

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/CS/SB 1486

INTRODUCER: Appropriations Committee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Collins

SUBJECT: Permanency for Children

DATE: February 26, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rao</u>	<u>Tuszynski</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>McKnight</u>	<u>AHS</u>	<u>Fav/CS</u>
3.	<u>Rao</u>	<u>Yeatman</u>	<u>FP</u>	<u>Pre-meeting</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1486 makes numerous changes to chs. 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.
- 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 and is known to the child.
- 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.
- Requires a court order with a written determination of reasonableness to approve or disapprove the itemized fees, costs, and expenses in the required affidavit that exceed current statutory caps.
- Requires private adoption entities to report certain information to the DCF quarterly for each finalized private adoption, including fees, costs, and expenses, and requires the DCF to make the data available on its website.
- Details what forms and mediums of advertisement for the current prohibition on specific persons or entities that can place an adoption advertisement and clarifies that only a Florida licensed adoption entity or attorney may place an adoption advertisement in the state.
- Expands those who may participate in the adoption benefits program to include certain healthcare practitioners and tax collector employees.
- 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, yet likely significant negative fiscal impact on state government and the private sector. *See* Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024, except as otherwise expressly provided in the bill.

## II. Present Situation:

An estimated 3.9 million referrals of alleged child abuse and neglect were made nationwide in 2021.<sup>1</sup> Of that 3.9 million, approximately 2 million met the requirements for an investigation<sup>2</sup> leading to approximately 588,000 children with a finding of maltreatment.<sup>3</sup> More than 4.28 million children live in Florida, a vast majority of which, never come to the attention of Florida’s child welfare system.<sup>4</sup> 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.<sup>5</sup>

<sup>1</sup> 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).

<sup>2</sup> *Id.* at p. 13; referred to as “screened in referrals.”

<sup>3</sup> *Id.* at 21; referred to as “victims of abuse and neglect.”

<sup>4</sup> 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).

<sup>5</sup> *Id.*

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.<sup>6</sup> The DCF uses these funds to contract with local community non-profits to provide child welfare services.<sup>7</sup>

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

### **Florida's Child Welfare System**

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.<sup>9</sup>

Child welfare services are directed toward the prevention of child abuse, abandonment, and neglect.<sup>10</sup> 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.<sup>11</sup> These services are coordinated by the DCF-contracted community-based care lead agencies (CBCs).<sup>12</sup> 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.<sup>13</sup> Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.<sup>14</sup>

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

<sup>7</sup> Part V of Ch. 409, F.S.

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

<sup>9</sup> Chapter 39, F.S.

<sup>10</sup> Section 39.001(8), F.S.

<sup>11</sup> 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).

<sup>12</sup> Section 409.986(1), F.S.; See generally Department of Children and Families (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).

<sup>13</sup> 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).

<sup>14</sup> *Id.*

***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.<sup>15</sup> 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.<sup>16</sup>

The DCF is required to provide services relating to<sup>17</sup>:

- Adult protection.
- Child care regulation.
- 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.<sup>18</sup> These private providers include CBCs delivering child welfare services.<sup>19</sup>

***Community-Based Care System***

The DCF, through CBCs, administers a system of care<sup>20</sup> 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.<sup>21</sup>

The CBCs must give priority to services that are evidence-based and trauma informed.<sup>22</sup> The CBCs contract with a number of subcontractors for case management and direct care services to

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<sup>15</sup> Section 20.19(1)(a), F.S.

<sup>16</sup> Section 20.19(1)(b), F.S.

<sup>17</sup> Section 20.19(4)(a), F.S.

<sup>18</sup> Section 20.19(1)(d), F.S.

<sup>19</sup> Part V of Ch. 409, F.S. and s. 394.9082, F.S.

<sup>20</sup> 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).

<sup>21</sup> *Id.*; Also see generally s. 409.988, F.S.

<sup>22</sup> Section 409.988(3), F.S.

children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.<sup>23</sup>

### ***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.
- 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.<sup>24</sup>

Dependency Proceeding	Description of Process	Controlling Statute(s)
<b>Removal</b>	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.
<b>Shelter Hearing</b>	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.
<b>Petition for Dependency</b>	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.
<b>Arraignment Hearing and Shelter Review</b>	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.
<b>Adjudicatory Trial</b>	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.

<sup>23</sup> 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).

<sup>24</sup> 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)
<b>Disposition Hearing</b>	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.
<b>Postdisposition Change of Custody Hearing</b>	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.
<b>Judicial Review Hearings</b>	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.
<b>Petition for Termination of Parental Rights</b>	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.
<b>Advisory Hearing</b>	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.
<b>Adjudicatory Hearing</b>	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)<sup>25</sup> to receive reports of known or suspected instances of child abuse,<sup>26</sup> abandonment,<sup>27</sup> or neglect,<sup>28</sup> or instances when

<sup>25</sup> 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.

<sup>26</sup> 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.

<sup>27</sup> 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.

<sup>28</sup> 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

a child does not have a parent, legal custodian or adult relative available to provide supervision and care.<sup>29</sup> The hotline must operate 24 hours a day, 7 days a week, and accept reports in writing via fax, web-based reporting,<sup>30</sup> web-based chat, or a single statewide toll-free telephone number.<sup>31</sup>

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 investigator (CPI).<sup>32</sup> 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.<sup>33</sup>

Hotline reports and child welfare records are confidential.<sup>34</sup> 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.”<sup>35</sup> 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.<sup>36</sup>

### ***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.<sup>37</sup> CPIs and CBC case

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impaired, except when such circumstances are caused primarily by financial inability unless services have been offered and rejected by such person.

<sup>29</sup> Section 39.201(4), F.S.

<sup>30</sup> 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.

<sup>31</sup> Section 39.201(4) and (5), F.S.

<sup>32</sup> 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.

<sup>33</sup> Section 39.201, F.S.

<sup>34</sup> Section 39.202(1), F.S.

<sup>35</sup> Section 39.202(2)(o), F.S.

<sup>36</sup> 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).

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

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, a total of 8,136 children were receiving in-home services.<sup>38</sup>

### ***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:

- a non-offending 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.<sup>39</sup>

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.<sup>40</sup>

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

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<sup>38</sup> 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).

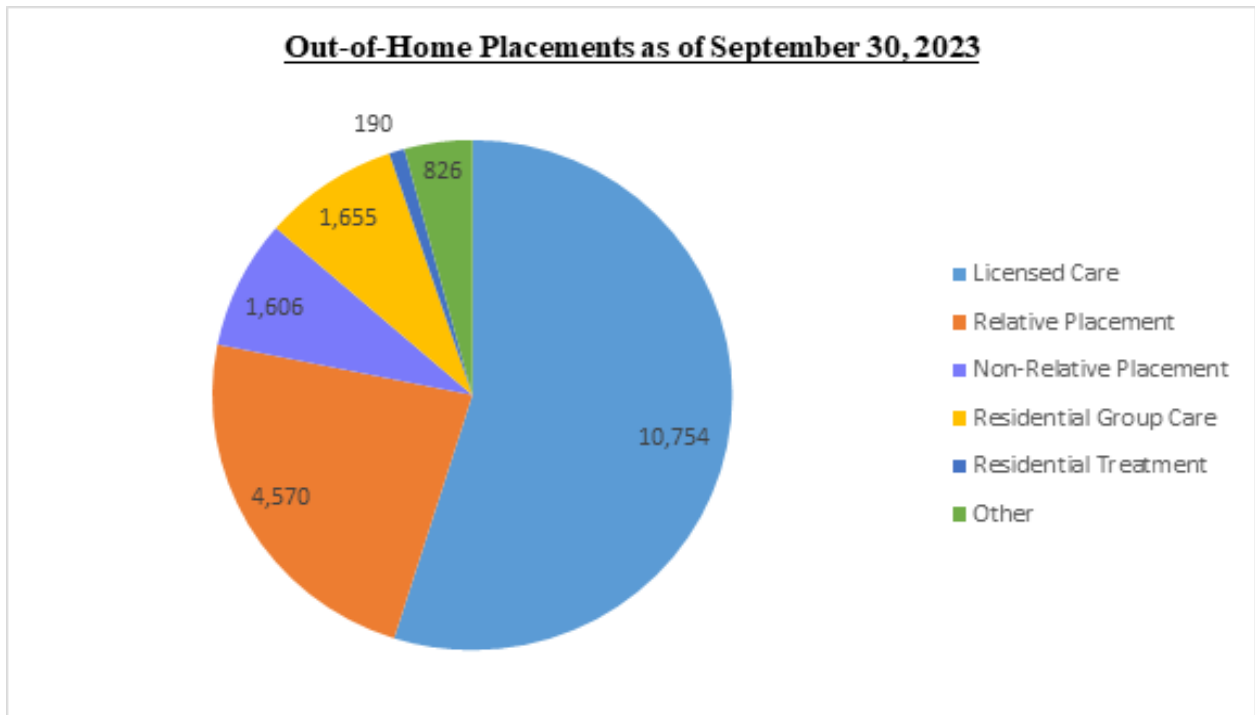
<sup>39</sup> Section 39.4021, F.S.

<sup>40</sup> 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).

<sup>41</sup> Sections 39.001(1) and 39.4021(1), F.S.

<sup>42</sup> 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.





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

### 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 older<sup>43</sup>. 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 checks<sup>44</sup>. State statutes must comply 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.

<sup>43</sup> Section 39.0138, F.S.

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

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

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 party<sup>47</sup> 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 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.<sup>48</sup>

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,<sup>49</sup> and any report filed by the

<sup>45</sup> 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).

<sup>46</sup> *Id.*

<sup>47</sup> “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.

<sup>48</sup> Section 39.01375, F.S.

<sup>49</sup> 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

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.<sup>50</sup>

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.<sup>51</sup> 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 the best interest of the child to modify placement.<sup>52</sup>

During Fiscal Year 2022-23, dependency courts granted a postdisposition change of placement for 6,672 children in the dependency system.<sup>53</sup>

### ***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 child until the child is adopted.<sup>54</sup> 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.<sup>55</sup>

During the dependency phase of a dependency case, the personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.<sup>56</sup> However, there is no similar provision during the termination of parental rights phase of the case.<sup>57</sup> Because of this, when a case has entered the termination of parental rights phase, even if a parent arrives at 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.<sup>58</sup> This can result in delays in the termination of parental rights process and permanency for children.

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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.

<sup>50</sup> Section 39.4021(2)(a), F.S. lists the priority of placements that must be considered, as follows: 1. Non-offending 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 congregated care.

<sup>51</sup> 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).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Section 39.811, F.S.

<sup>55</sup> Section 39.802, F.S.

<sup>56</sup> Section 39.502(2), F.S.

<sup>57</sup> *See generally*, Part X of Ch. 39, F.S.

<sup>58</sup> 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).

### ***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.<sup>59</sup> 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.<sup>60</sup> A permanency hearing must be held at least every 12 months for any child who continues to be supervised by the DCF.<sup>61</sup>

The permanency goals under Florida law<sup>62</sup>, 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 entities<sup>63</sup>:

- The DCF under Chapter 39, 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 that 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.<sup>64</sup> 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.<sup>65</sup> 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.<sup>66</sup>

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<sup>59</sup> Section 39.621 (1), F.S.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Section 39.621, F.S.

<sup>63</sup> Ch. 63, F.S.

<sup>64</sup> Section 39.811(2), F.S.; See generally Parts VIII and X of Ch. 39, F.S.

<sup>65</sup> Section 39.01 (5), F.S.

<sup>66</sup> 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.

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.<sup>67</sup> 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.<sup>68</sup>

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 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.<sup>69</sup> Some applicants are denied because their adoption home study is denied based on criminal history.<sup>70</sup> When there are two or more families with approved home studies, the DCF sends these conflicting applications through the adoption applicant review committee (AARC) for resolution.<sup>71</sup> 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.<sup>72</sup>

Unsuccessful applicants are able to seek review of the DCF action through the administrative hearing process under ch. 120, F.S. Designated hearing officers at the DCF hear these reviews. The assignment of adoption decision disputes to the ch. 120, F.S., process did not originate with, nor was it authorized by, legislative directive. This process arose due to the opinion in *Department of Children & Family Services v. I.B. and D.B.*<sup>73</sup> 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.<sup>74</sup>

Florida law also permits denied adoption applicants to initiate legal action under ch. 63, F.S., by filing a petition for adoption.<sup>75</sup> Upon filing the petition, the petitioner must demonstrate that the

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<sup>67</sup> Section 39.811(9), F.S.

<sup>68</sup> Section 39.812(1), F.S.; See generally Parts VIII and X of Ch. 39, F.S.

<sup>69</sup> Rule 65C-16.004, F.A.C.

<sup>70</sup> Rule 65C-16.007, F.A.C.

<sup>71</sup> Rule 65C-16.005(9), F.A.C.

<sup>72</sup> *Id.*

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

<sup>74</sup> 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).

<sup>75</sup> Section 63.042(2), F.S.

DCF has unreasonably withheld its consent to the adoption.<sup>76</sup> Because ch. 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.<sup>77</sup>

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

- Chapter 39, F.S., dependency proceeding;
- Chapter 63, F.S., adoption proceeding filed by the family who has the DCF's consent;
- Chapter 63, F.S., adoption proceeding filed by the applicant whose application was denied; and
- 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 and the number of cases that resulted in a different decision than the AARC recommendation and the number of DCA appeals and the decisions.<sup>78</sup>

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
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 days<sup>79</sup>. This does not include any additional delays caused by appeals to the District Court which adds, on average, an additional 323 days.<sup>80</sup>

### ***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

<sup>76</sup> Section 63.062(7), F.S.

<sup>77</sup> 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).

<sup>78</sup> *Id.*

<sup>79</sup> 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).

<sup>80</sup> *Id.*

agency licensed by the DCF.<sup>81</sup> 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.<sup>82</sup>

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.<sup>83</sup> 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.<sup>84</sup> 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 advertizing.
- 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.

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.<sup>85</sup>

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.<sup>86</sup>

In order to lessen the economic burden of private adoptions, adoptive parents may file for a federal adoption tax credit for qualifying adoption expenses<sup>87</sup> based on the adoptive parent's income. The 2023 federal adoption tax credit is approximately \$16,000.<sup>88</sup>

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<sup>81</sup> Section 63.302, F.S.

<sup>82</sup> 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).

<sup>83</sup> Section 63.097, F.S.

<sup>84</sup> 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).

<sup>85</sup> 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).

<sup>86</sup> Section 63.097, F.S.

<sup>87</sup> 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.

<sup>88</sup> *Supra* note 85.

## Adoption from the Child Welfare System

### ***State Adoption Benefits***

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.<sup>89</sup> 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.<sup>90</sup>

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 18<sup>th</sup> birthday.<sup>91</sup> 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.<sup>92</sup>

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.<sup>93</sup> The DCF overtook the administration of the adoption benefits program in 2007.<sup>94</sup> In 2010, the program was repealed, and funding ended.<sup>95</sup> 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.<sup>96</sup>

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

<b>Year</b>	<b>Employees Eligible for the Adoption Benefit under s. 409.1664, F.S.</b>
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. <sup>97</sup>

<sup>89</sup> Section 409.166, F.S.

<sup>90</sup> *Id.*

<sup>91</sup> 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.

<sup>92</sup> 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 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.

<sup>93</sup> Chapter 2000-241, Laws of Fla.

<sup>94</sup> Chapter 2010-158, Laws of Fla.

<sup>95</sup> Chapter 2015-130, Laws of Fla.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*



2017	Full-time or part-time employees of charter schools or the Florida Virtual School to the list of eligible employees. <sup>98</sup>
2020	Full-time or part-time employee from a state agency, charter school, or Florida Virtual School that is <b>not</b> 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. <sup>99</sup>
2022	Law enforcement officers. <sup>100</sup>

Qualifying adoptive employees, veterans, or servicemembers who adopt a child from the child welfare system, who is “difficult to place”<sup>101</sup>, 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.<sup>102</sup> If the child being adopted is not considered “difficult to place,” a qualifying adoptive employee, veteran, or servicemember is eligible to receive \$5,000 per child, while a law enforcement officer is eligible to receive \$10,000 per child.<sup>103</sup>

The following table identifies the number of adoption subsidies that were requested from the total number DCF adoptions.<sup>104</sup>

Fiscal Year	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

<sup>98</sup> Chapter 2017-140, Laws of Fla.

<sup>99</sup> Chapter 2020-22, Laws of Fla.

<sup>100</sup> Chapter 2022-23, Laws of Fla.

<sup>101</sup> 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.

<sup>102</sup> Section 409.1664, F.S.

<sup>103</sup> Section 409.1664, F.S.

<sup>104</sup> 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).

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.<sup>105</sup>

Additionally, CBCs, or its subcontractors, are required to inform prospective adoptive parents of the available adoption benefits.<sup>106</sup>

In Florida, the average length of time from a child being sheltered to termination of parental rights is 18 months.<sup>107</sup> The average length of time from termination of parental rights to finalizing adoption is 12 months.<sup>108</sup> This means the average length of time from shelter to a finalized adoption is 2.5 years.<sup>109</sup> In June 2023, there were 4,700 children legally free for adoption of which 3,300 were matched or placed with prospective adoptive parents.<sup>110</sup>

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 adoptions<sup>111</sup>:

- 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;
- 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 bringing in dedicated case management staff to focus on finalizing adoptions.<sup>112</sup> 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.<sup>113</sup>

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.

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<sup>105</sup> R. 65C-16.004, F.A.C

<sup>106</sup> 65C-16.012 F.A.C.

<sup>107</sup> 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).

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 11-12, (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>113</sup> *Id.*

Since the implementation of the Pilot, the total number of adoptions increased, and the total number of children in care decreased.<sup>114</sup> The tables below compare the first quarter of the Pilot to the same quarter during the year prior to the Pilot's implementation.<sup>115</sup>

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

<b>Circuit 13 – Children's Network of Hillsborough (CBC)</b>			
<b>Category</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>	<b>% Change</b>
Total Adoptions	30	71	137%
Average Number of Children in Out-of-Home Care	2,433	2,143	-12%

### ***Statewide Adoption Exchange***

The DCF currently contracts with a third-party vendor to operate the Adoption Exchange (exchange) under s. 409.167, F.S. The purpose of the exchange is to serve all authorized licensed child-placing agencies as a means of recruiting adoptive families for children who are eligible for adoption and who have been permanently placed with the DCF or a licensed child-placing agency. The exchange is required by law to post a description of the child along with a photograph and any other relevant information.<sup>116</sup>

The law was implemented in 1983, long before the internet was a viable option for the display of this information.<sup>117</sup> In subsequent updates to the law in 1994, 1997, and 2014, the language has not been updated to take into account the unique privacy concerns the internet creates.<sup>118</sup> The exchange currently operates as a website open to the general public with profiles and photos of children eligible for adoption open and searchable to the general public.<sup>119</sup>

### ***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

<sup>114</sup> *Id.*

<sup>115</sup> 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).

<sup>116</sup> Section 409.167(2), F.S.

<sup>117</sup> Chapter 1983-246, Laws of Fla.

<sup>118</sup> Chapters 1994-164, 1997-101, and 2014-19, Laws of Fla.

<sup>119</sup> The DCF, *Explore Adoption*, available at: <http://www.adoptflorida.org/> (last visited 1/16/24).

child dependent. However, there is no legal mechanism to permanently commit a child to the custody of the DCF for subsequent adoption.<sup>120</sup>

In *F.L.M. v. Department of Children and Families*,<sup>121</sup> 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.<sup>122</sup> As such, the DCF relies upon this maltreatment to adjudicate orphaned children dependent.<sup>123</sup>

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.<sup>124</sup>

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.<sup>125</sup>

### **Florida's Independent Living Services**

The DCF strives to achieve permanency for all children in care before their 18<sup>th</sup> birthday.<sup>126</sup> However, a child will age out of care upon reaching 18 years of age if a permanent placement is not found.<sup>127</sup> From October 1, 2022, to September 30, 2023, there were 801 young adults who aged out of Florida's foster care system.<sup>128</sup>

<sup>120</sup> 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).

<sup>121</sup> 912 So. 2d 1264 (Fla. 4th DCA 2005)

<sup>122</sup> *Supra* note 120.

<sup>123</sup> 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).

<sup>124</sup> *Id.*

<sup>125</sup> 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).

<sup>126</sup> 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.

<sup>127</sup> Rule 65C-30.022, F.A.C.

<sup>128</sup> 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).

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.<sup>129</sup> 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) <sup>130</sup>	<p>Young adults who turned 18 in foster care and are:</p> <ul style="list-style-type: none"> <li>• Completing high school or its equivalent; <i>or</i></li> <li>• Enrolled in college or vocational schooling; <i>or</i></li> <li>• Working at least 80 hours per month.</li> </ul> <p>To stay in EFC, the young adult must:</p> <ul style="list-style-type: none"> <li>• Meet with a case manager every month.</li> <li>• Continue to participate in a required activity.</li> <li>• Attend court reviews every six months.</li> </ul>	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) <sup>131</sup>	<ol style="list-style-type: none"> <li>1. Young adults who turned 18 in foster care and spent at least 6 months in licensed out-of-home care before turning 18.</li> <li>2. Young adults who are at least 18 and were adopted from foster care <b>after age 16</b> or were placed with a court-approved guardian after spending at least 6 months in licensed foster care within the 12 months immediately preceding such adoption or placement; <i>and</i> <ul style="list-style-type: none"> <li>• Have earned a high school diploma or equivalent; <i>and</i></li> <li>• Are attending a college or vocational school that is Florida Bright Futures eligible.</li> </ul> </li> </ol>	<p>\$1,720 per month for:</p> <ul style="list-style-type: none"> <li>• Housing</li> <li>• Utilities</li> <li>• Living expenses</li> </ul> <p>Available until the age 23.</p>
Aftercare <sup>132</sup>	<p>Young adults who turned 18 while in licensed foster care, but are not yet 23, and</p> <ul style="list-style-type: none"> <li>• Are not in EFC; <i>or</i></li> <li>• Are not in PESS.</li> </ul>	<p>Mentoring Tutoring Substance abuse treatment Counseling Job and career skills training Temporary financial assistance for necessities</p>

<sup>129</sup> Chapter 2013-178, Laws of Florida

<sup>130</sup> Section 39.6251, F.S.

<sup>131</sup> Section 409.1451(2), F.S.

<sup>132</sup> Section 409.1451(3), F.S.

### III. Effect of Proposed Changes:

#### Background Screenings (Sections 1 and 2)

**Section 1** 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:

- Provides care or supervision to children in the home; or
- Is 12 years of age or older, other than a child in care, who will be in the child’s home at least five consecutive days or seven or more days in a month.

This change (along with the changes in section 2) will make Florida statutes compliant with federal requirements and allow the Department of Children and Families (DCF) to continue to use the Federal Bureau of Investigation’s (FBI) federal database to conduct and complete required background screenings for out-of-home placements.<sup>133</sup>

**Section 2** amends s. 39.0138, F.S. to require the DCF to conduct a criminal history records check on all 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, such as an emergency placement in the home of private individuals including neighbors, friends, or relatives, 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 Florida Department of Law Enforcement (FDLE) within seven calendar days after receipt of the 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 or any other adult household member does not submit the required fingerprints to the FDLE within 15 calendar days after the name-based check is conducted, provided that such persons are not exempt from a criminal history records check.

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 (CCWIS) to reflect the transition to new federal guidelines.

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<sup>133</sup> 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).

These change (along with the changes in section 1) will make Florida laws 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.

### **Adoption of Orphaned Children (Section 3)**

**Section 3** 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 by 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 adjudication and 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 bill requires the DCF to make reasonable efforts to place the child in a timely manner and finalize the permanent placement of 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.

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 permanently committing the child to DCF custody for the purposes of 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 that identifies the permanency goal for the child. The bill requires the DCF to make reasonable efforts to place the child and finalize the permanent placement. 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 that clear and convincing evidence does not establish 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 a diligent search or inquiry: the bill requires the court to enter a written order denying the petition.

### **Emergency Postdisposition Change of Placement (Sections 4 and 5)**

**Section 4** amends s. 39.521, F.S., to make conforming changes that reflect the shift to utilizing the CCWIS System, rather than the SACWIS System when conducting records checks when a child will be remaining with an adult approved by the court.

**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 according to s. 39.401(1)(b), F.S.<sup>134</sup>

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 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 only 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.<sup>135</sup>

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<sup>134</sup> 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.

<sup>135</sup> 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).

**Judicial Notice in Termination of Parental Rights Cases**

**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 12)**

**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 the 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 business 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.

The bill requires the court to enter a written order within 15 business 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.

**Section 12** 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.<sup>136</sup>

### **Statewide Adoption Services (Sections 13, 9, 10, 11, 18, 20, and 21)**

The bill makes changes throughout chs. 63 and 409, F.S., to centralize statewide adoption services by removing the requirement that community-based lead agencies (CBCs) provide adoption services and supports.

**Section 13** 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, beginning July 1, 2025. 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:

- 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 the 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.

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<sup>136</sup> 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).

**Section 9** amends s. 39.812, F.S., to conform to the more centralized adoption structure.

**Section 10** amends the definition of “agency” in s. 63.032(12), F.S., to “child-placing agency” to mean an agency licensed by the DCF pursuant to s. 63.202, F.S., to place minors for adoption. This change in definition to conform to other changes made in the bill.

**Section 11** amends s. 63.039, F.S., to require a licensed adoption entity to quarterly report to the DCF all private adoptions that were finalized in the preceding quarter. The bill requires that the report provide the age, race, ethnicity, sex, county of birth, and county of adoptive families for private adoptions, and have this information available as aggregate data on the DCF website.

**Section 19** 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 21** amends s. 409.167, F.S., to require the statewide adoption exchange to be in accordance with the rules adopted by the DCF.

The bill changes the requirements of the statewide adoption exchange photo-listing component that includes descriptions and photographs of children legally freed for adoption. The bill requires the statewide adoption exchange photo-listing component to be inaccessible to the public unless the individuals have completed or are in the process of completing an adoption home study. The bill permits licensed child-placing agencies to utilize the photo listing component of the statewide adoption exchange for the purposes of family-matching, provided only individuals who have completed, or are in the process of completing, an adoption home study have access.

**Section 22** 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 services.

This section has an effective date of July 1, 2025.

### **Adoption Costs and Adoption Benefits (Sections 14, 15, 16, 18, and 20)**

**Section 14** amends s. 63.097, F.S. to include preliminary home studies and final home investigations as a preplacement and postplacement social service within the list of fees the DCF must approve within the process of licensing an adoption agency.

The bill requires the courts to issue an order that approves or disapproves the fees if the total amount of fees exceeds:

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

The bill prohibits the payment of any fees, costs, or expenses other than those of the adoption entity and requires that such costs be supported by a receipt.

The bill requires that beginning January 1, 2025, adoption entities must report quarterly to the DCF on finalized private adoptions including specific demographic information about the adopted child and adoptive family and specific fees, costs, and expenses approved by the court for each adoption. The DCF must publish this anonymized aggregate information on its website quarterly.

**Section 15** amends s. 63.132, F.S., to require a written order by a court approving or disapproving the fees, costs, and expenses itemized in the affidavit filed by the prospective adoptive parents and the adoption entity. A court order approving fees, costs, or expenses that exceed statutory limits must include a written determination of reasonableness.

**Section 16** amends s. 63.212, F.S., to clarify what forms and mediums of advertisement apply to the current prohibition on persons or entities that can place an adoption advertisement and clarifies that only a Florida licensed adoption entity or attorney may place an adoption advertisement in the state.

**Section 18** 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 years of age to receive adoption assistance payments, rather than when the child was 16 years of age. The DCF estimates this will increase the eligible population by 550 individuals, with 165 participating in the program.<sup>137</sup>

**Section 20** amends s. 409.1664, F.S., to make health care practitioners<sup>138</sup> 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, and tax collector employees who are an employee of an office of county tax collector in the state, 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 meets the definition of “difficult to place” and from \$5,000 to \$10,000 when the child being adopted does not meet the definition.

The bill allows a health care practitioner or tax collector employee 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, and a tax collector employee to apply through the DCF. The bill does not preclude a health care practitioner or tax collector employee from qualifying for or receiving another type of adoption assistance.

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<sup>137</sup> 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).

<sup>138</sup> 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.

**Independent Living Services (Section 16)**

**Section 17** 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.<sup>139</sup>

The bill also amends eligibility for Aftercare services available to young adults. The bill allows a young adult who is eligible or extended guardianship assistance payments or extended adoption assistance, but is not participating in either program, to be eligible for Aftercare services if he or she meets the other requirements.

The bill takes effect July 1, 2024, except as otherwise expressly provided in the bill.

**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.

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<sup>139</sup> 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. Private Sector Impact:****Community-Based Care Lead Agencies (CBCs)**

There is an indeterminate, but likely insignificant fiscal impact on CBCs due to 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 insignificant fiscal impact on child-placing agencies. The bill requires the Department of Children and Families (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.

**C. Government Sector Impact:****Expansion of Independent Living Services**

The DCF anticipates new recurring expenditures to fund the expansion of independent living services, as follows:<sup>140</sup>

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
<b>Total</b>	<b>\$8,110,140</b>

**Expansion of the Adoption Benefits Program**

The DCF anticipates additional adoption benefit monetary payments resulting from the inclusion of tax collector employees and certain health care practitioners as eligible recipients and the increase in the lump sum monetary payments for all eligible employees. The DCF estimates the annual recurring cost to be \$9,822,530.<sup>141</sup>

**Adoption Review Hearings Conducted by Dependency Courts**

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 ch. 120, F.S. The DCF may also experience a workload reduction due to the streamlining of the adoption review hearing process.

**VI. Technical Deficiencies:**

None.

<sup>140</sup> 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).

<sup>141</sup> The Department of Children and Families, *SB 1486 Agency Bill Analysis*, p. 19 (on file with the Senate Committee on Children, Families, and Elder Affairs).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.0138, 39.521, 39.522, 39.6221, 39.6225, 39.801, 39.812, 63.032, 63.039, 63.062, 63.093, 63.097, 63.132, 63.212, 409.1451, 409.166, 409.1664, 409.167 and 409.988.

This bill creates section 39.5035 of the Florida Statutes.

This bill repeals section 409.1662 of the Florida Statutes.

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

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

**CS/CS by Appropriations Committee on Health and Human Services on February 20, 2024:**

The committee substitute makes the following changes:

- Requires a court order with a written determination of reasonableness to approve or disapprove the fees, costs, and expenses itemized in the required affidavit of expenses and receipts that exceed current statutory caps.
- Requires a quarterly report to the Department of Children and Families (DCF) by adoption entities detailing finalized private adoptions to include specific demographic information of the adopted child and adoptive family and specific financial information related to fees, costs, and expenses approved by the court. The DCF must publish on its website this anonymized aggregate information.
- Details what forms and mediums of advertisement for the current prohibition on specific persons or entities that can place an adoption advertisement and clarifies that only a Florida licensed adoption entity or attorney may place an adoption advertisement in the state.

**CS by Children, Families, and Elder Affairs on January 23, 2024:**

The CS makes the following changes:

- Lowers the age of who falls under the definition of “visitor” for the purpose of background screening requirements from 14 years of age to 12 years of age.
- Requires the DCF to conduct a criminal history records check on all visitors in a home considered for placement.
- Requires that the DCF submit fingerprints to the FDLE within seven “calendar” days after receipt of results of a name-based check rather than seven days.
- Requires the FDLE to forward fingerprints to the FBI within 15 calendar days after conducting the name-based check.
- Requires the DCF to seek a court order for immediate removal of a child if fingerprints are not provided within 15 calendar days after the FDLE conducted a



name-back check and such person was not exempted from a criminal history records check.

- Requires the court to enter a written order within 15 “business” days after a hearing that considers whether the DCF unreasonably withheld its consent for adoption.
- Changes the definition of “agency” in Ch. 63, F.S., (adoption statutes) to “child-placing agency” to mean an agency licensed by the DCF pursuant to s. 63.202 to place minors for adoption.
- Adds tax collector employees as eligible for adoption benefits when adopting a child from the child welfare system and requires tax collector employees to apply to the DCF to obtain an adoption benefit.
- Requires the adoption exchange, which provides information on children in DCF’s custody available for adoption, to be in accordance with rules adopted by the DCF.
- Prohibits the photo-listing component of the adoption exchange from being accessible by the public and only accessible to persons who have completed or are in the process of completing an adoption home study.
- Requires the photo-listing component of the adoption exchange to facilitate family-matching between children and prospective adoptive parents and requires the DCF to consult with any child 12 years of age or older during the development of his or her description on the statewide adoption exchange, and allows a child 12 years of age or older to request a specific photo for his or her adoption exchange photo listing.
- Removes the requirement that child abuse records in the case of a child’s death be available only upon the DCF’s closure of its investigation.
- Creates a new section of law that requires a licensed adoption entity to report all private adoptions to the DCF on a quarterly basis, with specified information. The amendment permits DCF to adopt rules to implement this section and requires the DCF to make the aggregate information available on its website.
- Requires the DCF to adopt rules that regulate the fees charged by adoption agencies, and requires adoption agencies to report the number of adoptions in which a court enters an order that approves fees that exceed current statutory limits.
- Requires a court order, rather than simple court approval, when fees that adoption entities assess exceed the current statutory limits.
- Requires an affidavit seeking fees above current statutory limits be per se unreasonable and denied absent a written finding with competent and substantial evidence of reasonableness resulting from extraordinary circumstances.

**B. Amendments:**

None.