee on Children, Families, and Elder Affairs).

Year	Chapter 120 Cases	AARC Decisions Overturned (by 120 Decision)	DCA Appeals	DCA Decisions Overturning Agency Decision
2022	41	1	1	0
2023	41	1	1	0

This current process delays adoption. Between 2021 and 2022, the average length of time between the receipt of a chapter 120 hearing request and entry of a final order was 161 days⁷⁸. This does not include any additional delays caused by appeals to the District Court which adds, on average, an additional 323 days.⁷⁹

Adoption Costs

Private Adoptions

Under Ch. 63, F.S., only adoption entities can complete adoption activities in Florida. Adoption entities include the DCF, a child-caring agency registered under the Florida Association of Christian Child Caring Agencies (FACCCA), a Florida licensed-attorney, and a child-placing agency licensed by the DCF.⁸⁰ There are currently 64 private adoption agencies licensed by the DCF; one private adoption agency registered under FACCCA, and over 100,000 attorneys licensed by the Florida Bar.⁸¹

Current law allows adoption entities to assess fees, costs, and expenses for private adoptions, or they pay for the fees and services on behalf of the adoptive parents.⁸² Private adoption services and fees vary, but it is estimated the total amount of fees and services paid by prospective adoptive parents can range from \$30,000 to \$60,000.⁸³ Section 63.097, F.S., allows private adoption entities may charge prospective adoptive families for:

- Reasonable living expenses of the birth mother when the birth mother is unable to pay due to unemployment, underemployment, or disability.
- Reasonable and necessary medical expenses.
- Court filing expenses, court costs, and other litigation expenses.
- Birth certificate and medical record expenses.
- Costs associated with advertng.
- Professional fees.
- Expenses necessary to comply with the requires of Ch. 63, F.S., including, but not limited to, service of process, investigator fees, a diligent search, a preliminary home study, and a final home investigation.

⁷⁸ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 3-4, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁷⁹ *Id.*

⁸⁰ Section 63.302, F.S.

⁸¹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 13, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸² Section 63.097, F.S.

⁸³ Child Welfare Information Gateway, *Planning for Adoption: Knowing the Costs and Resources*, available at: <https://www.childwelfare.gov/resources/planning-adoption-knowing-costs-and-resources/> (last visited Jan. 14, 2024).

Adoption entities seeking to charge fees, costs, or expenses for other items than those listed above require court approval prior to payment and a finding that the costs are based on a finding of extraordinary circumstances.⁸⁴

Additionally, the court must approve the total amount of fees charged to prospective adoptive parents when an adoption entity charges more than the following:

- \$5,000 in legal or other fees;
- \$800 in court costs; or
- \$5,000 in reasonable and necessary living and medical expenses.⁸⁵

In order to lessen the economic burden of private adoptions, adoptive parents may file for a federal adoption tax credit for qualifying adoption expenses⁸⁶ based on the adoptive parent's income. The 2023 federal adoption tax credit is approximately \$16,000.⁸⁷

Adoption from the Child Welfare System

Adoption Assistance

Section 409.166, F.S., creates the adoption assistance program to provide financial assistance to adoptive parents who adopt a child from the foster care system.⁸⁸ Such assistance may include, but is not limited to, a monthly subsidy, medical assistance, Medicaid assistance, and reimbursement of nonrecurring expenses associated with the legal adoption.⁸⁹

Individuals who adopt a child from the child welfare system are eligible to receive \$5,000 annually, paid on a monthly basis, for the support and maintenance of the child until the child's 18th birthday.⁹⁰ In the event the child was adopted after the age of 16, s. 409.166(4)(d), F.S., allows for the adoptive family to remain eligible for the adoption assistance payment until the child reaches 21 years of age, if the young adult is participating in specific programs or activities.⁹¹

⁸⁴ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 10, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸⁵ Section 63.097, F.S.

⁸⁶ Qualifying adoption expenses include adoption fees, attorney fees, court costs, travel expenses (including meals and lodging while away from the home), and re-adoption expenses relating to adoption of a foreign child.

⁸⁷ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 10, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸⁸ Section 409.166, F.S.

⁸⁹ *Id.*

⁹⁰ Section 409.166(4)(c), F.S. The adoptive parents can receive an amount other than \$5,000 upon agreement by the DCF and memorialized in a written agreement between the adoptive parents and the DCF. The agreement must take into consideration the circumstances of the adoptive parents and the needs of the child being adopted. The amount of subsidy may be adjusted upon changes in the needs of the child or circumstances of the adoptive parents. In no case shall the amount of the monthly payment exceed the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home.

⁹¹ This program is known as the Extended Maintenance Adoption Subsidy (EMAS). The payments may be made to the adoptive parents until the child reaches 21 if the child is: completing secondary education or a program leading to an equivalent credential; enrolled in an institution that provides postsecondary or vocational education; participating in a program or activity designated to promote or eliminate barriers to employment; employed for at least 80 hours per month; or

Beginning in 2000, Florida’s Department of Management Services could administer adoption benefits to any state employee or water management district employee who adopted from the child welfare system.⁹² It took the administration of the adoption benefits program.⁹³ In 2010, the program was repealed, and funding ended.⁹⁴ However, in 2015, the Legislature reestablished the adoption benefit program to provide a one-time benefit to qualifying employees who adopt a child from the foster care system.⁹⁵

The following table includes information on the expansion of persons eligible for the adoption benefit program over time:

Year	Employees Eligible for the Adoption Benefit under s. 409.1664, F.S.
2015	Full-time or part-time employee of a state agency who is paid from regular salary appropriations rather than a temporary employee. The term includes instructional personnel who are employed by the Florida School for the Deaf and Blind. ⁹⁶
2017	Full-time or part-time employees of charter schools or the Florida Virtual School to the list of eligible employees. ⁹⁷
2020	Full-time or part-time employee from a state agency, charter school, or Florida Virtual School that is not an independent contractor. Other personal services employees who have been continuously employed full-time or part-time by a state agency for at least 1 year. Veterans and servicemembers that are domiciled in the state. ⁹⁸
2022	Law enforcement officers. ⁹⁹

Qualifying adoptive employees, veterans, or servicemembers who adopt a child from the child welfare system, who is “difficult to place”¹⁰⁰, is eligible to receive a one-time monetary benefit of \$10,000 per child, while law enforcement offices is eligible to \$25,000 per child.¹⁰¹ If the child being adopted is not considered “difficult to place,” a qualifying adoptive employee,

unable to participate in the following programs or activities full time due to a physical, an intellectual, an emotional, or psychiatric conditions that limits participation.

⁹² Chapter 2000-241, Laws of Fla.

⁹³ Chapter 2007-119, Laws of Fla.

⁹⁴ Chapter 2010-158, Laws of Fla.

⁹⁵ Chapter 2015-130, Laws of Fla.

⁹⁶ Chapter 2015-130, Laws of Fla.

⁹⁷ Chapter 2017-140, Laws of Fla.

⁹⁸ Chapter 2020-22, Laws of Fla.

⁹⁹ Chapter 2022-23, Laws of Fla.

¹⁰⁰ Section 409.166(2), F.S., defines “difficult to place” as a child whose (1) permanent custody has been awarded to the DCF or to a licensed child-placing agency; (2) has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she meet a specific category (eight years of age; developmentally disabled; physically or emotionally handicapped; a member of a racial group that is disproportionately represented among children available for adoption or a member of sibling group of any age provided two or more members of a sibling group remain together for purposes of adoption); and (3) for whom a reasonable but unsuccessful effort has been made to place the child without providing a benefit.

¹⁰¹ Section 409.1664, F.S.

veteran, or servicemember is eligible to receive \$5,000 per child, while a law enforcement officer is eligible to receive \$10,000 per child.¹⁰²

The following table identifies the number of adoption subsidies that were requested from the total number DCF adoptions.¹⁰³

SFY	DCF Adoptions	Adoption Subsidies Requested	% with Subsidies
2019-20	4,548	275	6%
2020-21	3,904	263	7%
2021-22	3,888	323	8%
2022-23	3,602	412	11%

Statewide Adoption Services

Various adoption services may be provided at the time a child is permanently committed to DCF’s custody for subsequent adoption. To facilitate adoption, CBCs, or its subcontractors, are required to recruit prospective adoptive families; annually assess adoptive parent resource needs; complete initial and final adoptive home studies; comply with adoption disclosure requirement; and implement and administer adoption assistance benefits.¹⁰⁴

Additionally, CBCs, or its subcontractors, are required to inform prospective adoptive parents of the available adoption benefits.¹⁰⁵

In Florida, the average length of time from a child being sheltered to termination of parental rights is 18 months.¹⁰⁶ The average length of time from termination of parental rights to finalizing adoption is 12 months.¹⁰⁷ This means the average length of time from shelter to a finalized adoption is 2.5 years.¹⁰⁸ In June 2023, there were 4,700 children legally free for adoption of which 3,300 were matched or placed with prospective adoptive parents.¹⁰⁹

To help eliminate barriers to timely adoption and permanency, the DCF and various stakeholders, including the Guardian ad Litem program, CBCs, case management organizations, and the judiciary identified the following barriers to finalizing adoptions¹¹⁰:

- Multiple background screenings of prospective adoptive parents due to expiration;
- Adoption application packets were not uniform statewide and could range from 60-70 pages based on the CBC;

¹⁰² Section 409.1664, F.S.

¹⁰³ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 15, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰⁴ R. 65C-16.004, F.A.C

¹⁰⁵ 65C-16.012 F.A.C.

¹⁰⁶ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 11, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰⁷ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 11, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 11, (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Adoption home studies were not completed timely and compiling data for the child specific information for the home studies caused delays.

Based on these barriers to finalizing adoptions, in July 2023, the DCF launched a pilot in Circuits 6 and 13 to expedite adoptions, which included streamlining adoption procedures, clarifying requirements, meeting with stakeholders to address barriers, and brining in dedicated case management staff to focus on finalizing adoptions.¹¹¹ Circuits 6 and 13 were selected for the pilot due to both having the highest statewide pending adoption rates and both recently experiencing a turnover of its CBC.¹¹²

During the pilot, the DCF identified additional barriers in the adoption process due to unnecessary adoption practices, including:

- CBCs requesting documents from case managers that were not required by administrative rule or statute.
- Lengthy enhanced subsidy approval processes caused delays.
- Adoption specialists were assigned only after parental rights were terminated instead of after the petition for the termination of parental rights was filed.

Since the implementation of the Pilot, the total number of adoptions increased, and the total number of children in care decreased.¹¹³ The tables below compare the first quarter of the Pilot to the same quarter during the year prior to the Pilot’s implementation.¹¹⁴

Circuit 6 – Family Support Services of SunCoast (CBC)			
Category	SFY 2022-23 (Q1)	SFY 2023-24 (Q1)	% Change
Total Adoptions	62	100	61%
Average Number of Children in Out-of-Home Care	2, 532	1,999	-21%

Circuit 13 – Children’s Network of Hillsborough (CBC)			
Category	SFY 2022-23 (Q1)	SFY 2023-24 (Q1)	% Change
Total Adoptions	30	71	137%
Average Number of Children in Out-of-Home Care	2,433	2,143	-12%

Adoption Incentive Program

The Adoption Incentive Program aims to improve the achievement of permanency, stability, and well-being for children in foster care who cannot be reunified with their families.¹¹⁵ Through the

¹¹¹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 11-12, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 11, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹¹⁵ Section 409.1662, F.S.

Adoption Incentive Program, the DCF can award CBCs, and subcontractors involved in the adoption process, with an incentive payment when achieving specific and measure adoption performance standards.¹¹⁶

Due to budgetary constraints, the DCF has been unable to award incentive payments to any CBC since State Fiscal Year 2019-20.¹¹⁷

Adoption of Orphaned Children

Currently, when both parents of a child are deceased with no family member to serve as legal guardian or custodian through a probate or guardianship proceeding, the DCF can adjudicate a child dependent. However, there is no legal mechanism to permanently commit a child to the custody of the DCF for subsequent adoption.¹¹⁸

In *F.L.M. v. Department of Children and Families*,¹¹⁹ the court held that when the parents of a child have died they have not abandoned the child because the definition of "abandonment" in Ch. 39, F.S., contemplates the failure to provide a minor child with support and supervision while being able, and the parents who died are no longer able. Instead, the courts have held that an orphaned child without a legal custodian can be adjudicated dependent based on the child having no parent or legal custodian capable of providing supervision and care pursuant to s. 39.01(14)(e), F.S.¹²⁰ As such, the DCF relies upon this maltreatment to adjudicate orphaned children dependent.¹²¹

Section 39.811(2), F.S., allows a court to commit a child to DCF's custody for subsequent adoption if the court finds by clear and convincing evidence that the grounds for termination of parental rights are established. Section 39.806(1), F.S., outlines various grounds for termination of parental rights. However, all available grounds require that a parent engage in behavior that puts a child at risk. This prevents the DCF from seeking termination of a deceased parent's parental rights based on available grounds because a deceased parent has not engaged in behavior that puts a child at risk. Furthermore, even if there were a statutory ground to seek the termination of a deceased parent's rights, there are benefits that a child may be receiving, such as social security benefits or an inheritance, and termination of the deceased parent's rights would disrupt those benefits.¹²²

¹¹⁶ Section 409.1662(3), F.S.

¹¹⁷ The Department of Children and Families, *Adoption Incentive Reports 2019-20, 2020-21, 2021-22, 2022-23*, available at: <https://www.myflfamilies.com/services/child-family/lmr> (last visited Jan. 12, 2024).

¹¹⁸ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 4, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹¹⁹ 912 So. 2d 1264 (Fla. 4th DCA 2005)

¹²⁰ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 4, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹²¹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 4-6, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹²² *Id.*

Currently, courts are permanently committing children to DCF's custody without meeting the requirements of s. 39.811(2), F.S., which requires termination of parental rights by clear and convincing evidence that the grounds for termination of parental rights are established.¹²³

Florida’s Independent Living Services

The DCF strives to achieve permanency for all children in care before their 18th birthday.¹²⁴ However, a child will age out of care upon reaching 18 years of age if a permanent placement is not found.¹²⁵ From October 1, 2022, to September 30, 2023, there were 801 young adults who aged out of Florida’s foster care system.¹²⁶

Florida provides independent living services to young adults to help them transition out of foster care and to prepare them to become self-sufficient adults. Florida’s independent living services include extended foster care (EFC), which applies to young adults who were in licensed foster care upon turning 18 years of age.¹²⁷ Florida also offers two other independent living programs: Postsecondary Education Services and Support (PESS) and Aftercare services (Aftercare). The following tables provides information on the eligibility requirements to participate in Florida’s independent living programs and the services provided by each.

Program	Eligibility	Services
Extended Foster Care (EFC) ¹²⁸	Young adults who turned 18 in foster care and are: <ul style="list-style-type: none"> • Completing high school or its equivalent; or • Enrolled in college or vocational schooling; or • Working at least 80 hours per month. To stay in EFC, the young adult must: <ul style="list-style-type: none"> • Meet with a case manager every month. • Continue to participate in a required activity. • Attend court reviews every six months. 	Young adults may choose to remain in licensed foster care and receive foster care services until the age of 21 (22 with a disability).
Postsecondary Education Services and Support (PESS) ¹²⁹	<ol style="list-style-type: none"> 1. Young adults who turned 18 in foster care and spent at least 6 months in licensed out-of-home care before turning 18. 2. Young adults who are at least 18 and were adopted from foster care after age 16 or were placed with a court-approved guardian after sending at least 6 months in licensed foster care within the 12 months 	\$1,720 per month for: <ul style="list-style-type: none"> • Housing • Utilities • Living expenses Available until the age 23.

¹²³ *Id.*

¹²⁴ Section 39.01, F.S. Section 39.621, F.S., lists the permanency goals in order of preference as 1. reunification; 2. adoption, if a petition for termination of parental rights has been or will be filed; 3. permanent guardianship; 4. permanent placement with a fit and willing relative; or 5. placement in another planned permanent living arrangement.

¹²⁵ Rule 65C-30.022, F.A.C.

¹²⁶ Florida Department of Children and Families, *Office of Child and Family Well-Being Dashboard*, available at: <https://www.myflfamilies.com/ocfw-dashboard> (last visited Jan. 12, 2024).

¹²⁷ Chapter 2013-178, Laws of Florida

¹²⁸ Section 39.6251, F.S.

¹²⁹ Section 409.1451(2), F.S.

Program	Eligibility	Services
	immediately preceding such adoption or placement; and <ul style="list-style-type: none"> • Have earned a high school diploma or equivalent; and • Are attending a college or vocational school that is Florida Bright Futures eligible. 	
Aftercare ¹³⁰	Young adults who turned 18 while in licensed foster care, but are not yet 23, and <ul style="list-style-type: none"> • Are not in EFC; or • Are not in PESS. 	Mentoring Tutoring Substance abuse treatment Counseling Job and career skills training Temporary financial assistance for necessities

III. Effect of Proposed Changes:

Background Screenings (Sections 1 and 2)

Section 1 of the bill amends s. 39.01, F.S., to add the definition of “visitor” to Ch. 39, F.S., to require individuals that fall under the definition to complete a background screening when a child is being considered for an out-of-home placement. The bill defines “visitor” as a person who:

- Provide care or supervision to children in the home; or
- Is 14 years of age or older who will be in the child’s home at least five consecutive days or any seven or more days in a period of a month.

This change (along with the changes in section 2) will make Florida statutes compliant with federal requirements and allow the DCF to continue to use the FBI’s federal database to conduct and complete required background screenings for out-of-home placements. 131

Section 2 of the bill amends s. 39.0138, F.S. to require the DCF to conduct a criminal history records check on frequent adult visitors to a home being considered for an out-of-home placement.

The bill also amends the process for conducting and completing a background check by:

- Requiring the DCF to complete a name-based check of federal criminal history records if a child has been sheltered and must be placed in out-of-home care due to an emergency.
- Requiring fingerprints of the out-of-home placement applicant and all other adult members of the applicant’s household to be submitted to the FDLE within seven days after receipt of the

¹³⁰ Section 409.1451(3), F.S.

¹³¹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 3, (on file with the Senate Committee on Children, Families, and Elder Affairs).

results of the name-based check, unless an individual is exempted from fingerprinting requirements.

- Requiring the FDLE to forward the fingerprints to the FBI for review within 15 calendar days after the FDLE received the fingerprints.

The bill prohibits the DCF from placing a child in an out-of-home placement if the:

- applicant or any household members are disqualified as a result of the name-based check; or
- fingerprints are not submitted timely to the FBI.

The bill requires the DCF to seek a court order to immediately remove a child from that placement if an applicant does not submit the required fingerprints to the FDLE within the timeframe required by the bill.

The bill removes current statutory language allowing the DCF to place a child in a home if the home meets placement requirements, but the DCF is waiting for the results of the state and national criminal history records check. This current language is removed due to the bill's changes made to the background screening process.

The bill also changes the name of the child welfare systems of record used by the DCF from the State Automated Child Welfare System (SACWIS) to the Comprehensive Child Welfare Information System (CWIS).to reflect the transition to new federal guidelines.

These change (along with the changes in section 1) will make Florida statutes compliant with federal requirements and allow the DCF to continue to use the FBI's federal database to conduct and complete required background screenings for out-of-home placements.

Child Abuse Records (Section 3)

Section 3 of the bill amends s. 39.202(2)(o), F.S. to allow access to child abuse records in the case of a child's death only after the DCF has closed its investigation and met the requirements of 39.301(16), F.S., which states that the DCF must close its investigation within 60 days unless:

- There is an active, concurrent criminal investigation that is continuing beyond the 60-day period and closure of the DCF investigation may compromise successful criminal prosecution.
- The final report of a medical examiner is necessary for the DCF to close its investigation and the report has not been received.
- The child necessary to the investigation has been declared missing by the DCF, a law enforcement agency, or a court.

This change gives the DCF adequate time to fully complete its investigation and ensure sensitive information is not released inaccurately or prematurely.

Adoption of Orphaned Children (Section 4)

Section 4 of the bill creates s. 39.5035, F.S. to allow a court to permanently commit a child whose parents are deceased to DCF's custody. This change allows a child to find permanency when there's no legal custodian available to care the child after the death of his or her parents

and to allow the child to continue to receive death benefits without terminating the deceased parent's parental rights.

The bill allows an attorney for the DCF, or any person with knowledge of the facts, to file a petition for adjudication and permanent commitment if both parents of a child are deceased and there has been no appointment of a legal custodian or guardian through probate or a guardianship proceeding.

If the child has not been adjudicated dependent, the bill requires the filing of the petition adjudication and permanent commitment within 21 days after the shelter hearing. If the child has been adjudicated dependent, the bill requires the filing of a petition for permanent commitment within a reasonable time after the petitioner first becomes aware of the facts that support the petitions.

The bill requires the petition for adjudication and permanent commitment to be in writing and contain the following:

- Identification of the deceased parent or parents;
- Facts that establish both parents of the child;
- Facts that establish that a legal custodian or guardian has not been appointed for the child; and
- Be signed by the petitioner under oath stating the filing of the petition is in good faith.

The bill requires the court to conduct an adjudicatory hearing as soon as practicable, but no later than 30 days after the filing of a petition. Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on:

- Any person with physical custody of the child.
- A living relative of each parent of the child, unless one cannot be found after a diligent search or inquiry.
- The guardian ad litem for the child or a representative of the guardian ad litem program, if applicable.

The bill requires adjudicatory hearings to be conducted by a judge without a jury and applying the rules of evidence in use in civil cases. The bill requires the court to determine by clear and convincing evidence that both parents of the child are deceased, or that the last known living parent is deceased, and the other parent cannot be found after diligent search or inquiry, and that a legal custodian or guardian has not been appointed for the child. The bill allows a certified copy of a death certificate to be sufficient evidence of proof of a parent's death.

The bill requires the court to make one of the following determinations within 30 days after the adjudicatory hearing on a petition for the permanent commitment of the child:

- **If the court finds the petitioner has met the clear and convincing standard:** the bill requires the court to enter a written order adjudicating the child dependent and permanently committing the child to DCF's custody for subsequent adoption. The court must schedule a disposition hearing no later than 30 days after the entry of the order, where the DCF must provide the court with a case plan for the child. The court must hold hearings every 6 months to review the progress of the child's case plan permanency goal, until the child reaches 18 years of age, or the adoption of the child is finalized.

- **If the court finds the petitioner has not met the clear and convincing standard, but that a preponderance of the evidence establishes that the child does not have a parent of legal custodian capable of providing supervision of care:** the bill requires the court to enter a written order adjudicating the child dependent. A disposition hearing must be scheduled no later than 30 days after the entry of the order.
- **If the court finds the petitioner has not met the clear and convincing standard and that a preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision of care:** the bill requires the court to enter a written order dismissing the petition.

Emergency Postdisposition Change of Placement (Section 5)

Section 5 amends s. 39.522, F.S. to create process for emergency modification of a child's court-ordered placement. The bill allows a child's case manager, authorized DCF agent, or law enforcement officer to remove a child from a placement if the current caregiver requests immediate removal of the child or if the circumstances meet the criteria of a shelter pursuant to s. 39.401(1)(b), F.S.¹³²

The bill requires that, if at the time of removal, the child was not placed in foster care, the DCF to file a motion to modify placement within one business day of the child being taken into custody. Unless all parties and the caregiver agree to the change of placement, the court must set a hearing within 24 hours after the filing of the motion to modify placement to determine whether the DCF has established probable cause that reasonable grounds exist for the immediate removal of the child. The court may base its determination on a sworn petition, testimony, or an affidavit and may hear all relevant and material evidence, including oral or written reports, to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing.

- **If the court finds probable cause has not been established to support the removal of the child:** the bill requires the court to order the return of the child to his or her current placement. This finding by the court does not preclude a subsequent motion.
- **If the current caregiver admits to a need for a change of placement or probable cause is established:** the bill requires the court to enter an order changing the child's placement. If the child is not placed in licensed foster care, the new placement must meet the required home study criteria of ch.39, F.S.
- **If the child's placement is modified based on a probable cause finding:** the bill requires the court to conduct postdisposition hearings under s. 39.522(2) and (3), F.S., unless waived by all parties.

Permanent Guardianship and Guardianship Assistance Program (Section 6 and 7)

Section 6 amends s. 39.6221, F.S., to allow the court to close a case to permanent guardianship if the child was placed with a relative or other approved adult for the preceding three months and that person was named on the child's guardianship assistance agreement. This change allows

¹³² Pursuant to s. 39.401(1)(b), F.S., there must be probable cause that supports that the child has been (1) abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment; (2) the parent or legal custodian has materially violated a condition of placement imposed by the court; or (3) that the child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision or care.

children to achieve permanency with a guardian that has already been vetted through the background screening requirements of the Guardianship Assistance Agreement, without having to unnecessarily return to the child welfare system.

Section 7 amends s. 39.6225, F.S. to expand the eligibility of guardianship assistance payments by reducing the age requirement a child must be for a guardian to receive payments. The bill allows a guardian who entered into a guardianship assistance agreement when a child was 14 to receive guardianship assistance payments, rather than when the child was 16 years of age. This increases the eligible population by 782 individuals, with an expected 235 of those choosing to participate in the program.¹³³

Judicial Notice in Termination of Parental Rights Cases (Section 8)

Section 8 amends s. 39.801(3), F.S. to mirror language relating to the dependency phase of the case that allows for personal appearance at a termination advisory hearing, or any subsequent hearing, to remove the need for personal services.

This language will enable a trial court to conduct an advisory hearing if a parent has personally appeared regardless of whether the parent was personally served with the petition, eliminating continuances and delays, and reducing time to permanency for children.

Child Welfare Adoptions and Adoption Decision Review Process (Sections 9 and 11)

Section 9 amends s. 39.812(4), F.S. to change the jurisdiction for reviewing the DCF's denial of an application to adopt a child from a ch.120, F.S., administrative hearing to the dependency court. The DCF's decision to deny an adoption applicant will now be reviewable only under s. 39.812, F.S., and is not subject to ch. 120, F.S.

The bill requires the DCF to file the denial with the court and provide copies to the parties within 10 business days after the decision. The bill allows the denied applicant to file a motion to review the denial within 30 days of the issuance of the written notification of denial. The motion must allege the DCF unreasonably withheld its consent and request that the court allow the denied applicant to file a petition to adopt the child under ch. 63, F.S., without DCF's consent. The denied applicant is given limited standing in the ch.39, F.S., proceeding to file the motion and to present evidence in support of the motion. Such standing terminates upon the entry of the court's order. The bill maintains the standard of review for these cases that is applicable in the ch. 120, F.S., administrative proceedings.

The bill requires the court to hold a hearing within 30 days after the filing of the motion. The court may only consider whether the DCF's review of the application was consistent with the agency's policies and made in an expeditious manner using an abuse of discretion review. If the DCF selected another applicant to adopt the child, the selected applicant may participate in the hearing and may be granted leave by the court to be heard without filing a motion to intervene.

¹³³ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 8, (on file with the Senate Committee on Children, Families, and Elder Affairs).

The bill requires the court to enter a written order within 15 days after the hearing that either denies the motion to review or finds the DCF unreasonably withheld its consent. If the court finds the DCF unreasonably withheld consent, the bill requires the court to authorize the denied applicant to file a petition to adopt the child without the DCF's consent.

The bill amends s. 39.812(5), F.S., to allow the DCF to remove a child from a foster home or court-ordered custodian whose adoption application was denied by the DCF, and the court denied review of DCF's denial.

The bill amends s. 39.812(6), F.S., to require the DCF to attach a copy of the consent for adoption to the petition to adopt.

The bill amends s. 63.062(7), F.S., to require the DCF to consent to the adoption or the petitioner to attach to his or her petition to adopt the court order finding that the DCF unreasonably withheld its consent when the court permanently commits a minor to the DCF for adoption. The petitioner must also file a favorable preliminary adoptive home study as required by s. 63.092, F.S.

Section 11 amends s. 63.062, F.S. to reflect the changes to the Chapter 120 hearing changes in Section 9 of the bill. The bill establishes that if parental rights to the minor have been terminated and the minor has been permanently committed to the DCF for subsequent adoption, the DCF must provide consent to the adoption, or the petitioner must include the court order finding the DCF unreasonably withheld consent as well as a favorable preliminary adoptive home study in the petition to adopt. This change ensures there is only one adoption petition filed for each child.¹³⁴

Statewide Adoption Services (Sections 10, 12, 16, and 18)

The bill makes changes throughout Ch. 63 and Ch. 409, F.S., to centralize statewide adoption services by removing the requirement that CBCs provide adoption services and supports.

The bill delays the effective date of these sections until July 1, 2025.

Section 10 amends the definition of "agency" in s. 63.032(12), F.S., to "licensed child-placing agency" to have the same meaning as s. 39.01, F.S., which defines "licensed child-placing agency as a person, society, association, or institution licensed by the DCF to care for, receive, or board children and to place children in licensed child-caring institution or a foster or adoptive home. This change in definition to conform to other changes made in the bill.

Section 12 amends s. 63.093, F.S. to require the DCF to contract with one or more licensed child-placing agencies to provide adoptive services, complete the adoption processes for children permanently committed to the DCF, and to support adoptive families. The bill allows a contracted licensed child-placing agency to subcontract for the provision of adoptive services.

The bill requires the contracted licensed child-placing agency, rather than a CBC, to:

¹³⁴ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 9-10, (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Respond to an initial inquiry from a prospective adoptive parent within seven business days after receipt of the inquiry to inform the prospective adoptive parent of the adoption process and requirements for adopting a child from the child welfare system.
- Refer a prospective adoptive parent interested in adopting a child in DCF's custody to a DCF-approved adoptive parent training program.
- Complete an adoptive home study of a prospective adoptive parent that includes observation, screening, and evaluation of the child and the prospective adoptive parent. The bill allows the home study to serve as the adoptive home study if the child was placed in the home prior to the termination of parental rights.
- Complete a preparation process, as established by DCF rule, with the prospective adoptive parent.
- Approve or deny the home study within 14 business days after receipt of the recommendation of approval of the prospective adoptive parent's appropriateness to adopt.

The bill requires the DCF to adopt rules that eliminate duplicative practices and delays in the adoption home study process for active service members seeking to adopt in Florida, including, but not limited to, giving credit for adoption classes that have been taken in another state that substantially comply with s. 409.175(14)(b), F.S.

The bill also requires the DCF to annually report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of adoptions in Florida by November 15.

Section 16 repeals s. 409.1662, F.S. that requires the DCF to create an adoption incentive program that awards incentive payments to CBCs for specific adoption performance standards.

Section 18 amends s. 409.988, F.S. to remove the requirement of CBCs to serve children who were adopted from the child welfare system and families that require postadoption supports.

Adoption Costs and Adoption Benefits (Sections 13, 15, and 17)

Section 13 amends s. 63.097(3), F.S. to reduce the fees, costs, and expenses that private adoption entities are permitted to charge prospective adoptive parents without court approval. The bill requires an adoption entity to receive court approval when the fees, costs, and expenses exceed:

- \$2,500 in legal or other fees, as opposed to \$5,000 in current law.
- \$2,500 in reasonable and necessary living and medical expenses, as opposed to \$5,000 in current law.

The bill prohibits the court from approving fees, excluding reasonable, medically necessary expenses, if they exceed the total amount of the Federal Adoption Tax Credit for the current tax year. The current Federal Adoption Tax Credit is \$15,950 per child.¹³⁵

¹³⁵ Internal Revenue Service, *Topic No. 607, Adoption Credit and Adoption Assistance Programs*, available at: <https://www.irs.gov/taxtopics/tc607#:~:text=The%20maximum%20adoption%20credit%20allowable%20in%202023%20is,dollar%20limit%20for%202023%20less%20%248%2C000%20previously%20claimed%29>. (last visited Jan. 14, 2024).

Section 15 amends s. 409.166(4), F.S., to expand the eligibility for adoption assistance by reducing the age requirement a child must be for an adoptive parent to receive payments. The bill allows an adoptive parent who entered into an initial adoption assistance agreement when a child was 14 to receive adoption assistance payments, rather than when the child was 16. The DCF estimates this will increase the eligible population by 550 individuals, with 165 participating in the program.¹³⁶

Section 17 amends s. 409.1664, F.S. to make health care practitioners¹³⁷ as listed in s. 456.001(4), F.S., who hold an active status license from the Department of Health (DOH) and whose individual income does not exceed \$150,000 to be eligible to receive adoption benefits when adopting a child from the child welfare system. The bill increases the amount of the adoption benefit from \$10,000 to \$25,000 when the child being adopted is “difficult to place” and from \$5,000 to \$10,000 when the child being adopted is not “difficult to place.”

The bill allows a health care practitioner to apply for the adoption benefit if he or she is domiciled in Florida and adopts a child in the child welfare system on or after July 1, 2024. The bill requires a health care practitioner to apply to the DOH to obtain the benefit. The bill does not preclude a health care practitioner from qualifying for or receiving another type of adoption assistance.

Independent Living Services (Section 14)

Section 14 amends s. 409.1451(2), F.S. to increase the number of young adults eligible to receive PESS by allowing a young adult who was at least 14 years of age (rather than 16 years of age) to receive services, provided other eligibility requirements are met. The DCF estimates this will make an additional 351 young adults eligible to receive PESS services, with an estimated 71 choosing to participate in the program.¹³⁸

Effective Dates

Section 19 provides an effective date of July 1, 2024, notwithstanding Sections, 10, 12, 16, and 18.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹³⁶ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 8, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹³⁷ Section 456.001(4) defines health care practitioner as any person licensed under chapters 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, part I, part II, part III, part V, part X, part XII, part XIV of chapter 468, 478, 480, part I, part II, and part III of chapter 483, 484, 486, 490, or 491.

¹³⁸ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 8, (on file with the Senate Committee on Children, Families, and Elder Affairs).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Community-Based Care Lead Agencies

There is an indeterminate, but likely negative, fiscal impact on CBCs with the removal of the requirements that CBCs provide adoptive and post-adoptive services. The CBCs will no longer receive funding to provide these services.

Child-Placing Agencies

There is an indeterminate, but likely positive, fiscal impact on child-placing agencies. The bill requires the DCF to contract with licensed child-placing agencies to provide adoptive and post-adoptive services. Contract licensed child-placing agencies will be able to receive funding to provide these services.

Adoption Entities

There is an indeterminate, but likely significant, negative fiscal impact on private adoption entities due to the bill reducing the type and amount of fees, costs, and expenses that a private adoption entity can charge to a prospective adoptive parent without court approval. This will reduce the revenues of private adoption entities.

C. Government Sector Impact:

Expansion of Independent Living Services

The DCF estimates a significant negative fiscal impact due to the expansion of independent living services in sections 7 and 14 of the bill.¹³⁹

¹³⁹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 18-19, (on file with the Senate Committee on Children, Families, and Elder Affairs).

Service Expanded	Increased Fiscal
Extended Post-18 Adoption and Guardianship Assistance Payments	\$3,216,000
Postsecondary Education Services and Support (PESS)	\$1,465,440
Aftercare Services	\$3,428,700
Total	\$8,110,140

Expansion of the Adoption Benefits Program

There is an indeterminate, but likely significant, negative fiscal impact due to making health care practitioners eligible to receive adoption benefits when adopting a child from the child welfare system. There is also an indeterminate, but likely, negative fiscal impact due to increasing the monetary amounts that eligible employees can receive.

Court System

There is an indeterminate, but likely insignificant, negative fiscal impact on the court system due to adoption review hearings being done by the dependency court, rather than an administrative hearing pursuant to Chapter 120, F.S.

There is an indeterminate positive fiscal impact on the DCF in workload due to the streamlining the adoption review hearings and reducing the work of DCF attorneys.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 39.01, 39.0138, 39.202, 39.522, 39.6221, 39.6225, 39.801, 39.812, 63.032, 63.093, 63.097, 409.1451, 409.166, 409.1664, and 409.988, Florida Statutes. This bill creates s. 39.5035, Florida Statutes. This bill repeals s. 409.1662, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
01/17/2024	.	
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The Committee on Children, Families, and Elder Affairs (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (88) is added to section 39.01, Florida Statutes, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(88) "Visitor" means a person who:

(a) Provides care or supervision to a child in the home; or



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11 (b) Is 12 years of age or older, other than a child in
12 care, and who will be in the child's home at least:

13 1. Five consecutive days; or

14 2. Seven days or more in 1 month.

15 Section 2. Subsections (1) and (5) of section 39.0138,
16 Florida Statutes, are amended to read:

17 39.0138 Criminal history and other records checks; limit on
18 placement of a child.—

19 (1) The department shall conduct a records check through
20 the Comprehensive State Automated Child Welfare Information
21 System ~~(SACWIS)~~ and a local and statewide criminal history
22 records check on all persons, including parents, being
23 considered by the department for placement of a child under this
24 chapter, including all nonrelative placement decisions, and all
25 members of the household, 12 years of age and older, of the
26 person being considered. For purposes of this section, a
27 criminal history records check may include, but is not limited
28 to, submission of fingerprints to the Department of Law
29 Enforcement for processing and forwarding to the Federal Bureau
30 of Investigation for state and national criminal history
31 information, and local criminal records checks through local law
32 enforcement agencies of all household members 18 years of age
33 and older and other frequent visitors 18 years of age and older
34 to the home. The department shall conduct a name-based check of
35 criminal history records of all visitors to the home. An out-of-
36 state criminal history records check must be initiated for any
37 person 18 years of age or older who resided in another state if
38 that state allows the release of such records. The department
39 must complete the records check within 14 business days after



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40 receiving a person's criminal history results, unless additional
41 information is required to complete the processing. The
42 department shall establish by rule standards for evaluating any
43 information contained in the automated system relating to a
44 person who must be screened for purposes of making a placement
45 decision.

46 (5) (a) If a child has been sheltered pursuant to s. 39.402
47 and must be placed in out-of-home care in an emergency
48 placement, the department must conduct a name-based check of
49 criminal history records to ascertain if the person with whom
50 placement of the child is being considered and any other adult
51 household members of such person are disqualified. For the
52 purposes of this subsection, the term "emergency placement"
53 refers to when the department is placing a child in the home of
54 private individuals, including neighbors, friends, or relatives,
55 as a result of a sudden removal pursuant to s. 39.402.

56 (b) The department may place a child in the a home if the
57 person with whom placement of the child is being considered and
58 any other adult household members of such person are not
59 disqualified by the name-based check, but, unless exempt, such
60 persons must submit a full set of fingerprints to the department
61 or to a vendor, an entity, or an agency authorized under s.
62 943.053(13). Unless exempt, within 7 calendar days after the
63 name-based check, the department, vendor, entity, or agency must
64 submit the fingerprints to the Department of Law Enforcement for
65 state processing. Within 15 calendar days after the name-based
66 check was conducted, the Department of Law Enforcement must
67 forward the fingerprints to the Federal Bureau of Investigation
68 for national processing that otherwise meets placement



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69 ~~requirements if a name check of state and local criminal history~~
70 ~~records systems does not disqualify the applicant and if the~~
71 ~~department submits fingerprints to the Department of Law~~
72 ~~Enforcement for forwarding to the Federal Bureau of~~
73 ~~Investigation and is awaiting the results of the state and~~
74 ~~national criminal history records check.~~

75 (c) The department shall seek a court order to immediately
76 remove the child from the home if the person with whom placement
77 of the child is being considered or any other adult household
78 members of such person fail to provide their fingerprints within
79 15 calendar days after the name-based check is conducted and
80 such persons are not exempt from a criminal history records
81 check.

82 Section 3. Paragraph (o) of subsection (2) of section
83 39.202, Florida Statutes, is amended to read:

84 39.202 Confidentiality of reports and records in cases of
85 child abuse or neglect; exception.-

86 (2) Except as provided in subsection (4), access to such
87 records, excluding the name of, or other identifying information
88 with respect to, the reporter which shall be released only as
89 provided in subsection (5), shall be granted only to the
90 following persons, officials, and agencies:

91 (o) Any person in the event of the death of a child
92 determined by the department at the closure of its investigation
93 in accordance with s. 39.301(16) to be a result of abuse,
94 abandonment, or neglect. Information identifying the person
95 reporting abuse, abandonment, or neglect ~~may~~ shall not be
96 released. Any information otherwise made confidential or exempt
97 by law ~~may~~ shall not be released pursuant to this paragraph.



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98 Section 4. Section 39.5035, Florida Statutes, is created to
99 read:

100 39.5035 .Deceased parents; special procedures.-

101 (1) (a) 1. If both parents of a child are deceased or the
102 last known living parent of a child is deceased and a legal
103 custodian has not been appointed for the child through a probate
104 or guardianship proceeding, then an attorney for the department
105 or any other person who has knowledge of the facts alleged or is
106 informed of the alleged facts, and believes them to be true, may
107 initiate a proceeding by filing a petition for adjudication and
108 permanent commitment.

109 2. If a child has been placed in shelter status by order of
110 the court but has not yet been adjudicated, a petition for
111 adjudication and permanent commitment must be filed within 21
112 days after the shelter hearing. In all other cases, the petition
113 must be filed within a reasonable time after the date the
114 petitioner first becomes aware of the facts that support the
115 petition for adjudication and permanent commitment.

116 (b) If both parents die or the last known living parent
117 dies after a child has already been adjudicated dependent, an
118 attorney for the department or any other person who has
119 knowledge of the facts alleged or is informed of the alleged
120 facts, and believes them to be true, may file a petition for
121 permanent commitment. The petition must be filed within a
122 reasonable time after the petitioner first becomes aware of the
123 facts that support the petition for permanent commitment.

124 (2) The petition must be:

125 (a) In writing, identify the alleged deceased parents, and
126 provide facts that establish that both parents of the child are



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127 deceased or the last known living parent is deceased and that a
128 legal custodian has not been appointed for the child through a
129 probate or guardianship proceeding.

130 (b) Signed by the petitioner under oath stating the
131 petitioner's good faith in filing the petition.

132 (3) When a petition for adjudication and permanent
133 commitment or a petition for permanent commitment has been
134 filed, the clerk of court must set the case before the court for
135 an adjudicatory hearing. The adjudicatory hearing must be held
136 as soon as practicable after the petition is filed, but no later
137 than 30 days after the filing date.

138 (4) Notice of the date, time, and place of the adjudicatory
139 hearing and a copy of the petition must be served on the
140 following persons:

141 (a) Any person who has physical custody of the child.

142 (b) A living relative of each parent of the child, unless a
143 living relative cannot be found after a diligent search or
144 inquiry.

145 (c) The guardian ad litem for the child or the
146 representative of the guardian ad litem program, if the program
147 has been appointed.

148 (5) The court shall conduct adjudicatory hearings without a
149 jury and apply the rules of evidence in use in civil cases,
150 adjourning the hearings as necessary. The court must determine
151 whether the petitioner has established by clear and convincing
152 evidence that both parents of the child are deceased, or that
153 the last known living parent is deceased and the other parent
154 cannot be found after a diligent search or inquiry, and that a
155 legal custodian has not been appointed for the child through a



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156 probate or guardianship proceeding. A certified copy of the
157 death certificate for each parent is sufficient evidence of the
158 parents' deaths.

159 (6) Within 30 days after an adjudicatory hearing on a
160 petition for adjudication and permanent commitment:

161 (a) If the court finds that the petitioner has met the
162 clear and convincing standard, the court must enter a written
163 order adjudicating the child dependent and permanently
164 committing the child to the custody of the department for the
165 purpose of adoption. A disposition hearing must be scheduled no
166 later than 30 days after the entry of the order, in which the
167 department must provide a case plan that identifies the
168 permanency goal for the child to the court. Reasonable efforts
169 must be made to place the child in a timely manner in accordance
170 with the permanency plan and to complete all steps necessary to
171 finalize the permanent placement of the child. Thereafter, until
172 the adoption of the child is finalized or the child reaches the
173 age of 18 years, whichever occurs first, the court must hold
174 hearings every 6 months to review the progress being made toward
175 permanency for the child.

176 (b) If the court finds that clear and convincing evidence
177 does not establish that both parents of a child are deceased, or
178 that the last known living parent is deceased and the other
179 parent cannot be found after a diligent search or inquiry, and
180 that a legal custodian has not been appointed for the child
181 through a probate or guardianship proceeding, but that a
182 preponderance of the evidence establishes that the child does
183 not have a parent or legal custodian capable of providing
184 supervision or care, the court must enter a written order



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185 adjudicating the child dependent. A disposition hearing must be
186 scheduled no later than 30 days after the entry of the order as
187 provided in s. 39.521.

188 (c) If the court finds that the petitioner has not met the
189 clear and convincing standard and that a preponderance of the
190 evidence does not establish that the child does not have a
191 parent or legal custodian capable of providing supervision or
192 care, the court must enter a written order so finding and
193 dismiss the petition.

194 (7) Within 30 days after an adjudicatory hearing on a
195 petition for permanent commitment:

196 (a) If the court finds that the petitioner has met the
197 clear and convincing standard, the court must enter a written
198 order permanently committing the child to the custody of the
199 department for purposes of adoption. A disposition hearing must
200 be scheduled no later than 30 days after the entry of the order,
201 in which the department must provide an amended case plan that
202 identifies the permanency goal for the child to the court.
203 Reasonable efforts must be made to place the child in a timely
204 manner in accordance with the permanency plan and to complete
205 all steps necessary to finalize the permanent placement of the
206 child. Thereafter, until the adoption of the child is finalized
207 or the child reaches the age of 18 years, whichever occurs
208 first, the court must hold hearings every 6 months to review the
209 progress being made toward permanency for the child.

210 (b) If the court finds that clear and convincing evidence
211 does not establish that both parents of a child are deceased or
212 that the last known living parent is deceased and the other
213 parent cannot be found after a diligent search or inquiry, the



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214 court must enter a written order denying the petition. The order
215 has no effect on the child's prior adjudication. The order does
216 not bar the petitioner from filing a subsequent petition for
217 permanent commitment based on newly discovered evidence that
218 establishes that both parents of a child are deceased, or that
219 the last known living parent is deceased, and that a legal
220 custodian has not been appointed for the child through a probate
221 or guardianship proceeding.

222 Section 5. Subsection (7) is added to section 39.522,
223 Florida Statutes, to read:

224 39.522 Postdisposition change of custody.—

225 (7) Notwithstanding any other provision of this section, a
226 child's case manager, an authorized agent of the department, or
227 a law enforcement officer may, at any time, remove a child from
228 a court-ordered placement and take the child into custody if the
229 court-ordered caregiver of the child requests immediate removal
230 of the child from the home. Additionally, an authorized agent of
231 the department or a law enforcement officer may, at any time,
232 remove a child from a court-ordered placement and take the child
233 into custody if there is probable cause as required under s.
234 39.401(1)(b).

235 (a) If, at the time of the removal, the child was not
236 placed in licensed care in the department's custody, the
237 department must file a motion to modify placement within 1
238 business day after the child is taken into custody. The court
239 must then set a hearing within 24 hours after the motion is
240 filed unless all of the parties and the current caregiver agree
241 to the change of placement. At the hearing, the court must
242 determine if the department has established probable cause to



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243 support the immediate removal of the child from his or her
244 current placement. The court may base its determination on a
245 sworn petition or affidavit or on testimony and may hear all
246 relevant and material evidence, including oral or written
247 reports, to the extent of their probative value, even if such
248 evidence would not be competent evidence at an adjudicatory
249 hearing.

250 (b) If the court finds that the department did not
251 establish probable cause to support the removal of the child
252 from his or her current placement, the court must enter an order
253 that the child be returned to such placement. An order by the
254 court to return the child to his or her current placement does
255 not preclude a party from filing a subsequent motion pursuant to
256 subsection (2).

257 (c) If the current caregiver admits that a change of
258 placement is needed or the department establishes probable cause
259 to support removal of the child, the court must enter an order
260 changing the placement of the child. The new placement for the
261 child must meet the home study criteria in this chapter if the
262 child is not placed in foster care.

263 (d) If the court finds probable cause and modifies the
264 child's placement, the court must conduct a hearing pursuant to
265 subsection (2) or subsection (3), unless such hearing is waived
266 by all parties and the caregiver.

267 Section 6. Paragraph (a) of subsection (1) of section
268 39.6221, Florida Statutes, is amended to read:

269 39.6221 Permanent guardianship of a dependent child.—

270 (1) If a court determines that reunification or adoption is
271 not in the best interest of the child, the court may place the



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272 child in a permanent guardianship with a relative or other adult
273 approved by the court if all of the following conditions are
274 met:

275 (a) The child has been in the placement for not less than
276 the preceding 6 months, or the preceding 3 months if the
277 caregiver has been named as the successor guardian on the
278 child's guardianship assistance agreement.

279 Section 7. Subsection (9) of section 39.6225, Florida
280 Statutes, is amended to read:

281 39.6225 Guardianship Assistance Program.—

282 (9) Guardianship assistance payments may not ~~shall only~~ be
283 made for a young adult unless the young adult's ~~whose~~ permanent
284 guardian entered into a guardianship assistance agreement after
285 the child attained 14 ~~16~~ years of age but before the child
286 attained 18 years of age and if the child is:

287 (a) Completing secondary education or a program leading to
288 an equivalent credential;

289 (b) Enrolled in an institution that provides postsecondary
290 or vocational education;

291 (c) Participating in a program or activity designed to
292 promote or eliminate barriers to employment;

293 (d) Employed for at least 80 hours per month; or

294 (e) Unable to participate in programs or activities listed
295 in paragraphs (a)-(d) full time due to a physical, intellectual,
296 emotional, or psychiatric condition that limits participation.

297 Any such barrier to participation must be supported by
298 documentation in the child's case file or school or medical
299 records of a physical, intellectual, emotional, or psychiatric
300 condition that impairs the child's ability to perform one or



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301 more life activities.

302 Section 8. Paragraph (d) of subsection (3) of section
303 39.801, Florida Statutes, is redesignated as paragraph (e), and
304 a new paragraph (d) is added to that subsection to read:

305 39.801 Procedures and jurisdiction; notice; service of
306 process.—

307 (3) Before the court may terminate parental rights, in
308 addition to the other requirements set forth in this part, the
309 following requirements must be met:

310 (d) Personal appearance of a person at the advisory hearing
311 as provided in s.39.013(13) obviates the necessity of serving
312 process on that person and the court may proceed with the
313 advisory hearing and any subsequently noticed hearing.

314 (e)~~(d)~~ If the person served with notice under this section
315 fails to appear at the advisory hearing, either physically or,
316 by agreement of the parties or at the discretion of the court,
317 through audio-video communication technology, the failure to
318 appear constitutes consent for termination of parental rights by
319 the person given notice. If a parent appears for the advisory
320 hearing and the court orders that parent to appear at the
321 adjudicatory hearing for the petition for termination of
322 parental rights, stating the date, time, and location of the
323 hearing and, if applicable, instructions for appearance through
324 audio-video communication technology, then failure of that
325 parent to appear, either physically or, by agreement of the
326 parties or at the discretion of the court, through audio-video
327 communication technology, at the adjudicatory hearing
328 constitutes consent for termination of parental rights.

329 Section 9. Subsections (4), (5), and (6) of section 39.812,



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330 Florida Statutes, are amended to read:

331 39.812 Postdisposition relief; petition for adoption.—

332 (4) The court shall retain jurisdiction over any child
333 placed in the custody of the department until the child is
334 adopted. After custody of a child for subsequent adoption has
335 been given to the department, the court has jurisdiction for the
336 purpose of reviewing the status of the child and the progress
337 being made toward permanent adoptive placement. As part of this
338 continuing jurisdiction, ~~for good cause shown by the guardian ad~~
339 ~~litem for the child,~~ the court may:

340 (a) Review the appropriateness of the adoptive placement of
341 the child if good cause is shown by the guardian ad litem for
342 the child.

343 (b) Review the department's denial of an application to
344 adopt a child. The department's decision to deny an application
345 to adopt a child is only reviewable under this section and is
346 not subject to chapter 120.

347 1. If the department denies an application to adopt a
348 child, the department must file written notification of the
349 denial with the court and provide copies to all parties within
350 10 business days after the department's decision.

351 2. A denied applicant may file a motion to have the court
352 review the department's denial within 30 business days after the
353 issuance of the department's written notification of its
354 decision to deny the application to adopt a child. The motion to
355 review must allege that the department unreasonably denied the
356 application to adopt and request that the court allow the denied
357 applicant to file a petition to adopt the child under chapter 63
358 without the department's consent.



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359 3. A denied applicant only has standing under this chapter
360 to file a motion to review the department's denial and to
361 present evidence in support of such motion. Such standing is
362 terminated upon the entry of the court's order.

363 4. The court shall hold a hearing within 30 business days
364 after the denied applicant files the motion to review. The court
365 may only consider whether the department's denial of the
366 application is consistent with its policies and if the
367 department made such decision in an expeditious manner. The
368 standard of review is whether the department's denial of the
369 application is an abuse of discretion.

370 5. If the department selected a different applicant to
371 adopt the child, the selected applicant may participate in the
372 hearing as a participant, as defined in s. 39.01, and may be
373 granted leave by the court to be heard without the need to file
374 a motion to intervene.

375 6. Within 15 business days after the conclusion of the
376 hearing, the court must enter a written order denying the motion
377 to review or finding that the department unreasonably denied the
378 application to adopt and authorizing the denied applicant to
379 file a petition to adopt the child under chapter 63 without the
380 department's consent.

381 (5) When a licensed foster parent or court-ordered
382 custodian has applied to adopt a child who has resided with the
383 foster parent or custodian for at least 6 months and who has
384 previously been permanently committed to the legal custody of
385 the department and the department does not grant the application
386 to adopt, the department may not, in the absence of a prior
387 court order authorizing it to do so, remove the child from the



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388 foster home or custodian, except when:

389 (a) There is probable cause to believe that the child is at
390 imminent risk of abuse or neglect;

391 (b) Thirty business days have expired following written
392 notice to the foster parent or custodian of the denial of the
393 application to adopt, within which period no formal challenge of
394 the department's decision has been filed;

395 (c) A motion to review the department's denial of an
396 application to adopt a child under paragraph (4) (b) has been
397 denied; or

398 (d) ~~(e)~~ The foster parent or custodian agrees to the child's
399 removal.

400 (6) ~~(5)~~ The petition for adoption must be filed in the
401 division of the circuit court which entered the judgment
402 terminating parental rights, unless a motion for change of venue
403 is granted pursuant to s. 47.122. A copy of the consent to adopt
404 executed by the department must be attached to the petition,
405 unless such consent is waived under ~~pursuant to~~ s. 63.062(7).
406 The petition must be accompanied by a statement, signed by the
407 prospective adoptive parents, acknowledging receipt of all
408 information required to be disclosed under s. 63.085 and a form
409 provided by the department which details the social and medical
410 history of the child and each parent and includes the social
411 security number and date of birth for each parent, if such
412 information is available or readily obtainable. The prospective
413 adoptive parents may not file a petition for adoption until the
414 judgment terminating parental rights becomes final. An adoption
415 proceeding under this subsection is governed by chapter 63.

416 (7) ~~(6)~~ (a) Once a child's adoption is finalized, the



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417 department or its contracted child-placing agency ~~community-~~
418 ~~based care lead agency~~ must make a reasonable effort to contact
419 the adoptive family by telephone 1 year after the date of
420 finalization of the adoption as a postadoption service. For
421 purposes of this subsection, the term "reasonable effort" means
422 the exercise of reasonable diligence and care by the department
423 or its contracted child-placing agency ~~community-based care lead~~
424 ~~agency~~ to make contact with the adoptive family. At a minimum,
425 the department or its contracted child-placing agency must
426 document the following:

427 1. The number of attempts made by the department or its
428 contracted child-placing agency ~~community-based care lead agency~~
429 to contact the adoptive family and whether those attempts were
430 successful;

431 2. The types of postadoption services that were requested
432 by the adoptive family and whether those services were provided
433 by the department or its contracted child-placing agency
434 ~~community-based care lead agency~~; and

435 3. Any feedback received by the department or its
436 contracted child-placing agency ~~community-based care lead agency~~
437 from the adoptive family relating to the quality or
438 effectiveness of the services provided.

439 (b) The contracted child-placing agency ~~community-based~~
440 ~~care lead agency~~ must report annually to the department on the
441 outcomes achieved and recommendations for improvement under this
442 subsection.

443 Section 10. Subsection (6) and (7) of section 63.032,
444 Florida Statutes, are renumbered as subsection (7) and (6),
445 respectively, and present subsection (6) of that section is



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446 amended to read:

447 63.032 Definitions.—As used in this chapter, the term:

448 (7)~~(6)~~ “Child-placing agency” means an any child-placing
449 agency licensed by the department pursuant to s. 63.202 to place
450 minors for adoption.

451 Section 11. Subsection (7) of section 63.062, Florida
452 Statutes, is amended to read:

453 63.062 Persons required to consent to adoption; affidavit
454 of nonpaternity; waiver of venue.—

455 (7) If parental rights to the minor have previously been
456 terminated, the adoption entity with which the minor has been
457 placed for subsequent adoption may provide consent to the
458 adoption. In such case, no other consent is required. If the
459 minor has been permanently committed to the department for
460 subsequent adoption, the department must consent to the adoption
461 or the court order finding that the department unreasonably
462 denied the application to adopt entered under s. 39.812(4) must
463 be attached to the petition to adopt, and ~~The consent of the~~
464 ~~department shall be waived upon a determination by the court~~
465 ~~that such consent is being unreasonably withheld and if the~~
466 petitioner shall file ~~has filed~~ with the court a favorable
467 preliminary adoptive home study as required under s. 63.092.

468 Section 12. Section 63.093, Florida Statutes, is amended to
469 read:

470 63.093 Adoption of children from the child welfare system.—

471 (1) Beginning July 1, 2025, the department shall contract
472 with one or more child-placing agencies to provide adoptive
473 services to prospective adoptive parents, complete the adoption
474 processes for children permanently committed to the department,



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475 and support adoptive families. The department may allow a
476 contracted child-placing agency to subcontract with other
477 entities to provide the duties required in this section.

478 (2)(1) The department, through its contracted child-placing
479 agency or community-based care lead agency as defined in s.
480 409.986(3), or its subcontracted agency, must respond to an
481 initial inquiry from a prospective adoptive parent within 7
482 business days after receipt of the inquiry. The response must
483 inform the prospective adoptive parent of the adoption process
484 and the requirements for adopting a child from the child welfare
485 system.

486 (3)(2) The department, through its contracted child-placing
487 agency or community-based care lead agency, or its subcontracted
488 agency, must refer a prospective adoptive parent who is
489 interested in adopting a child in the custody of the department
490 to a department-approved adoptive parent training program. A
491 prospective adoptive parent must successfully complete the
492 training program, unless the prospective adoptive parent is a
493 licensed foster parent or a relative or nonrelative caregiver
494 who has:

495 (a) Attended the training program within the last 5 years;
496 or

497 (b) Had the child who is available for adoption placed in
498 their home for 6 months or longer and has been determined to
499 understand the challenges and parenting skills needed to
500 successfully parent the child who is available for adoption.

501 (4)(3) A prospective adoptive parent must complete an
502 adoption application created by the department.

503 (5)(4) Before a child is placed in an adoptive home, the



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504 department, through its contracted child-placing agency,
505 ~~community-based care lead agency or its subcontracted agency~~
506 must complete an adoptive home study of a prospective adoptive
507 parent that includes observation, screening, and evaluation of
508 the child and the prospective adoptive parent. An adoptive home
509 study must be updated every ~~is valid for~~ 12 months after the
510 date on which the study was approved. If the child was placed
511 before the termination of parental rights, the updated placement
512 or licensed home study may serve as the adoption home study. In
513 addition, the department, through its contracted child-placing
514 agency, ~~community-based care lead agency or its subcontracted~~
515 ~~agency~~ must complete a preparation process, as established by
516 department rule, with the prospective adoptive parent.

517 (6) ~~(5)~~ At the conclusion of the adoptive home study and
518 preparation process, a decision must ~~shall~~ be made about the
519 prospective adoptive parent's appropriateness to adopt. This
520 decision shall be reflected in the final recommendation included
521 in the adoptive home study. If the recommendation is for
522 approval, the adoptive parent application file must be submitted
523 to the department, through its contracted child-placing agency,
524 ~~community-based care lead agency or its subcontracted agency~~ for
525 approval. The contracted child-placing agency ~~community-based~~
526 ~~care lead agency or its subcontracted agency~~ must approve or
527 deny the home study within 14 business days after receipt of the
528 recommendation.

529 (7) The department shall adopt rules to eliminate
530 duplicative practices and delays in the adoption home study
531 process for a member of a uniformed service on active duty
532 seeking to adopt in the state, including, but not limited to,



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533 providing a credit for adoption classes that have been taken in
534 another state which substantially cover the preservice training
535 required under s. 409.175(14) (b).

536 (8) By November 15 of each year, the department shall
537 submit an annual report to the Governor, the President of the
538 Senate, and the Speaker of the House of Representatives on the
539 status of adoptions within the state.

540

541 Notwithstanding subsections (2) and (3) ~~(1) and (2)~~, this
542 section does not apply to a child adopted through the process
543 provided in s. 63.082(6).

544 Section 13. Subsections (6) of section 63.097, Florida
545 Statutes, is renumbered as subsection (7), paragraphs (a) and
546 (c) of subsection (3) are amended, and a new subsection (6) is
547 added to that section, to read:

548 63.097 Fees.—

549 (3) Approval of the court is not required until the total
550 of amounts permitted under subsection (2) exceeds:

551 (a) \$2,500 ~~\$5,000~~ in legal or other fees;

552 (b) \$800 in court costs; or

553 (c) \$2,500 ~~\$5,000~~ in reasonable and necessary living and
554 medical expenses.

555 (6) Excluding reasonable medically necessary expenses, the
556 court may not approve the fees per child specified in this
557 section if the fees exceed the total amount of the federal
558 adoption tax credit for the current tax year.

559 (7) ~~(6)~~ Unless otherwise indicated in this section, when an
560 adoption entity uses the services of a licensed child-placing
561 agency, a professional, any other person or agency pursuant to



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562 s. 63.092, or, if necessary, the department, the person seeking
563 to adopt the child must pay the licensed child-placing agency,
564 professional, other person or agency, or the department an
565 amount equal to the cost of all services performed, including,
566 but not limited to, the cost of conducting the preliminary home
567 study, counseling, and the final home investigation.

568 Section 14. Paragraph (a) of subsection (2) and paragraph
569 (a) of subsection (3) of section 409.1451, Florida Statutes, are
570 amended to read:

571 409.1451 The Road-to-Independence Program.—

572 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

573 (a) A young adult is eligible for services and support
574 under this subsection if he or she:

575 1. Was living in licensed care on his or her 18th birthday
576 or is currently living in licensed care; or was at least 14 ~~16~~
577 years of age and was adopted from foster care or placed with a
578 court-approved dependency guardian after spending at least 6
579 months in licensed care within the 12 months immediately
580 preceding such placement or adoption;

581 2. Spent at least 6 months in licensed care before reaching
582 his or her 18th birthday;

583 3. Earned a standard high school diploma pursuant to s.
584 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent
585 pursuant to s. 1003.435;

586 4. Has been admitted for enrollment as a full-time student
587 or its equivalent in an eligible postsecondary educational
588 institution as provided in s. 1009.533. For purposes of this
589 section, the term "full-time" means 9 credit hours or the
590 vocational school equivalent. A student may enroll part-time if



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591 he or she has a recognized disability or is faced with another
592 challenge or circumstance that would prevent full-time
593 attendance. A student needing to enroll part-time for any reason
594 other than having a recognized disability must get approval from
595 his or her academic advisor;

596 5. Has reached 18 years of age but is not yet 23 years of
597 age;

598 6. Has applied, with assistance from the young adult's
599 caregiver and the community-based lead agency, for any other
600 grants and scholarships for which he or she may qualify;

601 7. Submitted a Free Application for Federal Student Aid
602 which is complete and error free; and

603 8. Signed an agreement to allow the department and the
604 community-based care lead agency access to school records.

605 (3) AFTERCARE SERVICES.—

606 (a)1. Aftercare services are available to a young adult who
607 has reached 18 years of age but is not yet 23 years of age and
608 is:

609 a. Not in foster care.

610 b. Temporarily not receiving financial assistance under
611 subsection (2) to pursue postsecondary education.

612 c. Eligible for the Extended Guardianship Assistance
613 Program under s. 39.6225(9) or the extended adoption assistance
614 program under s. 409.166(4), but is not participating in either
615 program.

616 2. Subject to available funding, aftercare services as
617 specified in subparagraph (b)8. are also available to a young
618 adult who is between the ages of 18 and 22, is receiving
619 financial assistance under subsection (2), is experiencing an



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620 emergency situation, and whose resources are insufficient to
621 meet the emergency situation. Such assistance shall be in
622 addition to any amount specified in paragraph (2) (b).

623 Section 15. Paragraph (d) of subsection (4) of section
624 409.166, Florida Statutes, is amended to read:

625 409.166 Children within the child welfare system; adoption
626 assistance program.—

627 (4) ADOPTION ASSISTANCE.—

628 (d) Effective January 1, 2019, adoption assistance payments
629 may be made for a child whose adoptive parent entered into an
630 initial adoption assistance agreement after the child reached 14
631 ~~16~~ years of age but before the child reached 18 years of age.
632 Such payments may be made until the child reaches age 21 if the
633 child is:

634 1. Completing secondary education or a program leading to
635 an equivalent credential;

636 2. Enrolled in an institution that provides postsecondary
637 or vocational education;

638 3. Participating in a program or activity designed to
639 promote or eliminate barriers to employment;

640 4. Employed for at least 80 hours per month; or

641 5. Unable to participate in programs or activities listed
642 in subparagraphs 1.-4. full time due to a physical, an
643 intellectual, an emotional, or a psychiatric condition that
644 limits participation. Any such barrier to participation must be
645 supported by documentation in the child's case file or school or
646 medical records of a physical, an intellectual, an emotional, or
647 a psychiatric condition that impairs the child's ability to
648 perform one or more life activities.



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649 Section 16. Section 409.1662, Florida Statutes, is
650 repealed.

651 Section 17. Section 409.1664, Florida Statutes, is amended
652 to read:

653 409.1664 Adoption benefits for qualifying adoptive
654 employees of state agencies, veterans, servicemembers, ~~and~~ law
655 enforcement officers, health care practitioners, and tax
656 collector employees.—

657 (1) As used in this section, the term:

658 (a) "Child within the child welfare system" has the same
659 meaning as provided in s. 409.166(2).

660 (b) "Health care practitioner" means a person listed in s.
661 456.001(4) who holds an active license from the Department of
662 Health and whose gross income does not exceed \$150,000 per year.

663 (c) ~~(b)~~ "Law enforcement officer" has the same meaning as
664 provided in s. 943.10(1).

665 (d) ~~(e)~~ "Qualifying adoptive employee" means a full-time or
666 part-time employee of a state agency, a charter school
667 established under s. 1002.33, or the Florida Virtual School
668 established under s. 1002.37, who is not an independent
669 contractor and who adopts a child within the child welfare
670 system pursuant to chapter 63 on or after July 1, 2015. The term
671 includes instructional personnel, as defined in s. 1012.01, who
672 are employed by the Florida School for the Deaf and the Blind,
673 and includes other-personal-services employees who have been
674 continuously employed full time or part time by a state agency
675 for at least 1 year.

676 (e) ~~(d)~~ "Servicemember" has the same meaning as in s.
677 250.01(19).



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678 (f)~~(e)~~ "State agency" means a branch, department, or agency
679 of state government for which the Chief Financial Officer
680 processes payroll requisitions, a state university or Florida
681 College System institution as defined in s. 1000.21, a school
682 district unit as defined in s. 1001.30, or a water management
683 district as defined in s. 373.019.

684 (g) "Tax collector employee" means an employee of an office
685 of county tax collector in the state.

686 (h)~~(f)~~ "Veteran" has the same meaning as in s. 1.01(14).

687 (2) A qualifying adoptive employee, veteran, law
688 enforcement officer, health care practitioner, tax collector
689 employee, or servicemember who adopts a child within the child
690 welfare system who is difficult to place as described in s.
691 409.166(2) (d)2. is eligible to receive a lump-sum monetary
692 benefit in the amount of \$25,000 ~~\$10,000~~ per such child, subject
693 to applicable taxes. ~~A law enforcement officer who adopts a~~
694 ~~child within the child welfare system who is difficult to place~~
695 ~~as described in s. 409.166(2) (d)2. is eligible to receive a~~
696 ~~lump-sum monetary benefit in the amount of \$25,000 per such~~
697 ~~child, subject to applicable taxes. A qualifying adoptive~~
698 employee, veteran, law enforcement officer, health care
699 practitioner, tax collector employee, or servicemember who
700 adopts a child within the child welfare system who is not
701 difficult to place as described in s. 409.166(2) (d)2. is
702 eligible to receive a lump-sum monetary benefit in the amount of
703 \$10,000 ~~\$5,000~~ per such child, subject to applicable taxes. ~~A~~
704 ~~law enforcement officer who adopts a child within the child~~
705 ~~welfare system who is not difficult to place as described in s.~~
706 ~~409.166(2) (d)2. is eligible to receive a lump-sum monetary~~



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707 ~~benefit in the amount of \$10,000 per each such child, subject to~~
708 ~~applicable taxes.~~ A qualifying adoptive employee of a charter
709 school or the Florida Virtual School may retroactively apply for
710 the monetary benefit provided in this subsection if such
711 employee was employed by a charter school or the Florida Virtual
712 School when he or she adopted a child within the child welfare
713 system pursuant to chapter 63 on or after July 1, 2015. A
714 veteran or servicemember may apply for the monetary benefit
715 provided in this subsection if he or she is domiciled in this
716 state and adopts a child within the child welfare system
717 pursuant to chapter 63 on or after July 1, 2020. A law
718 enforcement officer may apply for the monetary benefit provided
719 in this subsection if he or she is domiciled in this state and
720 adopts a child within the child welfare system pursuant to
721 chapter 63 on or after July 1, 2022. A health care practitioner
722 and tax collector employee may apply for the monetary benefit
723 provided in this subsection if he or she is domiciled in this
724 state and adopts a child within the child welfare system
725 pursuant to chapter 63 on or after July 1, 2024.

726 (a) Benefits paid to a qualifying adoptive employee who is
727 a part-time employee must be prorated based on the qualifying
728 adoptive employee's full-time equivalency at the time of
729 applying for the benefits.

730 (b) Monetary benefits awarded under this subsection are
731 limited to one award per adopted child within the child welfare
732 system.

733 (c) The payment of a lump-sum monetary benefit for adopting
734 a child within the child welfare system under this section is
735 subject to a specific appropriation to the department for such



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736 purpose.

737 (3) A qualifying adoptive employee must apply to his or her
738 agency head, or to his or her school director in the case of a
739 qualifying adoptive employee of a charter school or the Florida
740 Virtual School, to obtain the monetary benefit provided in
741 subsection (2). A veteran, or servicemember, or tax collector
742 employee must apply to the department to obtain the benefit. A
743 law enforcement officer must apply to the Department of Law
744 Enforcement to obtain the benefit. A health care practitioner
745 must apply to the Department of Health to obtain the benefit.
746 Applications must be on forms approved by the department and
747 must include a certified copy of the final order of adoption
748 naming the applicant as the adoptive parent. Monetary benefits
749 shall be approved on a first-come, first-served basis based upon
750 the date that each fully completed application is received by
751 the department.

752 (4) This section does not preclude a qualifying adoptive
753 employee, veteran, servicemember, health care practitioner, tax
754 collector employee, or law enforcement officer from receiving
755 adoption assistance for which he or she may qualify under s.
756 409.166 or any other statute that provides financial incentives
757 for the adoption of children.

758 (5) Parental leave for a qualifying adoptive employee must
759 be provided in accordance with the personnel policies and
760 procedures of his or her employer.

761 (6) The department may adopt rules to administer this
762 section. The rules may provide for an application process such
763 as, but not limited to, an open enrollment period during which
764 qualifying adoptive employees, veterans, servicemembers, health



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765 care practitioners, tax collector employees, or law enforcement
766 officers may apply for monetary benefits under this section.

767 (7) The Chief Financial Officer shall disburse a monetary
768 benefit to a qualifying adoptive employee upon the department's
769 submission of a payroll requisition. The Chief Financial Officer
770 shall transfer funds from the department to a state university,
771 a Florida College System institution, a school district unit, a
772 charter school, the Florida Virtual School, or a water
773 management district, as appropriate, to enable payment to the
774 qualifying adoptive employee through the payroll systems as long
775 as funds are available for such purpose.

776 (8) To receive an approved monetary benefit under this
777 section, a veteran or servicemember must be registered as a
778 vendor with the state.

779 (9) Each state agency shall develop a uniform procedure for
780 informing employees about this benefit and for assisting the
781 department in making eligibility determinations and processing
782 applications. Any procedure adopted by a state agency is valid
783 and enforceable if the procedure does not conflict with the
784 express terms of this section.

785 Section 18. Subsections (1) through (4) of section 409.167,
786 Florida Statutes, are amended to read:

787 409.167 Statewide adoption exchange; establishment;
788 responsibilities; registration requirements; rules.—

789 (1) The Department of Children and Families shall
790 establish, either directly or through purchase, a statewide
791 adoption exchange, with a photo listing component, which serves
792 ~~shall serve~~ all authorized licensed child-placing agencies in
793 the state as a means of recruiting adoptive families for



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794 children who have been legally freed for adoption and who have
795 been permanently placed with the department or a licensed child-
796 placing agency. The statewide adoption exchange must ~~shall~~
797 provide, in accordance with rules adopted by the department,
798 descriptions and photographs of such children, as well as any
799 other information deemed useful in the recruitment of adoptive
800 families for each child. The photo listing component of the
801 statewide adoption exchange must be updated monthly and may not
802 be accessible to the public, except to persons who have
803 completed or are in the process of completing an adoption home
804 study.

805 (2) (a) Each district of the department shall refer each
806 child in its care who has been legally freed for adoption to the
807 statewide adoption exchange no later than 30 days after the date
808 of acceptance by the department for permanent placement. The
809 referral must be accompanied by a photograph and description of
810 the child.

811 (b) The department shall establish criteria by which a
812 district may determine that a child need not be registered with
813 the statewide adoption exchange. Within 30 days after the date
814 of acceptance by the department for permanent placement, the
815 name of the child accepted for permanent placement must be
816 forwarded to the statewide adoption exchange by the district
817 together with reference to the specific reason why the child
818 should not be placed on the statewide adoption exchange. If the
819 child has not been placed for adoption within 3 months after the
820 date of acceptance by the department for permanent placement,
821 the district must ~~shall~~ provide the statewide adoption exchange
822 with the necessary photograph and information for registration



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823 of the child with the statewide adoption exchange and the child
824 must ~~shall~~ be placed on the statewide adoption exchange. The
825 department shall establish procedures for monitoring the status
826 of children who are not placed on the statewide adoption
827 exchange within 30 days after the date of acceptance by the
828 department for permanent placement.

829 (3) In accordance with rules established by the department,
830 the statewide adoption exchange may accept, from licensed child-
831 placing agencies, information pertaining to children meeting the
832 criteria of this section, and to prospective adoptive families,
833 for registration with the statewide adoption exchange.

834 (4) For purposes of facilitating family-matching between
835 children and prospective adoptive parents, the statewide
836 adoption exchange must ~~shall~~ provide the photo listing component
837 service to all licensed child-placing agencies and, in
838 accordance with rules adopted ~~established~~ by the department, to
839 all appropriate citizen groups and other organizations and
840 associations interested in children's services. The photo
841 listing component of the statewide adoption exchange may not be
842 accessible to the public, except to persons who have completed
843 or are in the process of completing an adoption home study.

844 Section 19. Effective July 1, 2025, paragraph (a) of
845 subsection (1) of section 409.988, Florida Statutes, is amended
846 to read:

847 409.988 Community-based care lead agency duties; general
848 provisions.—

849 (1) DUTIES.—A lead agency:

850 (a)1. Shall serve+

851 ~~a.~~ all children referred as a result of a report of abuse,



852 neglect, or abandonment to the department's central abuse
853 hotline, including, but not limited to, children who are the
854 subject of verified reports and children who are not the subject
855 of verified reports but who are at moderate to extremely high
856 risk of abuse, neglect, or abandonment, as determined using the
857 department's risk assessment instrument, regardless of the level
858 of funding allocated to the lead agency by the state if all
859 related funding is transferred.

860 ~~b. Children who were adopted from the child welfare system~~
861 ~~and whose families require postadoption supports.~~

862 2. May also serve children who have not been the subject of
863 reports of abuse, neglect, or abandonment, but who are at risk
864 of abuse, neglect, or abandonment, to prevent their entry into
865 the child protection and child welfare system.

866 Section 20. Except as otherwise expressly provided in
867 this act, this act shall take effect July 1, 2024

868
869 ===== T I T L E A M E N D M E N T =====

870 And the title is amended as follows:

871 Delete everything before the enacting clause
872 and insert:

873 A bill to be entitled
874 An act relating to permanency for children; amending
875 s. 39.01, F.S.; defining the term "visitor"; amending
876 s. 39.0138, F.S.; renaming the "State Automated Child
877 Welfare Information System" as the "Comprehensive
878 Child Welfare Information System"; requiring the
879 Department of Children and Families to conduct a
880 criminal history records check of certain frequent



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881 visitors to a home in which a child is placed;
882 requiring the department to conduct a name-based check
883 of criminal history records of all visitors to such
884 home and certain other persons in specified
885 circumstances; requiring certain persons to submit
886 their fingerprints to the department or other
887 specified entities; requiring the department or such
888 entities to submit such fingerprints to the Department
889 of Law Enforcement for state processing within a
890 specified timeframe; requiring the Department of Law
891 Enforcement to forward such fingerprints to the
892 Federal Bureau of Investigation within a specified
893 timeframe; requiring a child to be immediately removed
894 from a home if certain persons fail to provide their
895 fingerprints and are not otherwise exempt from a
896 criminal history records check; amending s. 39.202,
897 F.S.; authorizing certain information to be provided
898 to any person in the event of the death of a child if
899 the department concludes that the death was a result
900 of abuse, abandonment, or neglect; creating s.
901 39.5035, F.S.; providing procedures and requirements
902 relating to deceased parents of a dependent child;
903 amending s. 39.522, F.S.; authorizing certain persons
904 to remove a child from a court-ordered placement under
905 certain circumstances; requiring the Department of
906 Children and Families to file a specified motion, and
907 the court to set a hearing, within specified
908 timeframes under certain circumstances; requiring a
909 certain determination by the court to support



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910 immediate removal of a child; authorizing the court to
911 base its determination on certain evidence; requiring
912 the court to enter certain orders and conduct certain
913 hearings under certain circumstances; amending s.
914 39.6221, F.S.; revising a requisite condition for
915 placing a child in a permanent guardianship; amending
916 s. 39.6225, F.S.; revising eligibility for payments
917 under the Guardianship Assistance Program; amending s.
918 39.801, F.S.; providing that service of process is not
919 necessary under certain circumstances; amending s.
920 39.812, F.S.; authorizing the court to review the
921 Department of Children and Families' denial of an
922 application to adopt a child; requiring the department
923 to file written notification of its denial with the
924 court and provide copies to certain persons within a
925 specified timeframe; authorizing a denied applicant to
926 file a motion to review such denial within a specified
927 timeframe; requiring the court to hold a hearing
928 within a specified timeframe; providing standing to
929 certain persons; authorizing certain persons to
930 participate in the hearing under certain
931 circumstances; requiring the court to enter an order
932 within a specified timeframe; providing an exception
933 to authorize the department to remove a child from his
934 or her foster home or custodian; requiring the
935 department or its contracted child-placing agency to
936 conduct certain postadoption duties; conforming
937 provisions to changes made by the act; amending s.
938 63.032, F.S.; revising a definition; amending s.



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939 63.062, F.S.; conforming provisions to changes made by
940 the act; amending s. 63.093, F.S.; requiring the
941 Department of Children and Families to contract with
942 one or more child-placing agencies to provide adoption
943 services; authorizing such agency to subcontract with
944 other entities to provide certain duties; requiring an
945 adoptive home study to be updated every 12 months
946 after the date on which the first study was approved;
947 requiring the department to adopt certain rules;
948 requiring the department to submit an annual report to
949 the Governor and Legislature by a specified date;
950 conforming provisions to changes made by the act;
951 amending s. 63.097, F.S.; revising and prohibiting
952 certain fees; amending s. 409.1451, F.S.; revising the
953 age requirements for receiving postsecondary education
954 services and support; revising the requirements for
955 receiving aftercare services; amending s. 409.166,
956 F.S.; revising the age requirements for receiving
957 adoption assistance; repealing s. 409.1662, F.S.,
958 relating to children within the child welfare system
959 and the adoption incentive program; amending s.
960 409.1664, F.S.; providing definitions; providing
961 certain adoption benefits to health care practitioners
962 and tax collector employees; specifying methods for
963 such persons to apply for such benefits; increasing
964 the amount of monetary adoption benefits certain
965 persons are eligible to receive; conforming provisions
966 to changes made by the act; amending s. 409.167, F.S.;
967 providing requirements for the statewide adoption



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968 exchange and its photo listing component; authorizing
969 only certain persons to access such photo listing
970 component; conforming provisions to changes made by
971 the act; amending s. 409.988, F.S.; revising the
972 children a community-based care lead agency must
973 serve; providing effective dates.
974

By Senator Gruters

22-01411-24

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1 A bill to be entitled
2 An act relating to substance use disorder treatment
3 services; creating s. 397.342, F.S.; creating the
4 Substance Use Disorder Housing Advisory Council;
5 providing legislative findings and intent; providing
6 for membership; requiring the University of South
7 Florida College of Public Health to assist the
8 advisory council in conducting a study to evaluate
9 national best practice standards for specified
10 purposes; providing for funding of the study;
11 requiring the advisory council to conduct a review of
12 statewide zoning codes for specified purposes;
13 providing for reports by specified dates; providing
14 for future repeal; amending s. 397.305, F.S.; revising
15 and providing legislative findings and intent;
16 authorizing addiction treatment services to be
17 provided through for-profit providers; amending s.
18 397.487, F.S.; providing that the certification of
19 recovery residences that meet specified standards
20 protects certain persons; requiring certain recovery
21 residences to keep specified records confidential;
22 prohibiting a local law, ordinance, or regulation from
23 regulating the duration or frequency of resident stay
24 at certain recovery residences; providing
25 applicability; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 397.342, Florida Statutes, is created to

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30 read:

31 397.342 Substance Use Disorder Housing Advisory Council.-

32 (1) The Substance Use Disorder Housing Advisory Council, an
33 advisory council as defined in s. 20.03(7), is created within
34 the department.

35 (a) The Legislature finds that the state has a legitimate
36 interest in protecting persons in recovery residences by
37 requiring such homes to meet national best practice standards.

38 (b) The Legislature intends for this advisory council to
39 ensure state standards for recovery residences conform to
40 national best practice standards to the greatest extent possible
41 and to study local governmental obstructions to achieving these
42 national best practice standards through zoning regulations.

43 (2) Except as otherwise provided in this section, the
44 advisory council shall operate in accordance with s. 20.052.

45 (3) The advisory council shall be composed of seven
46 members, to be appointed for staggered terms of not more than 4
47 years, as follows:

48 (a) A representative of the Executive Office of the
49 Governor, appointed by the Governor.

50 (b) A member of the Senate, appointed by the President of
51 the Senate.

52 (c) A member of the House of Representatives, appointed by
53 the Speaker of the House of Representatives.

54 (d) A representative from the department, appointed by the
55 Governor.

56 (e) A representative from the Agency for Health Care
57 Administration, appointed by the Governor.

58 (f) A representative of the Florida Association of Recovery

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59 Residences, appointed by the Governor.

60 (g) A representative of the Palm Beach County State
61 Attorney Addiction Recovery Task Force, appointed by the
62 Governor.

63 (4) The advisory council shall appoint a chair and vice
64 chair from the members of the council and shall meet at least
65 monthly.

66 (5) Members of the advisory council shall serve without
67 compensation, but shall be entitled to necessary expenses
68 incurred in the discharge of their duties pursuant to s.
69 112.061.

70 (6) (a) The University of South Florida College of Public
71 Health shall assist the advisory council in conducting a study
72 to evaluate the national best practice standards from the
73 Substance Abuse and Mental Health Services Administration, with
74 the goal of removing obstacles to therapeutic housing within
75 this state to be in compliance with the Americans with
76 Disabilities Act of 1990, as amended, 42 U.S.C. ss. 12101 et
77 seq., and the Fair Housing Amendments Act of 1988. Costs of
78 implementing the study shall be paid by the department from
79 funds appropriated for this purpose.

80 (b) The advisory council shall also conduct a review of
81 statewide zoning codes to determine what effect, if any, local
82 laws have on the ability of private sector licensed service
83 providers to provide modern, evidence-based, effective treatment
84 and ancillary therapeutic housing to persons in this state.

85 (c) By June 1, 2027, the department, in conjunction with
86 the Agency for Health Care Administration, shall provide a
87 preliminary report based upon the findings and recommendations

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88 of the advisory council to the Governor, the President of the
89 Senate, and the Speaker of the House of Representatives.

90 (d) By September 1, 2027, the advisory council shall
91 provide a final report based upon the findings and
92 recommendations of the advisory council to the Governor, the
93 President of the Senate, and the Speaker of the House of
94 Representatives.

95 (7) This section is repealed September 1, 2027, unless
96 reviewed and saved from repeal by the Legislature.

97 Section 2. Section 397.305, Florida Statutes, is amended to
98 read:

99 397.305 Legislative findings, intent, and purpose.—

100 (1) (a) Addiction ~~Substance abuse~~ is a major health problem
101 that affects multiple service systems and leads to such
102 profoundly disturbing consequences as serious impairment,
103 chronic addiction, criminal behavior, vehicular casualties,
104 spiraling health care costs, AIDS, and business losses, and
105 significantly affects the culture, socialization, and learning
106 ability of children within our schools and educational systems.
107 Addiction ~~Substance abuse impairment~~ is a disease which affects
108 the whole family and the whole society and requires a system of
109 care that includes prevention, intervention, clinical treatment,
110 and recovery support services, including recovery residences,
111 that support and strengthen the family unit. Further, it is the
112 intent of the Legislature to require the collaboration of state
113 agencies, service systems, and program offices to achieve the
114 goals of this chapter and address the needs of the public; to
115 establish a comprehensive system of care for substance use
116 disorder ~~abuse~~; and to reduce duplicative requirements across

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117 state agencies. This chapter is designed to provide for public
118 and private substance use disorder treatment ~~abuse~~ services.

119 (b) The Legislature finds that addiction treatment services
120 are a fully integrated part of the private and public health
121 care system. Further, the Legislature finds that service
122 providers licensed under this chapter and community housing
123 certified under this chapter are deemed a necessary part of the
124 private and public health care system. The Legislature intends
125 to identify and remove barriers that prevent coordinated health
126 care between medical and clinical providers to persons with
127 substance use disorders.

128 (2) It is the goal of the Legislature to educate the public
129 about the negative consequences of ~~discourage~~ substance use
130 disorders ~~abuse~~ by promoting healthy lifestyles; healthy
131 families; and drug-free schools, workplaces, and communities.

132 (3) It is the purpose of this chapter to provide for a
133 comprehensive continuum of accessible and quality addiction
134 ~~substance abuse~~ prevention, intervention, clinical treatment,
135 and recovery support services in the least restrictive
136 environment which promotes long-term recovery while protecting
137 and respecting the rights of individuals, ~~primarily~~ through for-
138 profit providers and community-based ~~private~~ not-for-profit
139 providers working with local governmental programs involving a
140 wide range of agencies from both the public and private sectors.

141 (4) It is the intent of the Legislature that licensed,
142 qualified health professionals be authorized to practice to the
143 full extent of their education and training in the performance
144 of professional functions necessary to carry out the intent of
145 this chapter.

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146 (5) It is the intent of the Legislature to establish
147 expectations that services provided to persons in this state use
148 national best practice standards and the coordination-of-care
149 principles characteristic of recovery-oriented services and
150 include social support services, such as housing support, life
151 skills and vocational training, and employment assistance
152 necessary for persons who have substance use disorders or co-
153 occurring substance use and mental health disorders to live
154 successfully in their communities.

155 (6) It is the intent of the Legislature to ensure within
156 available resources a full system of care for substance use
157 disorder treatment ~~abuse~~ services based on identified needs,
158 delivered without discrimination and with adequate provision for
159 specialized needs.

160 (7) It is the intent of the Legislature to establish
161 services for persons who have ~~individuals with~~ co-occurring
162 substance use ~~abuse~~ and mental health disorders.

163 (8) It is the intent of the Legislature to provide an
164 alternative to criminal imprisonment for substance ~~abuse~~
165 impaired adults and juvenile offenders by encouraging the
166 referral of such offenders to service providers not generally
167 available within the juvenile justice and correctional systems,
168 instead of or in addition to criminal penalties.

169 (9) It is the intent of the Legislature to provide, within
170 the limits of appropriations and safe management of the juvenile
171 justice and correctional systems, addiction treatment ~~substance~~
172 ~~abuse~~ services to substance ~~abuse~~ impaired offenders who are
173 placed by the Department of Juvenile Justice or who are
174 incarcerated within the Department of Corrections, in order to

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175 better enable these offenders or inmates to adjust to the
176 conditions of society presented to them when their terms of
177 placement or incarceration end.

178 (10) It is the intent of the Legislature to provide for
179 assisting substance ~~abuse~~ impaired persons primarily through
180 health and other rehabilitative services in order to relieve the
181 police, courts, correctional institutions, and other criminal
182 justice agencies of a burden that interferes with their ability
183 to protect people, apprehend offenders, and maintain safe and
184 orderly communities.

185 (11) It is the intent of the Legislature that the freedom
186 of religion of all citizens shall be inviolate. ~~Nothing in~~ This
187 act does not ~~shall~~ give any governmental entity jurisdiction to
188 regulate religious, spiritual, or ecclesiastical services.

189 Section 3. Subsection (1) of section 397.487, Florida
190 Statutes, is amended, and subsections (13) and (14) are added to
191 that section, to read:

192 397.487 Voluntary certification of recovery residences.—

193 (1) The Legislature finds that a person suffering from
194 addiction has a higher success rate of achieving long-lasting
195 sobriety when given the opportunity to build a stronger
196 foundation by living in a recovery residence while receiving
197 treatment or after completing treatment. The Legislature further
198 finds that this state and its subdivisions have a legitimate
199 state interest in protecting these persons, who represent a
200 vulnerable consumer population in need of adequate housing,
201 through the certification of recovery residences that meet
202 national best practice standards. It is the intent of the
203 Legislature to protect persons who reside in a recovery

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204 residence.

205 (13) A recovery residence that meets the criteria of day or
206 night treatment with community housing as defined in s.
207 397.311(26)(a)3. is governed by s. 397.501(7) regarding the
208 confidentiality of individual records of residents.

209 (14) A local law, ordinance, or regulation may not regulate
210 the duration or frequency of a resident's stay in a certified
211 recovery residence in areas where multifamily uses are allowed.
212 This subsection does not apply to any local law, ordinance, or
213 regulation adopted on or before January 1, 2024.

214 Section 4. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1636

INTRODUCER: Senator Gruters

SUBJECT: Substance Use Disorder Treatment Services

DATE: January 21, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski	CF	Pre-meeting
2.			AHS	
3.			FP	

I. Summary:

SB 1636 creates the Substance Use Disorder Housing Advisory Council, which has the primary function of conducting a study, with the aid of the University of South Florida College of Public Health, to evaluate the national best practice standards from the Substance Abuse and Mental Health Services Administration, with the goal of removing obstacles to therapeutic housing within this state to be in compliance with federal law.

The bill also requires the Council to conduct a review of statewide zoning codes to determine what effect, if any, local laws have on the ability of private sector licensed service providers to provide modern, evidence-based, effective treatment and ancillary therapeutic housing to persons in this state.

The bill details membership and appointment requirements of the council and requires a preliminary report with findings and recommendations on July 1, 2027 and a final report on September 1, 2027. The statute repeals on September 1, 2027.

The bill makes patient records in recovery residences confidential under s. 397.501(7), F.S.

The bill also prohibits any local law, ordinance, or regulation from regulating the duration or frequency of a resident's stay in certain certified recovery residences in areas where multifamily uses are allowed.

The bill provides for an effective date of July 1, 2024.

II. Present Situation:

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ According to the Diagnostic and Statistical Manual of Mental Disorders, fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

Among people aged 12 or older in 2021, 61.2 million people (or 21.9 percent of the population) used illicit drugs in the past year.⁶ The most commonly used illicit drug was marijuana, which 52.5 million people used.⁷ In the past year:⁸

- Nearly 2 in 5 young adults 18 to 25 used illicit drugs;
- 1 in 3 young adults 18 to 25 used marijuana;
- 9.2 million people 12 and older misused opioids;
- 46.3 million people aged 12 and older (16.5 percent of the population) met the applicable DSM-5 criteria for having a substance use disorder, including 29.5 million who were classified as having an alcohol use disorder and 24 million who were classified as having a drug use disorder. The percentage was highest among young adults aged 18 to 25;

In 2021, 94% of people aged 12 or older with a substance use disorder did not receive any treatment.⁹

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse> (last visited January 18, 2024); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://archives.nida.nih.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited January 18, 2024).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited January 18, 2024).

³ The Substance Abuse and Mental Health Services Administrator (The SAMHSA), *Substance Use Disorders*, available at <https://www.samhsa.gov/find-help/disorders> (last visited January 18, 2024).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://nida.nih.gov/publications/drugs-brains-behavior-science-addiction/drug-misuse-addiction> (last visited January 18, 2024).

⁵ *Id.*

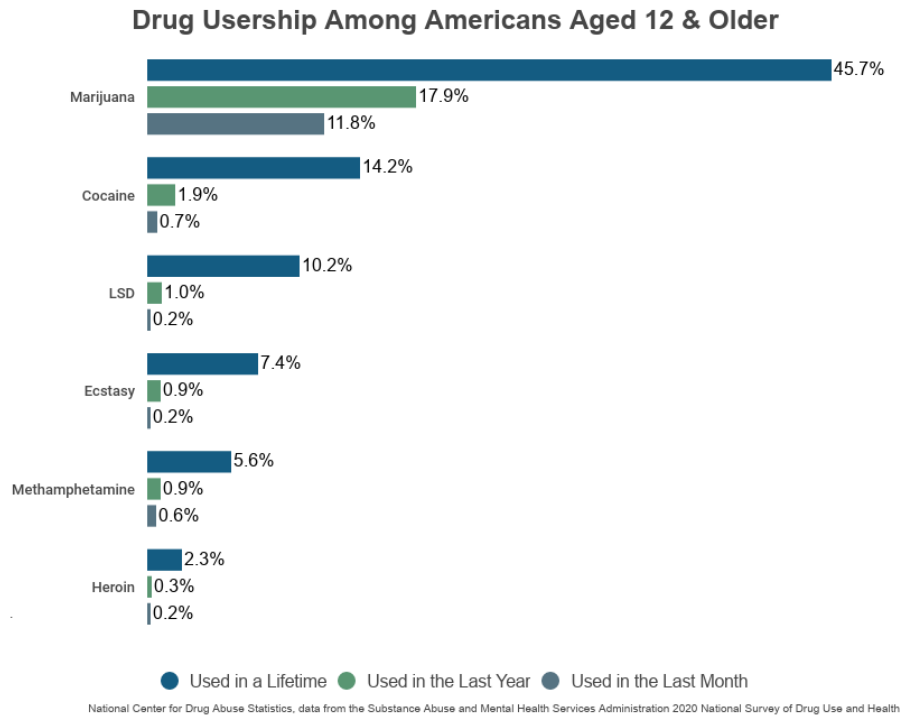
⁶ U.S. Department of Health and Human Services, *SAMHSA Announces National Survey on Drug Use and Health (NSDUH) Results Detailing Mental Illness and Substance Use Levels in 2021*, available at <https://www.hhs.gov/about/news/2023/01/04/samhsa-announces-national-survey-drug-use-health-results-detailing-mental-illness-substance-use-levels-2021.html> (last visited January 18, 2024).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

In 2020, according to the National Center for Drug Abuse Statistics¹⁰, the specific drug breakdowns were as follows:



More than 106,000 persons in the U.S. died from drug-involved overdose in 2021, including illicit drugs and prescription opioids.¹¹ The following graph shows the total number of U.S. drug overdose deaths from 1999 to 2021.¹² The bars overlaid by lines show the number of deaths by gender.¹³

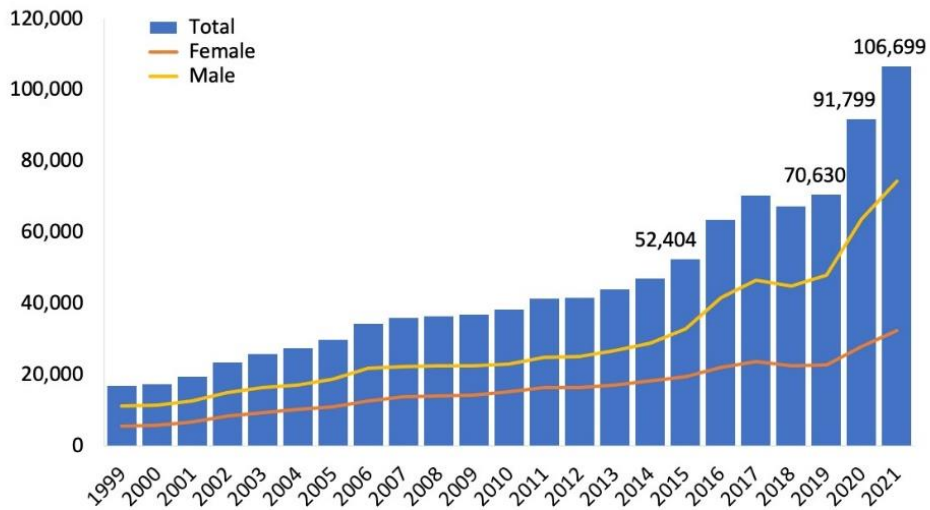
¹⁰ National Center for Drug Abuse Statistics, *Drug Abuse Statistics*, available at <https://drugabusestatistics.org/> (last visited January 18, 2024).

¹¹ National Institute on Drug Abuse, *Drug Overdose Death Rates*, available at <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates> (last visited January 18, 2024).

¹² *Id.*

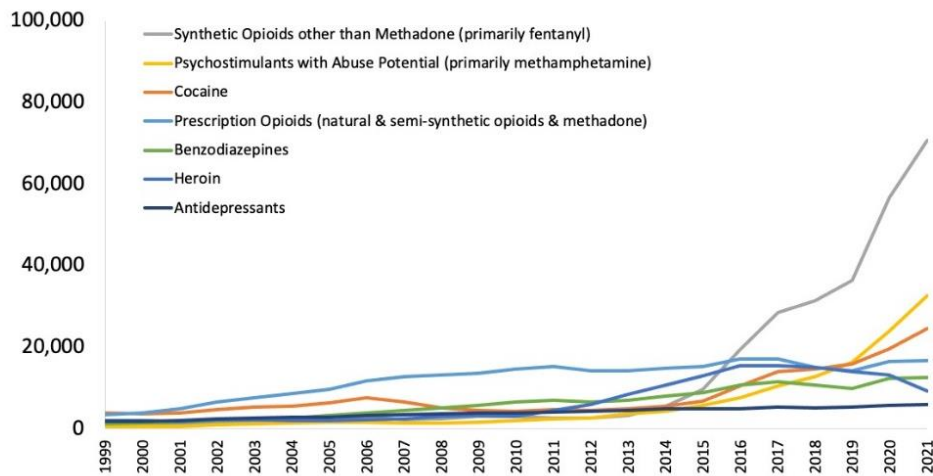
¹³ *Id.*

National Overdose Deaths



*Includes deaths with underlying causes of unintentional drug poisoning (X40–X44), suicide drug poisoning (X60–X64), homicide drug poisoning (X85), or drug poisoning of undetermined intent (Y10–Y14), as coded in the International Classification of Diseases, 10th Revision. Source: Centers for Disease Control and Prevention, National Center for Health Statistics. Multiple Cause of Death 1999–2021 on CDC WONDER Online Database, released 1/2023.

Deaths involving synthetic opioids other than methadone (primarily fentanyl) continued to rise with 70,601 overdose deaths reported in 2021.¹⁴ Those involving stimulants, including cocaine or psychostimulants with abuse potential (primarily methamphetamine), also continued to increase with 32,537 overdose deaths in 2021.¹⁵



*Includes deaths with underlying causes of unintentional drug poisoning (X40–X44), suicide drug poisoning (X60–X64), homicide drug poisoning (X85), or drug poisoning of undetermined intent (Y10–Y14), as coded in the International Classification of Diseases, 10th Revision. Source: Centers for Disease Control and Prevention, National Center for Health Statistics. Multiple Cause of Death 1999–2021 on CDC WONDER Online Database, released 1/2023.

¹⁴ *Id.*

¹⁵ *Id.*

Substance Abuse Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.¹⁶ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.¹⁷ Each of these laws governed different aspects of addiction, and thus, had different rules promulgated by the state to fully implement the respective pieces of legislation.¹⁸ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.¹⁹ In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).²⁰

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.²¹ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.²² As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.²³

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.²⁴ The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.²⁵

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.²⁶

¹⁶ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Chapter 93-39, s. 2, L.O.F., codified as ch. 397, F.S.

²¹ See ss. 397.601(1) and (2), F.S., An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

²² Darran Duchene and Patrick Lane, Fundamentals of the Marchman Act, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <https://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited January 18, 2024)(hereinafter cited as “fundamentals of the Marchman Act”).

²³ *Id.*

²⁴ See ch. 394 and 397, F.S.

²⁵ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/services/samh/treatment> (last visited January 18, 2024).

²⁶ *Id.*

- **Treatment Services:** Treatment services²⁷ include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.²⁸
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.²⁹

Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and Rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention³⁰, intervention³¹, and clinical treatment services.³²

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.³³ “Clinical treatment services” include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.
- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.³⁴

²⁷ *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 397.311(26)(c), F.S. “Prevention” is defined as “a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles.” *See also* The DCF, *Substance Abuse Prevention*, available at <https://www.myflfamilies.com/services/samh/substance-abuse-prevention> (last visited January 19, 2024).

³¹ Section 397.311(26)(b), F.S. “Intervention” is defined as “structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.”

³² Section 397.311(26), F.S.

³³ Section 397.311(26)(a), F.S.

³⁴ *Id.*

Application for Licensure

Individuals applying for licensure as substance abuse service providers must submit applications on specified forms provided, and in accordance with rules adopted, by the DCF.³⁵ Applications must include, at a minimum:

- Information establishing the name and address of the applicant service provider and its director, and also of each member, owner, officer, and shareholder, if any.
- Information establishing the competency and ability of the applicant service provider and its director to carry out the requirements of ch. 397, F.S.
- Proof satisfactory to the DCF of the applicant service provider’s financial ability and organizational capability to operate in accordance with ch. 397, F.S.
- Proof of liability insurance coverage in amounts set by the DCF by rule.
- Sufficient information to conduct background screening for all owners, directors, chief financial officers, and clinical supervisors as provided in s. 397.4073, F.S.
- Proof of satisfactory fire, safety, and health inspections, and compliance with local zoning ordinances. Service providers operating under a regular annual license within which to meet local zoning requirements. Applicants for a new license must demonstrate proof of compliance with zoning requirements prior to the DCF issuing a probationary license.
- A comprehensive outline of the proposed services, including sufficient detail to evaluate compliance with clinical and treatment best practices, for:
 - Any new applicant; or
 - Any licensed service provider adding a new licensable service component.
- Proof of the ability to provide services in accordance with the DCF rules.
- Any other information that the DCF finds necessary to determine the applicant’s ability to carry out its duties under this chapter and applicable rules.³⁶

Florida does not license recovery services; instead, in 2015, the Legislature enacted sections 397.487-397.4872, F.S., which establishes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.³⁷

Recovery Residences

Recovery residences (also known as “sober homes,” “sober living homes,” “Oxford Houses,” or “Halfway Houses”) are non-medical settings designed to support recovery from substance use disorders, providing a substance-free living environment commonly used to help individuals transition from highly structured residential treatment programs back into their day-to-day lives (e.g., obtaining employment and establishing more permanent residence).³⁸ Virtually all

³⁵ Section 397.403(1), F.S.

³⁶ *Id.*

³⁷ Chapter 2015-100, L.O.F.

³⁸ Recovery Research Institute, *Recovery Residences*, available at <https://www.recoveryanswers.org/resource/recovery-residences/> (last visited January 18, 2024). Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural, and community environments.

encourage or require attendance at 12-step mutual-help organizations like Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), but recovery homes have varying degrees of structure and built-in programmatic elements:³⁹

- **Length of Stay:** some may have a limited or otherwise predetermined, length of stay, while others may allow individuals to live there for as long as necessary provided they follow the house rules.
- **Monitoring:** some, but not all, provide monitoring to maintain substance-free, recovery-supportive living environments and help facilitate house members' progress by implementing a number of rules and requirements (i.e., mutual-help organization attendance, attendance at house meetings, curfews, restrictions on outside employment, and limits on use of technology). Typically as individuals successfully follow these rules over time, restrictions become more lenient and individuals have greater latitude in their choices both in and outside of the recovery residence.
- **Size:** while recovery residences range in the number of individuals living there at any given time, there are typically at least 6-8 residents of the same gender.

A recovery residence is defined as “a residential unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.”⁴⁰

Voluntary Certification of Recovery Residences and Administrators in Florida

Florida utilizes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.⁴¹ Under the voluntary certification program, the DCF has approved two credentialing entities to design the certification programs and issue certificates: the Florida Association of Recovery Residences certifies the recovery residences and the Florida Certification Board (the FCB) certifies recovery residence administrators.⁴²

The DCF publishes a list of all certified recovery residences and recovery residence administrators on its website. As of January 20, 2024, there were 359 certified recovery residences in Florida.⁴³

Privacy Rights of Individuals Receiving Substance Abuse Treatment

Section 397.501, F.S., establishes statutory rights for individuals receiving substance abuse services, including the right to dignity, non-discriminatory services, quality services, confidentiality, counsel, and habeas corpus. Current law protects individual records and prohibits records of service providers to be disclosed without the written consent of the individual to

³⁹ *Id.*

⁴⁰ Section 397.311(38), F.S.

⁴¹ Sections 397.487-397.4872, F.S.

⁴² The DCF, Recovery Residence Administrators and Recovery Residences, available at: <https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences> (last visited Jan. 21, 2024).

⁴³ *Id.*

whom they pertain except to specific persons (i.e., medical personnel in a medical emergency and service provider personnel if they need to know the information to carry out duties) and for certain reasons (i.e., law enforcement if the records are related to an individual's commission of a crime or if they apply to the reporting of incidents of suspected child abuse and neglect).⁴⁴

III. Effect of Proposed Changes:

Section 1 of the bill creates s. 397.342, F.S., to establish the Substance Use Disorder Housing Advisory Council. The intent of the council is to ensure state standards for recovery residences conform to national best practice standards to the greatest extent possible and to study local governmental obstructions to achieving these national best practice standards through zoning regulations. The council is required to be composed of seven members who are as follows:

- A representative of the Executive Office of the Governor, appointed by the Governor.
- A member of the Senate, appointed by the President of the Senate.
- A member of the House of Representatives, appointed by the Speaker of the House of Representatives.
- A representative from the DCF, appointed by the Governor.
- A representative from the Agency for Health Care Administration (AHCA), appointed by the Governor.
- A representative of the Florida Association of Recovery Residences, appointed by the Governor.
- A representative of the Palm Beach County State Attorney Addiction Recovery Task Force, appointed by the Governor.

The bill requires the University of South Florida to assist the advisory council in conducting a study to evaluate the national best practice standards from the Substance Abuse and Mental Health Services Administration, with the goal of removing obstacles to therapeutic housing within the state to be in compliance with the American Disabilities Act of 1990, as amended, 42 U.S.C. ss. 12101 et. Seq., and the Fair Housing Amendments Act of 1988. The section also requires the council to review statewide zoning codes to determine what effect, if any, local laws have on the ability of private sector licensed service providers to provide modern, evidence-based, effective treatment and ancillary therapeutic housing to persons in this state.

The bill requires the DCF, in conjunction with AHCA, to provide a preliminary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must detail the findings of the studies and recommendations of the council by June 1, 2027. The bill also requires a final report to be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 1, 2027.

The bill requires repeal of the council on September 1, 2027, unless reviewed and saved from repeal by the Legislature.

Section 2 of the bill amends s. 397.305, F.S., to make the following legislative findings:

- Addiction treatment services are a fully integrated part of the private and public health care system.

⁴⁴ Section 397.501(7), F.S.

- Service providers licensed under the chapter and community housing certified under the chapter are deemed a necessary part of the private and public health care system.

The bill also establishes legislative intent to identify and remove barriers that prevent coordinated health care between medical and clinical providers to persons with substance use disorders.

Section 3 of the bill amends s. 397.487, F.S., to amend the legislative findings of the voluntary certification statute to find that the state's interest in protecting persons suffering from addiction includes adequate housing, which is attained through the certification of recovery residences that meet national best practice standards.

The bill cross-references the right to confidentiality of records, s. 397.501(7) F.S., in the voluntary certification statute to require that section of law to govern a recovery residence that meets the criteria of day or night treatment with community housing.

The bill also prohibits a local law, ordinance, or regulation adopted after January 1, 2024 to regulate the duration or frequency of a resident's stay in a certified recovery residence in areas where multifamily uses are allowed.

Section 4 provides for an effective date of July 1, 2024.

The bill makes conforming language changes throughout.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is a likely indeterminate significant negative fiscal impact on the DCF. This impact will likely include a workload cost and a cost to fund the study. Workload expenses of the DCF will include the administrative support required to operate, plan, and coordinate the actions and meetings of the council, necessary expenses allowed to council members, and the drafting of the required report.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 397.305 and 397.487 of the Florida Statutes. This bill creates s. 397.342 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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. .
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. .

House

The Committee on Children, Families, and Elder Affairs (Rouson) recommended the following:

Senate Amendment

Delete lines 45 - 62
and insert:

(3) The advisory council shall be composed of the following members, to be appointed for staggered terms of not more than 4 years, as follows:

(a) A representative of the Executive Office of the Governor, appointed by the Governor.

(b) A member of the Senate and a representative of the



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11 Florida Association of Managing Entities, appointed by the
12 President of the Senate.

13 (c) A member of the House of Representatives and a
14 representative of the Florida Association of Managing Entities,
15 appointed by the Speaker of the House of Representatives.

16 (d) A representative from the department, appointed by the
17 Governor.

18 (e) A representative from the Agency for Health Care
19 Administration, appointed by the Governor.

20 (f) A representative of the Florida Association of Recovery
21 Residences, appointed by the Governor.

22 (g) A representative of the Palm Beach County State
23 Attorney Addiction Recovery Task Force, appointed by the
24 Governor.

By Senator Brodeur

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1 A bill to be entitled
2 An act relating to individuals with disabilities;
3 amending s. 393.065, F.S.; requiring the Agency for
4 Persons with Disabilities to develop and implement an
5 online application process; specifying requirements
6 for the online application process; defining the term
7 "complete application"; revising timeframes within
8 which the agency must make eligibility determinations
9 for services; lowering the age that a caregiver must
10 be for an individual to be placed in a certain
11 preenrollment category; amending s. 393.0651, F.S.;
12 revising which types of clients are eligible for an
13 individual support plan; clarifying the timeframe
14 within which a family or individual support plan must
15 be developed; requiring waiver support coordinators to
16 inform the client or client's parent or guardian, as
17 appropriate, of certain information when developing or
18 reviewing the family or individual support plan;
19 providing appropriations; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (1) and paragraph (d) of subsection
24 (5) of section 393.065, Florida Statutes, are amended to read:

25 393.065 Application and eligibility determination.—

26 (1) (a) The agency shall develop and implement an online
27 application process that, at a minimum, supports paperless,
28 electronic application submissions with immediate e-mail
29 confirmation to each applicant to acknowledge receipt of

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30 application upon submission. The online application system must
31 allow an applicant to review the status of a submitted
32 application and respond to provide additional information.

33 (b) The agency shall maintain access to a printable paper
34 application on its website and, upon request, must provide an
35 applicant with a printed paper application. Paper applications
36 may Application for services shall be submitted made in writing
37 to the agency, in the region in which the applicant resides.

38 (c) The agency must shall review each submitted application
39 in accordance with federal time standards and make an
40 eligibility determination within 60 days after receipt of the
41 signed application. If, at the time of the application, an
42 applicant is requesting enrollment in the home and community-
43 based services Medicaid waiver program for individuals with
44 developmental disabilities deemed to be in crisis, as described
45 in paragraph (5) (a), the agency shall complete an eligibility
46 determination within 45 days after receipt of the signed
47 application.

48 (d) (a) If the agency determines additional documentation is
49 necessary to make an eligibility determination, the agency may
50 request the additional documentation from the applicant.

51 (e) (b) When necessary to definitively identify individual
52 conditions or needs, the agency or its designee must provide a
53 comprehensive assessment.

54 (c) If the agency requests additional documentation from
55 the applicant or provides or arranges for a comprehensive
56 assessment, the agency's eligibility determination must be
57 completed within 90 days after receipt of the signed
58 application.

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59 (f)1. For purposes of this paragraph, the term "complete
60 application" means an application submitted to the agency which
61 is signed and dated by the applicant or an individual with legal
62 authority to apply for public benefits on behalf of the
63 applicant, is responsive on all parts of the application, and
64 contains documentation of a diagnosis.

65 2. If the applicant requesting enrollment in the home and
66 community-based services Medicaid waiver program for individuals
67 with developmental disabilities is deemed to be in crisis as
68 described in paragraph (5) (a), the agency must make an
69 eligibility determination within 15 calendar days after receipt
70 of a complete application.

71 3. If the applicant meets the criteria specified in
72 paragraph (5) (b), the agency must review and make an eligibility
73 determination as soon as practicable after receipt of a complete
74 application.

75 4. If the application meets the criteria specified in
76 paragraphs (5) (c)-(g), the agency shall make an eligibility
77 determination within 60 days after receipt of a complete
78 application.

79 (g) Any delays in the eligibility determination process, or
80 any tolling of the time standard until certain information or
81 actions have been completed, must be conveyed to the client as
82 soon as such delays are known through a verbal contact with the
83 client or the client's designated caregiver and confirmed by a
84 written notice of the delay, the anticipated length of delay,
85 and a contact person for the client.

86 (5) Except as provided in subsections (6) and (7), if a
87 client seeking enrollment in the developmental disabilities home

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88 and community-based services Medicaid waiver program meets the
89 level of care requirement for an intermediate care facility for
90 individuals with intellectual disabilities pursuant to 42 C.F.R.
91 ss. 435.217(b) (1) and 440.150, the agency must assign the client
92 to an appropriate preenrollment category pursuant to this
93 subsection and must provide priority to clients waiting for
94 waiver services in the following order:

95 (d) Category 4, which includes, but is not required to be
96 limited to, clients whose caregivers are 60 ~~70~~ years of age or
97 older and for whom a caregiver is required but no alternate
98 caregiver is available.

99

100 Within preenrollment categories 3, 4, 5, 6, and 7, the agency
101 shall prioritize clients in the order of the date that the
102 client is determined eligible for waiver services.

103 Section 2. Section 393.0651, Florida Statutes, is amended
104 to read:

105 393.0651 Family or individual support plan.—The agency
106 shall provide directly or contract for the development of a
107 family support plan for children ages 3 to 18 years of age and
108 an individual support plan for each client served by the home
109 and community-based services Medicaid waiver program under s.
110 393.0662. The client, if competent, the client's parent or
111 guardian, or, when appropriate, the client advocate, shall be
112 consulted in the development of the plan and shall receive a
113 copy of the plan. Each plan must include the most appropriate,
114 least restrictive, and most cost-beneficial environment for
115 accomplishment of the objectives for client progress and a
116 specification of all services authorized. The plan must include

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117 provisions for the most appropriate level of care for the
118 client. Within the specification of needs and services for each
119 client, when residential care is necessary, the agency shall
120 move toward placement of clients in residential facilities based
121 within the client's community. The ultimate goal of each plan,
122 whenever possible, shall be to enable the client to live a
123 dignified life in the least restrictive setting, be that in the
124 home or in the community. The family or individual support plan
125 must be developed within 60 calendar days after the agency
126 determines the client eligible pursuant to s. 393.065(3).

127 (1) The agency shall develop and specify by rule the core
128 components of support plans.

129 (2) The family or individual support plan shall be
130 integrated with the individual education plan (IEP) for all
131 clients who are public school students entitled to a free
132 appropriate public education under the Individuals with
133 Disabilities Education Act, I.D.E.A., as amended. The family or
134 individual support plan and IEP must be implemented to maximize
135 the attainment of educational and habilitation goals.

136 (a) If the IEP for a student enrolled in a public school
137 program indicates placement in a public or private residential
138 program is necessary to provide special education and related
139 services to a client, the local education agency must provide
140 for the costs of that service in accordance with the
141 requirements of the Individuals with Disabilities Education Act,
142 I.D.E.A., as amended. This does not preclude local education
143 agencies and the agency from sharing the residential service
144 costs of students who are clients and require residential
145 placement.

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146 (b) For clients who are entering or exiting the school
147 system, an interdepartmental staffing team composed of
148 representatives of the agency and the local school system shall
149 develop a written transitional living and training plan with the
150 participation of the client or with the parent or guardian of
151 the client, or the client advocate, as appropriate.

152 (3) Each family or individual support plan shall be
153 facilitated through case management designed solely to advance
154 the individual needs of the client.

155 (4) In the development of the family or individual support
156 plan, a client advocate may be appointed by the support planning
157 team for a client who is a minor or for a client who is not
158 capable of express and informed consent when:

159 (a) The parent or guardian cannot be identified;

160 (b) The whereabouts of the parent or guardian cannot be
161 discovered; or

162 (c) The state is the only legal representative of the
163 client.

164

165 Such appointment may not be construed to extend the powers of
166 the client advocate to include any of those powers delegated by
167 law to a legal guardian.

168 (5) The agency shall place a client in the most appropriate
169 and least restrictive, and cost-beneficial, residential facility
170 according to his or her individual support plan. The client, if
171 competent, the client's parent or guardian, or, when
172 appropriate, the client advocate, and the administrator of the
173 facility to which placement is proposed shall be consulted in
174 determining the appropriate placement for the client.

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175 Considerations for placement shall be made in the following
176 order:

177 (a) Client's own home or the home of a family member or
178 direct service provider.

179 (b) Foster care facility.

180 (c) Group home facility.

181 (d) Intermediate care facility for the developmentally
182 disabled.

183 (e) Other facilities licensed by the agency which offer
184 special programs for people with developmental disabilities.

185 (f) Developmental disabilities center.

186 (6) In developing a client's annual family or individual
187 support plan, the individual or family with the assistance of
188 the support planning team shall identify measurable objectives
189 for client progress and shall specify a time period expected for
190 achievement of each objective.

191 (7) The individual, family, and support coordinator shall
192 review progress in achieving the objectives specified in each
193 client's family or individual support plan, and shall revise the
194 plan annually, following consultation with the client, if
195 competent, or with the parent or guardian of the client, or,
196 when appropriate, the client advocate. The agency or designated
197 contractor shall annually report in writing to the client, if
198 competent, or to the parent or guardian of the client, or to the
199 client advocate, when appropriate, with respect to the client's
200 habilitative and medical progress.

201 (8) Any client, or any parent of a minor client, or
202 guardian, authorized guardian advocate, or client advocate for a
203 client, who is substantially affected by the client's initial

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204 family or individual support plan, or the annual review thereof,
205 shall have the right to file a notice to challenge the decision
206 pursuant to ss. 120.569 and 120.57. Notice of such right to
207 appeal shall be included in all support plans provided by the
208 agency.

209 (9) When developing or reviewing a client's family or
210 individual support plan, the waiver support coordinator shall
211 inform the client, the client's parent or guardian, or, when
212 appropriate, the client advocate about the consumer-directed
213 care program established under s. 409.221.

214 Section 3. For the 2024-2025 fiscal year, the sum of
215 \$16,562,703 in recurring funds from the General Revenue Fund and
216 \$22,289,520 in recurring funds from the Operations and
217 Maintenance Trust Fund are appropriated in the Home and
218 Community Based Services Waiver category to the Agency for
219 Persons with Disabilities to offer waiver services to the
220 greatest number of individuals permissible under the
221 appropriation from preenrollment categories 3, 4, and 5,
222 including individuals whose caregiver is age 60 or older in
223 category 4, as provided in s. 393.065, Florida Statutes, as
224 amended by this act. For the 2024-2025 fiscal year, the sum of
225 \$38,852,223 in recurring funds from the Medical Care Trust Fund
226 is appropriated in the Home and Community Based Services Waiver
227 category to the Agency for Health Care Administration to
228 establish budget authority for Medicaid services.

229 Section 4. This act shall take effect July 1, 2024.



2024 AGENCY LEGISLATIVE BILL ANALYSIS

Agency for Persons with Disabilities

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 1758
BILL TITLE:	Individuals with Disabilities
BILL SPONSOR:	Senator Brodeur
EFFECTIVE DATE:	July 1, 2024

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families, and Elder Affairs
2) Fiscal Policy
3)
4)
5)

<u>CURRENT COMMITTEE</u>
Children, Families, and Elder Affairs

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 1271
SPONSOR:	Representative Buchanan

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>Is this bill part of an agency package?</u>

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	01/19/2024
LEAD AGENCY ANALYST:	Katie Hinrichs, Operations Program Coordinator
ADDITIONAL ANALYST(S):	Lorena Fulcher, Deputy Director of Operations
LEGAL ANALYST:	Francis Carbone, General Counsel
FISCAL ANALYST:	Rose Salinas, Deputy Director of Budget, Planning, and Administration

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The proposed legislation requires the following:

- Requires APD to develop and implement an automated, electronic online process to submit applications and updates timeframes for making an eligibility determination.
- Lowering the age that a caregiver must be to be placed in pre-enrollment category 4.
- Clarifies support plan requirements for the iBudget Waiver.
- Provides funding to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5
- Effective date of bill is July 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Agency for Persons with Disabilities supports individuals with unique abilities and their families in living, learning, and working within their communities by creating multiple pathways to possibilities. Currently, APD provides a variety of social, medical, behavioral, residential, and therapeutic services to Floridians with developmental disabilities.

In order to receive services from APD, individuals apply and APD determines eligibility as identified in Florida statutes and rules. This includes Floridians who have a diagnosis of severe forms of autism, cerebral palsy, spina bifida, intellectual disabilities, Down syndrome, Prader-Willi syndrome, and Phelan-McDermid syndrome. Individuals eligible for APD services must be domiciled in Florida, be at least 3 years old, and have a diagnosed developmental disability that manifests before the age of 18.

APD operates the Developmental Disabilities Home and Community Based Services Individual budgeting waiver known as the iBudget Waiver. The iBudget Waiver provides services in community settings as an alternative for individuals who would otherwise meet the level of care of individuals served in Intermediate Care Facilities. There are currently over 35,000 eligible individuals enrolled on the iBudget Waiver program. As an option under the iBudget waiver, individuals who live in their own home or family home may choose to receive services through participation in the Consumer Directed Care Plus or CDC+ program. The CDC+ program offers comparable services to the iBudget waiver but allows for greater flexibility in provider selection. Currently, there are over 4,400 clients served through this option. APD provides information to interested individuals and families regarding the CDC+ program, in addition to the information available on their website.

APD currently receives applications for services and determines eligibility within specific timeframes depending on individual circumstance and documentation received. However, in general, as outlined in chapter 393.065, F.S., APD is required to determine eligibility within 60 days of receipt of a signed application, unless additional information is needed. The application is currently submitted on paper and agency staff manually key information into an electronic client data management system. To ensure that individuals meet the eligibility criteria identified in s. 393, F.S., APD reviews and receives supporting documentation to verify that the individual is eligible. Applications that are received by APD include varying levels of completeness and therefore require additional time working with the applicant to determine eligibility. When necessary, APD can also provide supports for the administration of a comprehensive assessment relating to diagnosis to be conducted.

Once an individual is deemed eligible for iBudget Waiver services, they are assigned a category pursuant to section 393.065(5), F.S. Eligible individuals meeting the criteria of Categories 1 or 2 are directly enrolled onto the iBudget waiver. Traditionally, APD is funded at a level to enroll clients in categories 1 and 2, and at times has received funding and direction to enroll additional individuals in other pre-enrollment categories. A breakdown of individuals by pre-enrollment category as of December 2023 is included below:

Category	Description	Total Clients
Category 1	Crisis	-
Category 2	Children in Welfare System at the time of permanency or turning 18	-
Category 3	Intensive Needs	210
Category 4	Caregiver Over Age 70	83
Category 5	Transition from School	20
Category 6	Age 21 and Over	12,809

Category 7	Age Under 21	8,464
	Grand Total	21,587

Approximately 76% of individuals currently enrolled on the iBudget Waiver and approximately 50% of individuals within a pre-enrollment category are between the ages of 23-59 years old. Additionally, the average age of an individual that has enrolled onto the iBudget Waiver in the last two fiscal years due to the designation of crisis is 26 years old. For this same cohort of individuals with a crisis designation, common service utilization includes, Adult Day Training, Personal Supports, Transportation, Companion Services, and Residential Habilitation.

Currently, for clients included in a pre-enrollment category but not yet enrolled onto the iBudget Waiver, Florida Statutes require APD to develop a support plan and send an annual status letter. During this annual check in, the Agency verifies contact information, provides information on resources, and also provides an opportunity for the individual and family to identify if they have unmet needs or changes. Individuals in pre-enrollment categories can also receive services through Individual and Family Supports funding. This funding acts as temporary assistance that can be provided to meet critical needs.

Additionally, individuals in a pre-enrollment category may be receiving services through other sources. This may include support through Medicaid State Plan for eligible individuals under the age of 21, services through the education system and natural supports.

APD completes a support plan for individuals within 60 days of an eligibility determination. When individuals are enrolled on the iBudget Waiver, a Waiver Support Coordinator is responsible for developing an annual support plan in accordance with person-centered planning requirements identified in 42 CFR 441.301.

2. EFFECT OF THE BILL:

Section 1:

Lines 26 – 37 amends section 393.065, F.S., on application and eligibility determination. Removes language requiring an application to be made in writing to the agency in the region where the applicant resides and directs APD to develop and implement an automated, electronic application system housed within the APD website. The application process should support electronic submissions, automatic processing of applications, and immediate automatic email confirmation to applicant with a date and time stamp. The online application must also allow the applicant to review the status of the application and respond to provide additional information. Paper applications would continue to be available for individuals who cannot utilize an online system.

Lines 38 – 39 further amends section 393.065, F.S., relating to time standards for reviewing submitted applications by inserting reference to federal time standards.

Lines 59 – 64 amends section 393.065, F.S. by establishing the definition of the term “complete application”. Complete applications would be signed and dated by the applicant or individuals with appropriate authority to apply for public benefits on behalf of the applicant, be responsive in all parts, and include documentation of the diagnosis.

Lines 65 – 102 amends section 393.065, F.S. relating to time standards for applicants requesting iBudget Waiver enrollment by category. Amends the time the agency has to determine eligibility for individuals who are in crisis from 45 days to 15 calendar days. Amends the time standard the agency has to determine eligibility for individuals who are in the pre-enrollment category 2 to as soon as practicable after the receipt of a complete application. Amends the time standards for determining eligibility for individuals in pre-enrollment categories 3-7 to within 60 days after receipt of a complete application. The language further states that any delays of the eligibility determination or the stopping of the time standard until additional information or actions have been completed must be conveyed to the client verbally and confirmed by a written notice of the delay, anticipated length of delay, and a contact person for the client.

Section 2:

Lines 105 – 213 amend section 393.0651, F.S., to clarify that the support plan is for individuals served by the current Developmental Disabilities Home and Community Based Services Individual budgeting waiver known as the iBudget Waiver. The legislation indicates that the support plan must be developed within 60 calendar days after the agency determines a client eligible. During the support planning process, Waiver Support Coordinators would be required to inform individuals about the CDC+ program.

Section 3:

Lines 214 – 228 authorize for the 2024-2025 fiscal year, the sums of \$16,562,703 in recurring funds from General Revenue Fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund to be appropriated to Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5. The bill amends the definition of the pre-enrollment category 4 by lowering the age of the caregiver from 70 years old to 60 years old.

APD would be able to offer waiver enrollment onto the iBudget waiver for clients who are in categories 3, 4, and 5 by the effective date of the bill. Since APD does not currently require the age of caregivers to be submitted at the time of application, APD would provide information to individuals in all pre-enrollment categories so that they can notify APD if they meet the updated criteria for Category 4 with the caregiver age change.

Section 4: Provides an effective date of July 1, 2024.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

If yes, explain:	The legislation does not direct the Agency to develop, adopt or eliminate rules. However, APD, utilizing existing rulemaking authority, would update rule requirements regarding the eligibility determination process.
What is the expected impact to the agency's core mission?	The current timeline for eligibility and the application for services is outlined in Florida Administrative Code Rule 65G-4.
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 65G-4, Florida Administrative Code

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	N/A
Provide a summary of the proponents' and opponents' positions:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

If yes, provide a description:	No.
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees?	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	N/A
Expenditures:	<p>Authorizes for the 2024-2025 fiscal year, the sums of \$16,333,475 in recurring funds from General Revenue Fund and \$22,518,748 in recurring funds from the Operations and Maintenance Trust Fund to be appropriated to Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5.</p> <p>Depending on the level of sophistication desired for the implementation of an online application process, an initial estimate indicates it is estimated to cost \$1.75-1.85 Million and would take approximately 12 to 18 months to implement and recurring funds to maintain.</p> <p>The estimate breakdown is as follows:</p> <p>\$1-1.25 million to build the online application that would more closely to mirror a portal for end users to utilize for both the submission and verification of application received. Additional cost inquired includes:</p> <p>\$500,000 to integrate the system to APD’s current client management systems \$100,000 for cloud storage \$500,000 recurring for ongoing maintenance/licenses</p>
Does the legislation contain a State Government appropriation?	Yes. Authorizes for the 2024-2025 fiscal year, the sums of \$16,333,475 in recurring funds from General Revenue Fund and \$22,518,748 in recurring funds from the Operations and Maintenance Trust Fund to be appropriated to Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5.
If yes, was this appropriated last year?	N/A

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	N/A
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Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	N/A
Does the bill decrease taxes, fees or fines?	N/A
What is the impact of the increase or decrease?	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	The bill requires APD to implement an online system for application processing. This will require outside IT development and support, additional software licensing, and servers.
If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>Depending on the level of sophistication desired for the implementation of an online application process, an initial estimate indicates it is estimated to cost \$1.75-1.85 Million and would take approximately 12 to 18 months to implement and recurring funds to maintain.</p> <p>The estimate breakdown is as follows:</p> <p>\$1-1.25 million to build the online application that would more closely to mirror a portal for end users to utilize for both the submission and verification of application received. Additional cost inquired includes:</p> <p>\$500,000 to integrate the system to APD's current client management systems</p> <p>\$100,000 for cloud storage</p> <p>\$500,000 recurring for ongoing maintenance/licenses</p>

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No.
If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1758

INTRODUCER: Senator Brodeur

SUBJECT: Individuals with Disabilities

DATE: January 21, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	Pre-meeting
2.			FP	

I. Summary:

The Agency for Persons with Disabilities (APD) administers services to individuals with developmental disabilities through federally funded Medicaid waiver programs. APD’s iBudget program permits individuals to receive home and community-based waiver services and select the services that are best suited for them while living in their home, rather than an institutional setting.

SB 1758 modifies the application process for APD services, requiring the creation of an online application process and streamlines the timeframes the APD has to determine eligibility.

When an individual applies for waiver services but funding is not available, the individual is placed in a pre-enrollment category that prioritizes enrollment based on need.

The bill reduces the age requirement of a client’s caregiver in pre-enrollment category 4 from 70 years of age to 60 years of age or older. This will allow a higher number of individuals to be included in category 4 of the pre-enrollment prioritization list.

Individuals may also be eligible for the consumer-directed care (CDC+) program, which is an alternative to the iBudget program. In the CDC+ program, clients are permitted to use a monthly budget allocation to purchase the long-term care services that they feel are the best fit for their needs.

The bill requires iBudget waiver support coordinators to inform iBudget clients of the option to apply for the CDC+ program when creating family or individual support plans.

The bill appropriates funding to the Agency for Persons with Disabilities for the 2024-2025 fiscal year and has a significant negative fiscal impact on state government. *See Section V. Fiscal Impact Statement.*

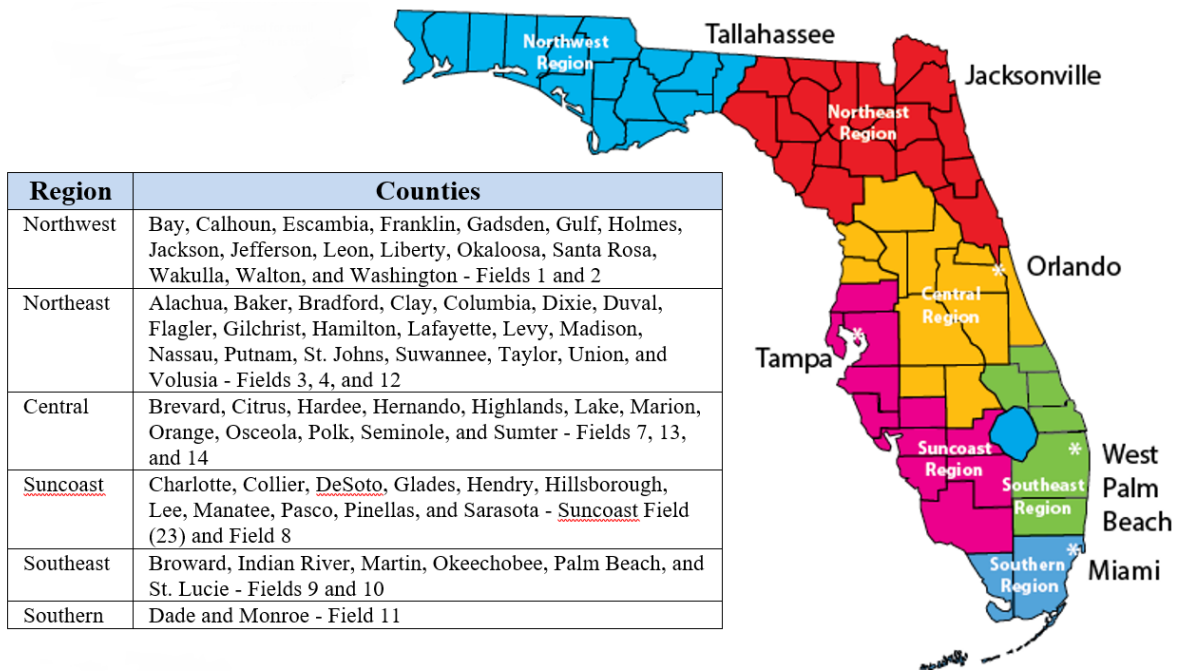
The bill has an effective date of July 1, 2024.

II. Present Situation:

Agency for Persons with Disabilities – Generally

Chapter 393, F.S., identifies the need to provide community-based services and programs for individuals with developmental disabilities that enable individuals to achieve their greatest potential for independent living while reducing the number of individuals in unnecessary institutional placements.¹

The Agency for Persons with Disabilities (APD) provides services to individuals with developmental disabilities and manages Medicaid waivers that provide federally approved services for individuals with developmental disabilities.² Florida has procured waivers of federal Medicaid requirements for the purpose of providing home and community-based (HCBS) services to individuals at risk of institutionalization.³ The HCBS waiver provides services to individuals with developmental disabilities that allow recipients to live in their home or a home-like setting and avoid an institutional setting.⁴ Eligible recipients must meet institutional level of care requirements.⁵ In addition to central headquarters in Tallahassee, the APD operates a total of six regional offices and 14 field offices throughout the state, as detailed below:⁶



¹ Section 393.062, F.S.

² Section 20.197, F.S.

³ Rule 59G-13.080(1), F.A.C.

⁴ The Centers for Medicare and Medicaid Services, *Home and Community-Based Services 1915(c)*, available at: <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited 1/18/24).

⁵ *Id.*; Rule 59G-13.080(1), F.A.C.

⁶ Agency for Persons with Disabilities, *Regional Offices*, available at: <https://apd.myflorida.com/region/> (last visited 1/18/24).

iBudget Florida Program

The APD administers Florida's individual budget-based HCBS Waiver, known as iBudget Florida, for individuals with specified developmental disabilities who meet Medicaid eligibility requirements.⁷ The iBudget program allocates available funding to eligible, Medicaid-enrolled clients and provides the client an established budget with the flexibility to choose services within a specified service package that best allows them to live in their community.⁸

The APD began implementation of iBudget Florida on May 1, 2011; the final areas of the state transitioned from the previous tiered waiver system on July 1, 2013.⁹ The iBudget program uses an algorithm, or formula, to set individuals' funding allocations for waiver services.¹⁰ The APD administers the iBudget pursuant to s. 393.0662, F.S.

The APD serves approximately 35,000 individuals through iBudget Florida, contracting with service providers to offer various supports and services to assist individuals to live in their community.¹¹ Examples of waiver services include residential habilitation, behavioral services, personal supports, adult day training, employment services, and occupational and physical therapy.¹²

Section 393.066, F.S., requires the APD to plan, develop, organize, and implement its programs of services and treatment for persons with developmental disabilities to allow clients to live as independently as possible in their own homes or communities.¹³ All elements of community-based services must be made available, and eligibility for these services must be consistent across the state.¹⁴ Services for clients must be purchased rather than provided directly by the APD when more cost-efficient. However, the APD must approve all purchased services.¹⁵

Eligibility for iBudget Services

Current Florida law requires the APD to review applications for eligibility of iBudget program services within 60 days after receipt of the signed application. If the applicant is deemed to be in crisis,¹⁶ Florida law requires the APD to review eligibility determination within 45 days.¹⁷ Individuals who are determined to be eligible for the Waiver program are either given a slot in

⁷ Section 393.0662, F.S.

⁸ *Id.*

⁹ The Agency for Persons with Disabilities, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and their Costs: First Quarter Fiscal Year 2022-23*, p. 2, November 15, 2022 available at: <https://apd.myflorida.com/publications/reports/> (last visited 1/18/24).

¹⁰ *Id.*

¹¹ E-mail from Kendall Kelley, APD Legislative Affairs Director, January 19, 2024 (on file with the Senate Committee on Children, Families, and Elder Affairs)

¹² *Supra.* note 9.

¹³ Section 393.066(1), F.S.

¹⁴ *Id.*

¹⁵ Section 393.066, F.S.

¹⁶ Rule 65G-1.047, F.A.C. provides that the severity of crisis is determined by risk to the health, safety, and welfare of each applicant relative to other applicants. Rule 65G-11.004 provides a procedure for determining if a client is considered to be in crisis.

¹⁷ Section 393.065, F.S.

the program or placed on a wait list if the demand exceeds available funding. As of December 2023, there were 21,587 individuals on the waiting list.¹⁸

The APD assigns each waitlisted client to a preenrollment category based on their needs and prioritized in the following decreasing order of priority:¹⁹

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Includes clients in the preenrollment categories who are:
 - From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either:
 - Transitioning out of the child welfare system into permanency; or
 - At least 18 years but not yet 22 years of age and who need both waiver services and extended foster care services; or
 - At least 18 years but not yet 22 years of age and who withdrew consent to remain in the extended foster care system.
- Category 3 – Includes, but is not limited to, clients:
 - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
 - At substantial risk of incarceration or court commitment without supports;
 - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
 - Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available or whose caregiver is unable to provide the care needed.
- Category 4 – Includes, but is not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.
- Category 5 – Includes, but is not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, maintain competitive employment, or pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.

Eligible individuals that meet the criteria for Categories 1 or 2 are directly enrolled onto the iBudget waiver.²⁰ Currently, there is a higher demand for iBudget services than the amount of funding that is available, which means individuals that require services are put on the waitlist for services based on the categorization of their needs. The following table displays the number of individuals in the preenrollment categories as of December 2023.²¹

¹⁸ *Supra* note 11.

¹⁹ Section 393.065, F.S.

²⁰ Agency for Persons with Disabilities, *SB 1768 Analysis*, p. 2 (on file with the Senate Committee on Children, Families, and Elder Affairs)

²¹ *Supra* note 11.

Category	Description	Total Clients
Category 1	Crisis	-
Category 2	Children in Welfare System at the time of permanency or turning 18	-
Category 3	Intensive Needs	210
Category 4	Caregiver Over Age 70	83
Category 5	Transition from School	20
Category 6	Age 21 and Over	12,809
Category 7	Age Under 21	8,464
Grand Total		21,587

The average time a client spends in a preenrollment category is 8.6 years.²² The following chart identifies the length of time clients have been in a preenrollment category.²³

Length of Time in a Preenrollment Category	Percentage of Individuals
Under 5 years	42%
5 –10 years	20%
10+ years	37%

iBudget Waiver Support Coordinators and Family Support Plans

After an individual is deemed eligible for services, the APD is required to consult with the client, if competent, the client’s parent or guardian, or, when appropriate, the client advocate to create a family or individual support plan.²⁴ A support plan must be designed to include the most appropriate, least restrictive, and most cost-beneficial environment for the accomplishment of the objectives for client progress, including an appropriate placement in the client’s home or community.²⁵

Waiver support coordinators are permitted to review the progress of and annually revise the family or individual support plan upon consultation with the client, the client’s parent or guardian, or the client advocate.²⁶ Additionally, waiver support coordinators collaborate with the recipient of services and service providers to accommodate the needs of the recipient within the recipient’s iBudget services allocation.²⁷

²² *Supra* note 11.

²³ *Supra* note 11.

²⁴ Section 393.0651, F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Agency for Health Care Administration, *Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook*, available at: <https://apd.myflorida.com/ibudget/rules-regs.htm> (last visited 1/18/24).

Florida Consumer-Directed Care Plus Program

The Legislature created the Florida Consumer-Directed Care Act in 2002 aimed to increase the choice and control over long-term care services individuals with disabilities receive.²⁸

Authorized by the federal Medicaid State Plan Amendment, the Consumer-Directed Care Plus (CDC+) program permits individuals to choose their providers and to direct the delivery of services as they see fit, within the funds appropriated by the Legislature.²⁹

Consumers are able to use the monthly budget allowance to purchase long-term care services which include, but are not limited to, the following:³⁰

- Personal care.
- Homemaking and chores, including housework, meals, shopping, and transportation.
- Home modifications and assistive devices which may increase the consumer's independence or make it possible to avoid institutional placement.
- Assistance in taking self-administered medication.
- Day care and respite care services, including those provided by nursing home facilities or adult day care facilities.
- Personal care and support services provided in an assisted living facility.

To be eligible for the CDC+ Program, a recipient must:³¹

- Be enrolled in the Individual Budgeting Waiver (also known as the iBudget Waiver);
- Reside in their own family home or the home of a relative; and
- Not disenrolled from the CDC+ Program due to their mismanagement or inappropriate use of Medicaid funds.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 393.065, F.S., to require the APD to develop and implement an online application process for individuals applying for services from the agency. This online application process must, at a minimum:

- Support paperless, electronic submissions with immediate e-mail confirmation to each applicant upon submission.
- Permit an applicant to view the status of his or her application in the online application system, and provide additional information.

The bill requires the APD to maintain a printable paper application on its website and provide applicants with a printed paper application upon request. The bill allows applicants to apply for services through writing to the agency in the region where he or she resides. This change

²⁸ Chapter 2002-223, Laws of Florida.

²⁹ Section 409.221(4), F.S.; Florida Agency for Health Care Administration, *Federal Waivers*, available at: <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers> (last visited 1/19/24).

³⁰ Section 409.221, F.S.

³¹ Agency for Health Care Administration, *Consumer-Directed Care Plus Program Coverage, Limitations, and Reimbursement Handbook*, available at: <https://apd.myflorida.com/cdcplus/participants/> (last visited 1/19/24)/

expands the options that applicants have for how they wish to submit their application for services from the APD.

The bill requires the APD to review submitted applications in accordance with federal time standards and changes eligibility determination timelines for individuals in a pre-enrollment category. The bill defines “complete application” as an application submitted to the APD that is signed and dated by the applicant or an individual with legal authority to apply for public benefits on behalf of the applicant. The application must also have all parts filled out and contains documentation of the applicant’s diagnosis to be considered a complete application.

The bill requires the following eligibility determination timelines for applicants requesting enrollment in the home and community-based services Medicaid waiver program:

- If the applicant meets the criteria for Category 1,³² the APD is required to make an eligibility determination within 15 calendar days after receipt of a complete application.
- If the applicant meets the criteria for Category 2,³³ the APD is required to review the application and make an eligibility determination as soon as practicable after receipt of a complete application.
- If the applicant meets the criteria for Categories 3-7,³⁴ the APD is required to make an eligibility determination within 60 days after receipt of a complete application.

The bill requires the client to be informed through verbal contact (with the client or the client’s designated caregiver) of any delays in the eligibility determination process or any tolling of the time standards. This verbal contact must be confirmed with a written notice of the delay, the anticipated length of delay, and a contact person for the client.

The bill reduces the age requirement of a client’s caregiver in category 4 from 70 years of age to 60 years of age or older. This change expands the number of clients who are eligible for category 4, allowing more individuals to be placed in a higher priority pre-enrollment category.

Section 2 of the bill amends s. 393.0651, F.S., to specify that the APD must provide directly or contract for the development of a family support plan for clients *served by the home and community-based services Medicaid waiver program under s. 393.0662, F.S.* Current law simply states that each ‘client.’ This change recognizes that the APD provides services and supports to many individuals that could be considered clients, but only those receiving services under the HCBS waiver program require a support plan. The bill also specifies that the support plan must be developed within 60 *calendar* days, not just 60 days as currently in statute.

The bill requires the waiver support coordinator to inform the client, the client’s parent or guardian, or the client advocate about the CDC+ program established under s. 409.221, F.S.,

³² Section 393.065, F.S. includes clients deemed to be in crisis.

³³ Section 393.065, F.S. provides that Category 2 includes clients in preenrollment categories who are from the child welfare system with an open case in the Department of Children and Families’ statewide automated child welfare information system and who are either: (a) transitioning out of the child welfare system into permanency; or (b) at least 18 years but not yet 22 years of age and who need both waiver services and extended foster care services. Clients who are at least 18 years but not yet 22 years of age and who withdrew consent to remain in extended foster care are also included in Category 2.

³⁴ See Section 393.065 for specific eligibility requirements.

which allows enrolled persons to choose the providers of services and to direct the delivery of services to best meet their long-term care needs.³⁵

Section 3 of the bill appropriates the following funds for the 2024-2025 fiscal year:

\$16,562,703 in recurring funds from the General Revenue fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated to the APD in the Home and Community Based Services Waiver category. These funds are appropriated to offer waiver services to the greatest number of individuals eligible. \$38,852,223 in recurring funds from the Medical Care Trust Fund is appropriated to the Agency for Health Care Administration in the Home and Community Based Services Waiver category to establish budget authority for Medicaid services.

Section 4 of the bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

³⁵ Section 409.221, F.S.

C. Government Sector Impact:

The bill has an indeterminate negative fiscal impact on the APD to develop and implement an online application process. This will likely require nonrecurring funds to develop and implement and recurring funds to maintain and operate.

The bill appropriates funding to the Agency for Persons with Disabilities for services and the Agency for Health Care Administration (AHCA) to establish budget authority for Medicaid services: \$16,562,703 in recurring funds from the General Revenue fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated to the APD to the Home and Community Based Services Waiver category and \$38,852,223 in recurring funds to the AHCA.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 393.065 and 393.0651 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



931526

LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 393.064, Florida Statutes, is amended to
read:

393.064 Care navigation ~~Prevention~~.—

(1) Within available resources, the agency shall offer to clients and their caregivers care navigation services for voluntary participation at the time of application and as part



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11 of any eligibility or renewal review. The goals of care
12 navigation are to create a seamless network of community
13 resources and supports for the client and the client's family as
14 a whole to support a client in daily living, community
15 integration, and achievement of individual goals. Care
16 navigation services must involve assessing client needs and
17 developing and implementing care plans, including, but not
18 limited to, connecting a client to resources and supports. At a
19 minimum, a care plan must address immediate, intermediate, and
20 long-term needs and goals to promote and increase well-being and
21 opportunities for education, employment, social engagement,
22 community integration, and caregiver support. For a client who
23 is a public school student entitled to a free appropriate public
24 education under the Individuals with Disabilities Education Act,
25 I.D.E.A., as amended, the care plan must be integrated with the
26 student's individual education plan (IEP). The care plan and IEP
27 must be implemented to maximize the attainment of educational
28 and habilitation goals ~~give priority to the development,~~
29 ~~planning, and implementation of programs which have the~~
30 ~~potential to prevent, correct, cure, or reduce the severity of~~
31 ~~developmental disabilities. The agency shall direct an~~
32 ~~interagency and interprogram effort for the continued~~
33 ~~development of a prevention plan and program. The agency shall~~
34 ~~identify, through demonstration projects, through program~~
35 ~~evaluation, and through monitoring of programs and projects~~
36 ~~conducted outside of the agency, any medical, social, economic,~~
37 ~~or educational methods, techniques, or procedures that have the~~
38 ~~potential to effectively ameliorate, correct, or cure~~
39 ~~developmental disabilities. The agency shall determine the costs~~



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40 ~~and benefits that would be associated with such prevention~~
41 ~~efforts and shall implement, or recommend the implementation of,~~
42 ~~those methods, techniques, or procedures which are found likely~~
43 ~~to be cost beneficial.~~

44 (2) ~~Prevention~~ Services provided by the agency must ~~shall~~
45 include services to high-risk children from 3 to 5 years of age,
46 and their families, to meet the intent of chapter 411. Except
47 for services for children from birth to age 3 years which are
48 the responsibility of the Division of Children's Medical
49 Services in the Department of Health or part H of the
50 Individuals with Disabilities Education Act, such services may
51 include:

52 (a) Individual evaluations or assessments necessary to
53 diagnose a developmental disability or high-risk condition and
54 to determine appropriate, individual family and support
55 services.

56 (b) Early intervention services, including developmental
57 training and specialized therapies.

58 (c) Support services, such as respite care, parent
59 education and training, parent-to-parent counseling, homemaker
60 services, and other services which allow families to maintain
61 and provide quality care to children in their homes.

62 (3) Other agencies of state government shall cooperate with
63 and assist the agency, within available resources, in
64 implementing programs which have the potential to prevent, or
65 reduce the severity of, developmental disabilities and shall
66 consider the findings and recommendations of the agency in
67 developing and implementing agency programs and formulating
68 agency budget requests.



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69 (4) There is created at the developmental disabilities
70 center in Gainesville a research and education unit. Such unit
71 shall be named the Raymond C. Philips Research and Education
72 Unit. The functions of such unit shall include:

73 (a) Research into the etiology of developmental
74 disabilities.

75 (b) Ensuring that new knowledge is rapidly disseminated
76 throughout the agency.

77 (c) Diagnosis of unusual conditions and syndromes
78 associated with developmental disabilities in clients identified
79 throughout developmental disabilities programs.

80 (d) Evaluation of families of clients with developmental
81 disabilities of genetic origin in order to provide them with
82 genetic counseling aimed at preventing the recurrence of the
83 disorder in other family members.

84 (e) Ensuring that health professionals in the developmental
85 disabilities center at Gainesville have access to information
86 systems that will allow them to remain updated on newer
87 knowledge and maintain their postgraduate education standards.

88 (f) Enhancing staff training for professionals throughout
89 the agency in the areas of genetics and developmental
90 disabilities.

91 Section 2. Subsection (1) and paragraph (d) of subsection
92 (5) of section 393.065, Florida Statutes, are amended to read:

93 393.065 Application and eligibility determination.—

94 (1) (a) The agency shall develop and implement an online
95 application process that, at a minimum, supports paperless,
96 electronic application submissions with immediate e-mail
97 confirmation to each applicant to acknowledge receipt of



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98 application upon submission. The online application system must
99 allow an applicant to review the status of a submitted
100 application and respond to provide additional information.

101 (b) The agency shall maintain access to a printable paper
102 application on its website and, upon request, must provide an
103 applicant with a printed paper application. Paper applications
104 may ~~Application for services shall be submitted made~~ in writing
105 to the agency, in the region in which the applicant resides.

106 (c) The agency ~~must shall~~ review each submitted application
107 in accordance with federal time standards ~~and make an~~
108 eligibility determination within 60 days after receipt of the
109 signed application. ~~If, at the time of the application, an~~
110 applicant is requesting enrollment in the home and community-
111 based services Medicaid waiver program for individuals with
112 developmental disabilities deemed to be in crisis, as described
113 in paragraph (5) (a), the agency shall complete an eligibility
114 determination within 45 days after receipt of the signed
115 application.

116 1. ~~(a)~~ If the agency determines additional documentation is
117 necessary to make an eligibility determination, the agency may
118 request the additional documentation from the applicant.

119 2. ~~(b)~~ When necessary to definitively identify individual
120 conditions or needs, the agency or its designee must provide a
121 comprehensive assessment.

122 ~~(c) If the agency requests additional documentation from~~
123 ~~the applicant or provides or arranges for a comprehensive~~
124 ~~assessment, the agency's eligibility determination must be~~
125 ~~completed within 90 days after receipt of the signed~~
126 ~~application.~~



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127 (d)1. For purposes of this paragraph, the term "complete
128 application" means an application submitted to the agency which
129 is signed and dated by the applicant or an individual with legal
130 authority to apply for public benefits on behalf of the
131 applicant, is responsive on all parts of the application, and
132 contains documentation of a diagnosis.

133 2. If the applicant requesting enrollment in the home and
134 community-based services Medicaid waiver program for individuals
135 with developmental disabilities is deemed to be in crisis as
136 described in paragraph (5) (a), the agency must make an
137 eligibility determination within 15 calendar days after receipt
138 of a complete application.

139 3. If the applicant meets the criteria specified in
140 paragraph (5) (b), the agency must review and make an eligibility
141 determination as soon as practicable after receipt of a complete
142 application.

143 4. If the application meets any of the criteria specified
144 in paragraphs (5) (c)-(g), the agency shall make an eligibility
145 determination within 60 days after receipt of a complete
146 application.

147 (e) Any delays in the eligibility determination process, or
148 any tolling of the time standard until certain information or
149 actions have been completed, must be conveyed to the client as
150 soon as such delays are known through verbal contact with the
151 client or the client's designated caregiver and confirmed by a
152 written notice of the delay, the anticipated length of delay,
153 and a contact person for the client.

154 (5) Except as provided in subsections (6) and (7), if a
155 client seeking enrollment in the developmental disabilities home



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156 and community-based services Medicaid waiver program meets the
157 level of care requirement for an intermediate care facility for
158 individuals with intellectual disabilities pursuant to 42 C.F.R.
159 ss. 435.217(b)(1) and 440.150, the agency must assign the client
160 to an appropriate preenrollment category pursuant to this
161 subsection and must provide priority to clients waiting for
162 waiver services in the following order:

163 (d) Category 4, which includes, but is not required to be
164 limited to, clients whose caregivers are 60 ~~70~~ years of age or
165 older and for whom a caregiver is required but no alternate
166 caregiver is available.

167
168 Within preenrollment categories 3, 4, 5, 6, and 7, the agency
169 shall prioritize clients in the order of the date that the
170 client is determined eligible for waiver services.

171 Section 3. Section 393.0651, Florida Statutes, is amended
172 to read:

173 393.0651 Family or individual support plan.—The agency
174 shall provide directly or contract for the development of a
175 family support plan for children ages 3 to 18 years of age and
176 an individual support plan for each client served by the home
177 and community-based services Medicaid waiver program under s.
178 393.0662. The client, if competent, the client's parent or
179 guardian, or, when appropriate, the client advocate, shall be
180 consulted in the development of the plan and shall receive a
181 copy of the plan. Each plan must include the most appropriate,
182 least restrictive, and most cost-beneficial environment for
183 accomplishment of the objectives for client progress and a
184 specification of all services authorized. The plan must include



185 provisions for the most appropriate level of care for the
186 client. Within the specification of needs and services for each
187 client, when residential care is necessary, the agency shall
188 move toward placement of clients in residential facilities based
189 within the client's community. The ultimate goal of each plan,
190 whenever possible, shall be to enable the client to live a
191 dignified life in the least restrictive setting, be that in the
192 home or in the community. The family or individual support plan
193 must be developed within 60 calendar days after the agency
194 determines the client eligible pursuant to s. 393.065(3).

195 (1) The agency shall develop and specify by rule the core
196 components of support plans.

197 (2) The family or individual support plan shall be
198 integrated with the individual education plan (IEP) for all
199 clients who are public school students entitled to a free
200 appropriate public education under the Individuals with
201 Disabilities Education Act, I.D.E.A., as amended. The family or
202 individual support plan and IEP must be implemented to maximize
203 the attainment of educational and habilitation goals.

204 (a) If the IEP for a student enrolled in a public school
205 program indicates placement in a public or private residential
206 program is necessary to provide special education and related
207 services to a client, the local education agency must provide
208 for the costs of that service in accordance with the
209 requirements of the Individuals with Disabilities Education Act,
210 I.D.E.A., as amended. This does not preclude local education
211 agencies and the agency from sharing the residential service
212 costs of students who are clients and require residential
213 placement.



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214 (b) For clients who are entering or exiting the school
215 system, an interdepartmental staffing team composed of
216 representatives of the agency and the local school system shall
217 develop a written transitional living and training plan with the
218 participation of the client or with the parent or guardian of
219 the client, or the client advocate, as appropriate.

220 (3) Each family or individual support plan shall be
221 facilitated through case management designed solely to advance
222 the individual needs of the client.

223 (4) In the development of the family or individual support
224 plan, a client advocate may be appointed by the support planning
225 team for a client who is a minor or for a client who is not
226 capable of express and informed consent when:

227 (a) The parent or guardian cannot be identified;

228 (b) The whereabouts of the parent or guardian cannot be
229 discovered; or

230 (c) The state is the only legal representative of the
231 client.

232
233 Such appointment may not be construed to extend the powers of
234 the client advocate to include any of those powers delegated by
235 law to a legal guardian.

236 (5) The agency shall place a client in the most appropriate
237 and least restrictive, and cost-beneficial, residential facility
238 according to his or her individual support plan. The client, if
239 competent, the client's parent or guardian, or, when
240 appropriate, the client advocate, and the administrator of the
241 facility to which placement is proposed shall be consulted in
242 determining the appropriate placement for the client.



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243 Considerations for placement shall be made in the following
244 order:

245 (a) Client's own home or the home of a family member or
246 direct service provider.

247 (b) Foster care facility.

248 (c) Group home facility.

249 (d) Intermediate care facility for the developmentally
250 disabled.

251 (e) Other facilities licensed by the agency which offer
252 special programs for people with developmental disabilities.

253 (f) Developmental disabilities center.

254 (6) In developing a client's annual family or individual
255 support plan, the individual or family with the assistance of
256 the support planning team shall identify measurable objectives
257 for client progress and shall specify a time period expected for
258 achievement of each objective.

259 (7) The individual, family, and support coordinator shall
260 review progress in achieving the objectives specified in each
261 client's family or individual support plan, and shall revise the
262 plan annually, following consultation with the client, if
263 competent, or with the parent or guardian of the client, or,
264 when appropriate, the client advocate. The agency or designated
265 contractor shall annually report in writing to the client, if
266 competent, or to the parent or guardian of the client, or to the
267 client advocate, when appropriate, with respect to the client's
268 habilitative and medical progress.

269 (8) Any client, or any parent of a minor client, or
270 guardian, authorized guardian advocate, or client advocate for a
271 client, who is substantially affected by the client's initial



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272 family or individual support plan, or the annual review thereof,
273 shall have the right to file a notice to challenge the decision
274 pursuant to ss. 120.569 and 120.57. Notice of such right to
275 appeal shall be included in all support plans provided by the
276 agency.

277 (9) When developing or reviewing a client's family or
278 individual support plan, the waiver support coordinator shall
279 inform the client, the client's parent or guardian, or, when
280 appropriate, the client advocate about the consumer-directed
281 care program established under s. 409.221.

282 Section 4. For the 2024-2025 fiscal year, the sum of
283 \$16,562,703 in recurring funds from the General Revenue Fund and
284 \$22,289,520 in recurring funds from the Operations and
285 Maintenance Trust Fund are appropriated in the Home and
286 Community Based Services Waiver category to the Agency for
287 Persons with Disabilities to offer waiver services to the
288 greatest number of individuals permissible under the
289 appropriation from preenrollment categories 3, 4, and 5,
290 including individuals whose caregiver is age 60 or older in
291 category 4, as provided in s. 393.065, Florida Statutes, as
292 amended by this act.

293 Section 5. The Agency for Health Care Administration and
294 the Agency for Persons with Disabilities, in consultation with
295 other stakeholders, shall jointly develop a comprehensive plan
296 for the administration, finance, and delivery of home and
297 community-based services through a new home and community-based
298 services Medicaid waiver program. The waiver program shall be
299 for clients transitioning into adulthood and shall be designed
300 to prevent future crisis enrollment into the waiver program



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301 authorized under s. 393.0662, Florida Statutes. The Agency for
302 Health Care Administration is authorized to contract with
303 necessary experts to assist in developing the plan. The Agency
304 for Health Care Administration must submit a report to the
305 Governor, the President of the Senate, and the Speaker of the
306 House of Representatives by December 1, 2024, addressing, at a
307 minimum, all of the following:

308 (1) The purpose, rationale, and expected benefits of the
309 new waiver program.

310 (2) The proposed eligibility criteria for clients and
311 service packages to be offered through the new waiver program.

312 (3) A proposed implementation plan and timeline, including
313 recommendations for the number of clients to be served by the
314 new waiver program at initial implementation, changes over time,
315 and any per-client benefit caps.

316 (4) Proposals for how clients will transition onto and off
317 of the new waiver, including, but not limited to, transitions
318 between this new waiver and the waiver established under s.
319 393.0662, Florida Statutes.

320 (5) The fiscal impact for the implementation year and
321 projections for the subsequent 5 years, determined on an
322 actuarially sound basis.

323 (6) An analysis of the availability of services that would
324 be offered under the new waiver program and recommendations to
325 increase availability of such services, if necessary.

326 (7) A list of all stakeholders, public and private, who
327 were consulted or contacted as part of developing the plan for
328 the new waiver program.

329 Section 6. This act shall take effect July 1, 2024.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to individuals with disabilities;
amending s. 393.064, F.S.; revising provisions related
to programs and services provided by the Agency for
Persons with Disabilities; requiring the agency,
within available resources, to offer voluntary
participation care navigation services to clients and
their caregivers at specified times; specifying goals
and requirements for such care navigation services;
specifying requirements for care plans; requiring the
integration of care plans with any individual
education plans of clients; specifying requirements
for such integration; amending s. 393.065, F.S.;
requiring the agency to develop and implement an
online application process; specifying requirements
for the online application process; defining the term
"complete application"; revising timeframes within
which the agency must make eligibility determinations
for services; lowering the age that a caregiver must
be for an individual to be placed in a certain
preenrollment category; amending s. 393.0651, F.S.;
revising which types of clients are eligible for an
individual support plan; clarifying the timeframe
within which a family or individual support plan must



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359 be developed; requiring waiver support coordinators to
360 inform the client, client's parent or guardian, or
361 client's advocate, as appropriate, of certain
362 information when developing or reviewing the family or
363 individual support plan; providing appropriations;
364 requiring the Agency for Health Care Administration
365 and the Agency for Persons with Disabilities, in
366 consultation with other stakeholders, to jointly
367 develop a comprehensive plan for the administration,
368 finance, and delivery of home and community-based
369 services through a new home and community-based
370 services Medicaid waiver program; providing
371 requirements for the waiver program; authorizing the
372 Agency for Health Care Administration to contract with
373 necessary experts to assist in developing the plan;
374 requiring the Agency for Health Care Administration to
375 submit a specified report to the Governor and the
376 Legislature by a specified date; providing an
377 effective date.