

Tab 1	SB 46 by Stewart ; (Identical to H 00315) Reading Achievement Initiative for Scholastic Excellence Program					
Tab 2	SB 446 by Simon ; (Identical to H 00073) Supported Decisionmaking Authority					
Tab 3	SB 536 by Garcia ; (Similar to H 01061) Community-based Child Welfare Agencies					
433858	D	S	CF, Garcia	Delete everything after	01/16	08:33 AM
Tab 4	SB 550 by Rouson ; (Identical to H 00313) Transparency for Autism-related Services					
784930	A	S	CF, Rouson	Delete L.13 - 20	01/16	08:34 AM
176916	A	S	CF, Rouson	Delete L.27 - 28:	01/16	08:34 AM
Tab 5	SB 1486 by Collins ; (Similar to H 01083) Child Permanency					
951078	D	S	CF, Collins	Delete everything after	01/16	08:35 AM
Tab 6	SPB 7034 by CF ; OGSR/Information Regarding Persons Seeking Mental Health Treatment and Services					
Tab 7	SPB 7036 by CF ; OGSR/Identifying Information of Persons Reporting Child Abuse, Abandonment, or Neglect					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Wednesday, January 17, 2024
TIME: 8:30—10:30 a.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 46 Stewart (Identical H 315)	Reading Achievement Initiative for Scholastic Excellence Program; Providing that tutoring provided through the tutoring program established as part of the Reading Achievement Initiative for Scholastic Excellence Program may be provided after the school day; authorizing school districts that participate in the tutoring program to provide a stipend to instructional personnel and high school students who serve as tutors under the program, etc.	ED 01/10/2024 Favorable CF 01/17/2024 RC
2	SB 446 Simon (Identical H 73)	Supported Decisionmaking Authority; Requiring a circuit court to consider certain needs and abilities of a person with a developmental disability when determining whether to appoint a guardian advocate; defining the term “supported decisionmaking agreement”; prohibiting such agreement from acting as a durable power of attorney; requiring a petition to determine incapacity of a person to include specified information relating to the alleged incapacitated person’s use of assistance, etc.	JU 01/09/2024 Favorable CF 01/17/2024 RC
3	SB 536 Garcia (Similar H 1061)	Community-based Child Welfare Agencies; Revising requirements for contracts the Department of Children and Families has with community-based care lead agencies; requiring the lead agency’s board of directors to disclose any known or potential conflicts of interest; revising community-based care lead agency duties; making technical changes; requiring that the allocation of core services funds be based on a three-tiered payment model; revising requirements for lead agency practices in the procurement of commodities and contractual services, etc.	CF 01/17/2024 AHS FP

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Wednesday, January 17, 2024, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 550 Rouson (Identical H 313)	Transparency for Autism-related Services; Requiring the Agency for Persons with Disabilities or its designee to provide specified information when notifying an applicant of his or her eligibility determination, etc.	
		CF 01/17/2024 AHS FP	
5	SB 1486 Collins (Similar H 1083)	Child Permanency; Requiring the Department of Children and Families to conduct a records check through the Comprehensive Child Welfare Information System on all persons being considered for placement of a child; allowing any person to have access to certain identifying child records under specified circumstances; revising a criterion for guardianship assistance payments made to guardians who have entered into a guardianship assistance agreement; authorizing the court to review the department's denial of an application to adopt a child, etc.	
		CF 01/17/2024 AHS FP	
Consideration of proposed bill:			
6	SPB 7034	OGSR/Information Regarding Persons Seeking Mental Health Treatment and Services; Amending a provision which provides an exemption from public records requirements for petitions for voluntary and involuntary admission for mental health treatment, court orders, related records, and personal identifying information regarding persons seeking mental health treatment and services; abrogating the scheduled repeal of the exemption, etc.	
Consideration of proposed bill:			
7	SPB 7036	OGSR/Identifying Information of Persons Reporting Child Abuse, Abandonment, or Neglect; Amending a provision which provides a public records exemption for identifying information of persons reporting child abuse, abandonment, or neglect; abrogating the scheduled repeal of the exemption and the reversion of specified statutory text, etc.	
Other Related Meeting Documents			

By Senator Stewart

17-00223-24

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1 A bill to be entitled
2 An act relating to the Reading Achievement Initiative
3 for Scholastic Excellence Program; amending s.
4 1008.365, F.S.; providing that tutoring provided
5 through the tutoring program established as part of
6 the Reading Achievement Initiative for Scholastic
7 Excellence Program may be provided after the school
8 day; authorizing school districts that participate in
9 the tutoring program to provide a stipend to
10 instructional personnel and high school students who
11 serve as tutors under the program; conforming
12 provisions to changes made by the act; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (8) of section 1008.365, Florida
18 Statutes, is amended to read:

19 1008.365 Reading Achievement Initiative for Scholastic
20 Excellence Act.—

21 (8) As part of the RAISE Program, the department shall
22 establish a tutoring program and develop training in effective
23 reading tutoring practices and content, based on evidence-based
24 practices grounded in the science of reading and aligned to the
25 English Language Arts standards under s. 1003.41, which prepares
26 eligible high school students to tutor students in kindergarten
27 through grade 3 in schools identified under this section,
28 instilling in those students a love of reading and improving
29 their literacy skills.

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30 (a) To be eligible to participate in the tutoring program,
31 a high school student must be a rising junior or senior who has
32 a cumulative grade point average of 3.0 or higher, has no
33 history of out-of-school suspensions or expulsions, is on track
34 to complete all core course requirements to graduate, and has
35 written recommendations from at least two of his or her present
36 or former high school teachers of record or extracurricular
37 activity sponsors.

38 (b) School districts that wish to participate in the
39 tutoring program must recruit, train, and deploy eligible high
40 school students using the materials developed under this
41 section. Tutoring must occur during or after the school day on
42 school district property in the presence and under the
43 supervision of instructional personnel who are school district
44 employees. A parent must give written permission for his or her
45 child to receive tutoring through the program.

46 (c) Tutoring may be part of a service-learning course
47 adopted pursuant to s. 1003.497. Students may earn up to three
48 elective credits for high school graduation based on the
49 verified number of hours the student spends tutoring under the
50 program. The hours of volunteer service must be documented in
51 writing, and the document must be signed by the student, the
52 student's parent or guardian, and an administrator or designee
53 of the school in which the tutoring occurred. Unpaid ~~The~~ hours
54 that a high school student devotes to tutoring may be counted
55 toward meeting community service requirements for high school
56 graduation and community service requirements for participation
57 in the Florida Bright Futures Scholarship Program as provided in
58 s. 1003.497(3)(b). The department shall designate a high school

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59 student who provides at least 75 verified hours of tutoring
60 under the program as a New Worlds Scholar and award the student
61 with a pin indicating such designation.

62 (d) School districts participating in the tutoring program
63 may provide a stipend to instructional personnel and high school
64 students serving as tutors for after-school tutoring.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education Pre-K -12

BILL: SB 46

INTRODUCER: Senator Stewart

SUBJECT: Reading Achievement Initiative for Scholastic Excellence Program

DATE: January 15, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Rao</u>	<u>Tuszynski</u>	<u>CF</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 46 authorizes school districts participating in the Reading Achievement Initiative for Scholastic Excellence (RAISE) tutoring program to offer the tutoring program after the school day and to provide a stipend to instructional personnel and high school students serving as tutors during after-school hours.

The bill limits to unpaid hours the tutoring hours that count towards meeting community service requirements for high school graduation and the Florida Bright Futures Scholarship Program.

The bill takes effect July 1, 2024.

II. Present Situation:

Reading Achievement Initiative for Scholastic Excellence Act

In 2021, the Florida Legislature established the Reading Achievement Initiative for Scholastic Excellence (RAISE) program within the Florida Department of Education (DOE).¹ The program provides instructional supports to school districts, school administrators, and instructional personnel in implementing evidence-based reading instruction and interventions in order to improve student reading achievement.²

¹ Chapter 2021-9, s. 17, Laws of Fla., *codified at* s.1008.365, F.S.

² Section 1008.365(2), F.S.

Under the RAISE program, the DOE operates 20 literacy support regions and regional support teams in Florida to assist schools in improving low reading scores.³ The DOE may establish eligibility criteria for participating schools, but schools that must be included are:⁴

- Schools serving students in kindergarten through grade 5 where 50 percent or more of the students score below a Level 3 on the statewide, standardized English Language Arts (ELA) assessment; and
- Schools where 50 percent or more of students in kindergarten through grade 3 are not on track to pass the grade 3 ELA assessment based on data from the coordinated screening and progress monitoring system.

Identified schools are required to implement a school improvement plan with strategies to improve reading performance.⁵ The DOE has identified 1,184 schools for support as RAISE schools in the 2023-2024 academic year.⁶

Tutoring Program

As part of the RAISE program, the DOE established a tutoring program and developed training to prepare eligible high school students to tutor students in kindergarten through grade 3.⁷

To be eligible to participate in the tutoring program, a student must be a rising high school junior or senior and meet the following requirements:⁸

- Have a cumulative grade point average of 3.0 or higher;
- Have no history of out-of-school suspensions or expulsions;
- Be on track to complete all core course requirements to graduate; and
- Have written recommendations from at least two present or former high school teachers of record or extracurricular activity sponsors.

High school students that participate as tutors must be recruited, trained, and deployed by the school district. Tutoring must occur during the school day, on school district property, and under the supervision of instructional personnel.⁹

A high school student may earn up to three elective credits for high school graduation based on the verified number of hours the student spends tutoring. The hours may be counted towards community service requirements for high school graduation and the Florida Bright Futures Scholarship Program.¹⁰

³ Section 1008.365(3), F.S.; Florida Department of Education, *Raise Regions*, available at <https://www.fldoe.org/core/fileparse.php/7539/urlt/JRFSRLDFINALMAP.pdf>.

⁴ Section 1008.365(4), F.S.

⁵ Section 1008.365(4), F.S.

⁶ Florida Department of Education, *RAISE Schools Identified for 2023-2024*, available at <https://www.fldoe.org/core/fileparse.php/7539/urlt/2223RAISE-SchID.pdf>.

⁷ Section 1008.365(8), F.S.; Florida Department of Education, *RAISE High School Tutoring Program*, available at <https://www.fldoe.org/academics/standards/just-read-fl/tutoring.stml> (last visited Jan. 12, 2024).

⁸ Section 1008.365(8)(a), F.S.

⁹ Section 1008.365(8)(b), F.S.

¹⁰ Section 1008.365(8)(c), F.S.

The DOE must designate a high school student who provides at least 75 verified hours of tutoring in the RAISE program as a New Worlds Scholar and award him or her a commemorative pin for this designation.¹¹

Florida Bright Futures Scholarship Program

The Florida Bright Futures Scholarship Program (Bright Futures Program) is a lottery-funded scholarship program to reward any Florida high school graduate who merits recognition of high academic achievement and who enrolls in a degree program, certificate program, or applied technology program at an eligible Florida public or private postsecondary education institution.¹²

The Bright Futures Program consists of the:¹³

- Florida Academic Scholarship (FAS), which provides for an award equal to the amount necessary to pay 100 percent of tuition and applicable fees and an additional stipend for textbooks as specified in the General Appropriations Act.¹⁴;
- Florida Medallion Scholarship (FMS), which provides for an award equal to the amount necessary to pay 75 percent of tuition and fees; however, an eligible FMS recipient enrolled at a Florida College System institution is eligible for an award amount equal to the amount necessary to pay 100 percent of tuition and fees.¹⁵;
- Florida Gold Seal Vocational Scholarship (FGSV) and the Florida Gold Seal Career and Professional Education Scholarship (CAPE), which provide for an award for a maximum of 100 percent of the number of credit hours or equivalent clock hours required to complete an applied technology diploma, associate in applied science or associate in science degree, or a postsecondary career certificate program.¹⁶

Bright Futures Program Eligibility Requirements – Volunteer and Paid Work Hours

A Florida high school student who wishes to qualify for a Bright Futures Program award must graduate from a Florida public high school with a standard high school diploma, graduate from a private high school registered with the DOE, earn a general education diploma, complete a home education program, or graduate from a non-Florida high school.¹⁷ The various awards also have separate requirements for completed credits, grade-point average, and scores on college entrance exams.¹⁸

¹¹ Section 1008.365(8)(c), F.S.

¹² Section 1009.53(1), F.S.

¹³ Section 1009.53(2), F.S.

¹⁴ Section 1009.534(2), F.S.

¹⁵ Section 1009.535(2), F.S.

¹⁶ Section 1009.532(5)(a)1., F.S.; *see also* 2023-24 *Bright Futures Student Handbook, Chapter 2: What You Need to Know Now That You Are Eligible* (July 1, 2023), at 3, available at <https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter2.pdf>.

¹⁷ Florida Department of Education, 2023-24 *Bright Futures Student Handbook, Chapter 1: Initial Eligibility Requirements* (Aug. 2023), at 2-3, available at <https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf>. A student living with a parent who is on military or public service assignment may graduate from a non-Florida high school.

¹⁸ Florida Department of Education, 2023-24 *Bright Futures Student Handbook, Chapter 1: Initial Eligibility Requirements* (Aug. 2023), at 3-8, available at <https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf>.

In addition to initial eligibility requirements, the awards require the following volunteer and paid work hours:

- FAS – 100 hours of volunteer service hours or paid work hours, or a combination of both.
- FMS – 75 hours of volunteer service hours, or 100 hours of paid work hours, or a combination of volunteer and paid work hours totaling 100 hours.
- FGSV and CAPE – 30 volunteer service hours, 100 paid work hours, or a combination of 100 total hours.¹⁹

For the 2022-2023 academic year, a total of \$598,468,957 was disbursed to 33,062 students receiving a Bright Futures Program award.²⁰

III. Effect of Proposed Changes:

SB 46 authorizes school districts participating in the Reading Achievement Initiative for Scholastic Excellence (RAISE) tutoring program to offer the tutoring program after the school day and to provide a stipend to instructional personnel and high school students serving as tutors during after-school hours.

The bill limits to unpaid hours the tutoring hours that count towards meeting community service requirements for high school graduation and the Florida Bright Futures Scholarship Program.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified .

¹⁹ Section 1009.536(1)(e), F.S.

²⁰ Florida Bright Futures Scholarship Program, *Florida Bright Futures Student Counts and Total Costs* (Sep. 2023), available at <https://www.floridastudentfinancialaidsg.org/PDF/PSI/BFReportsA.pdf>.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1008.365 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Simon

3-00860-24

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1 A bill to be entitled
2 An act relating to supported decisionmaking authority;
3 amending s. 393.12, F.S.; requiring a circuit court to
4 consider certain needs and abilities of a person with
5 a developmental disability when determining whether to
6 appoint a guardian advocate; providing requirements
7 for a petition to appoint a guardian advocate for a
8 person with a developmental disability and for a court
9 order if the court finds that such person requires
10 such appointment; amending s. 709.2201, F.S.;
11 authorizing an agent acting for a principal to grant a
12 supported decisionmaking agreement; creating s.
13 709.2209, F.S.; defining the term "supported
14 decisionmaking agreement"; prohibiting such agreement
15 from acting as a durable power of attorney;
16 authorizing specified authority to a supported
17 decisionmaking agreement; providing that certain
18 communications shall be recognized as a communication
19 of the principal under certain circumstances; amending
20 s. 744.3201, F.S.; requiring a petition to determine
21 incapacity of a person to include specified
22 information relating to the alleged incapacitated
23 person's use of assistance; amending s. 744.331, F.S.;
24 providing requirements for an examining committee
25 member when determining the alleged incapacitated
26 person's ability to exercise his or her rights;
27 amending s. 744.464, F.S.; authorizing a suggestion of
28 capacity to include certain capabilities of the ward;
29 amending s. 1003.5716, F.S.; revising the requirements

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30 for a specified process relating to individual
31 education plans for certain students to include
32 supported decisionmaking agreements; providing an
33 effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Paragraph (a) of subsection (2), paragraph (a)
38 of subsection (3), and subsection (8) of section 393.12, Florida
39 Statutes, are amended to read:

40 393.12 Capacity; appointment of guardian advocate.—

41 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

42 (a) A circuit court may appoint a guardian advocate,
43 without an adjudication of incapacity, for a person with
44 developmental disabilities, if the person lacks the
45 decisionmaking ability to do some, but not all, of the
46 decisionmaking tasks necessary to care for his or her person or
47 property or if the person has voluntarily petitioned for the
48 appointment of a guardian advocate. In determining whether to
49 appoint a guardian advocate, the court shall consider the
50 person's unique needs and abilities, including, but not limited
51 to, the person's ability to independently exercise his or her
52 rights with appropriate assistance, and may only delegate
53 decisionmaking tasks that the person lacks the decisionmaking
54 ability to exercise. Except as otherwise specified, the
55 proceeding shall be governed by the Florida Rules of Probate
56 Procedure.

57 (3) PETITION.—

58 (a) A petition to appoint a guardian advocate for a person

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59 with a developmental disability may be executed by an adult
60 person who is a resident of this state. The petition must be
61 verified and must:

62 1. State the name, age, and present address of the
63 petitioner and his or her relationship to the person with a
64 developmental disability;

65 2. State the name, age, county of residence, and present
66 address of the person with a developmental disability;

67 3. Allege that the petitioner believes that the person
68 needs a guardian advocate and specify the factual information on
69 which such belief is based;

70 4. Specify the exact areas in which the person lacks the
71 decisionmaking ability to make informed decisions about his or
72 her care and treatment services or to meet the essential
73 requirements for his or her physical health or safety;

74 5. Specify the legal disabilities to which the person is
75 subject; ~~and~~

76 6. Identify any other type of guardian advocacy or
77 alternatives to guardian advocacy that the person has
78 designated, is in currently, or has been in previously and the
79 reasons why alternatives to guardian advocacy are insufficient
80 to meet the needs of the person;

81 7. State whether the person uses assistance to exercise his
82 or her rights, including, but not limited to, supported
83 decisionmaking, and if so, why the assistance is inappropriate
84 or insufficient to allow the person to independently exercise
85 the person's rights; and

86 8. State the name of the proposed guardian advocate, the
87 relationship of that person to the person with a developmental

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88 disability; the relationship that the proposed guardian advocate
89 had or has with a provider of health care services, residential
90 services, or other services to the person with a developmental
91 disability; and the reason why this person should be appointed.
92 The petition must also state if a willing and qualified guardian
93 advocate cannot be located.

94 (8) COURT ORDER.—If the court finds the person with a
95 developmental disability requires the appointment of a guardian
96 advocate, the court shall enter a written order appointing the
97 guardian advocate and containing the findings of facts and
98 conclusions of law on which the court made its decision,
99 including:

100 (a) The nature and scope of the person's lack of
101 decisionmaking ability;

102 (b) The exact areas in which the individual lacks
103 decisionmaking ability to make informed decisions about care and
104 treatment services or to meet the essential requirements for his
105 or her physical health and safety;

106 (c) The specific legal disabilities to which the person
107 with a developmental disability is subject;

108 (d) The identity of existing alternatives and a finding as
109 to the validity or sufficiency of such alternative to alleviate
110 the need for the appointment of a guardian advocate;

111 (e)~~(d)~~ The name of the person selected as guardian advocate
112 and the reasons for the court's selection; and

113 (f)~~(e)~~ The powers, duties, and responsibilities of the
114 guardian advocate, including bonding of the guardian advocate,
115 as provided in s. 744.351.

116 Section 2. Paragraph (d) is added to subsection (2) of

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117 section 709.2201, Florida Statutes, to read:

118 709.2201 Authority of agent.—

119 (2) As a confirmation of the law in effect in this state
120 when this part became effective, such authorization may include,
121 without limitation, authority to:

122 (d) If such authority is specifically limited, grant a
123 supported decisionmaking agreement as defined in s. 709.2209(1).

124 Section 3. Section 709.2209, Florida Statutes, is created
125 to read:

126 709.2209 Supported decisionmaking agreements.—

127 (1) For purposes of this section, "supported decisionmaking
128 agreement" means an agreement in which the power of attorney
129 grants an agent the authority to receive information and to
130 communicate on behalf of the principal without granting the
131 agent the authority to bind or act on behalf of the principal on
132 any subject matter.

133 (2) A supported decisionmaking agreement is not a durable
134 power of attorney under s. 709.2104. Any language of durability
135 in a supported decisionmaking agreement is of no effect.

136 (3) A supported decisionmaking agreement may only include
137 the authority to:

138 (a) Obtain information on behalf of the principal,
139 including, but not limited to, protected health information
140 under the Health Insurance Portability and Accountability Act of
141 1996, 42 U.S.C. s. 1320d, as amended; educational records under
142 the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.
143 s. 1232g; or information protected under 42 U.S.C. s. 290dd-2 or
144 42 C.F.R. part 2.

145 (b) Assist the principal in communicating with third

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146 parties, including conveying the principal's communications,
147 decisions, and directions to third parties on behalf of the
148 principal.

149 (4) A communication made by the principal with the
150 assistance of or through an agent under a supported
151 decisionmaking agreement that is within the authority granted to
152 the agent may be recognized as a communication of the principal.

153 Section 4. Subsection (2) of section 744.3201, Florida
154 Statutes, is amended to read:

155 744.3201 Petition to determine incapacity.—

156 (2) The petition must be verified and must:

157 (a) State the name, age, and present address of the
158 petitioner and his or her relationship to the alleged
159 incapacitated person;

160 (b) State the name, age, county of residence, and present
161 address of the alleged incapacitated person;

162 (c) Specify the primary language spoken by the alleged
163 incapacitated person, if known;

164 (d) State whether the alleged incapacitated person uses
165 assistance to exercise his or her rights, including, but not
166 limited to, supported decisionmaking, and if so, why the
167 assistance is inappropriate or insufficient to allow the person
168 to independently exercise the person's rights;

169 (e)~~(d)~~ Allege that the petitioner believes the alleged
170 incapacitated person to be incapacitated and specify the factual
171 information on which such belief is based and the names and
172 addresses of all persons known to the petitioner who have
173 knowledge of such facts through personal observations;

174 (f)~~(e)~~ State the name and address of the alleged

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175 incapacitated person's attending or family physician, if known;
176 (g)~~(f)~~ State which rights enumerated in s. 744.3215 the
177 alleged incapacitated person is incapable of exercising, to the
178 best of petitioner's knowledge. If the petitioner has
179 insufficient experience to make such judgments, the petition
180 must so state; and

181 (h)~~(g)~~ State the names, relationships, and addresses of the
182 next of kin of the alleged incapacitated person, so far as are
183 known, specifying the dates of birth of any who are minors.

184 Section 5. Paragraph (e) of subsection (3) of section
185 744.331, Florida Statutes, is amended to read:

186 744.331 Procedures to determine incapacity.—

187 (3) EXAMINING COMMITTEE.—

188 (e) Each member of the examining committee shall examine
189 the person. Each examining committee member must determine the
190 alleged incapacitated person's ability to exercise those rights
191 specified in s. 744.3215. An examining committee member may
192 allow a person to assist in communicating with the alleged
193 incapacitated person when requested by the court-appointed
194 counsel for the alleged incapacitated person and shall identify
195 the person who provided assistance and describe the nature and
196 method of assistance provided in his or her report. In addition
197 to the examination, each examining committee member must have
198 access to, and may consider, previous examinations of the
199 person, including, but not limited to, habilitation plans,
200 school records, and psychological and psychosocial reports
201 voluntarily offered for use by the alleged incapacitated person.
202 Each member of the examining committee must file his or her
203 report with the clerk of the court within 15 days after

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204 appointment.

205 Section 6. Paragraph (a) of subsection (2) of section
206 744.464, Florida Statutes, is amended to read:

207 744.464 Restoration to capacity.—

208 (2) SUGGESTION OF CAPACITY.—

209 (a) Any interested person, including the ward, may file a
210 suggestion of capacity. The suggestion of capacity must state
211 that the ward is currently capable of exercising some or all of
212 the rights which were removed, including the capability to
213 independently exercise his or her rights with appropriate
214 assistance.

215 Section 7. Paragraph (d) of subsection (1) of section
216 1003.5716, Florida Statutes, is amended to read:

217 1003.5716 Transition to postsecondary education and career
218 opportunities.—All students with disabilities who are 3 years of
219 age to 21 years of age have the right to a free, appropriate
220 public education. As used in this section, the term "IEP" means
221 individual education plan.

222 (1) To ensure quality planning for a successful transition
223 of a student with a disability to postsecondary education and
224 career opportunities, during the student's seventh grade year or
225 when the student attains the age of 12, whichever occurs first,
226 an IEP team shall begin the process of, and develop an IEP for,
227 identifying the need for transition services before the student
228 with a disability enters high school or attains the age of 14
229 years, whichever occurs first, in order for his or her
230 postsecondary goals and career goals to be identified. The plan
231 must be operational and in place to begin implementation on the
232 first day of the student's first year in high school. This

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233 process must include, but is not limited to:

234 (d) At least 1 year before the student reaches the age of
235 majority, provision of information and instruction to the
236 student and his or her parent on self-determination and the
237 legal rights and responsibilities regarding the educational
238 decisions that transfer to the student upon attaining the age of
239 18. The information must include the ways in which the student
240 may provide informed consent to allow his or her parent to
241 continue to participate in educational decisions, including:

- 242 1. Informed consent to grant permission to access
243 confidential records protected under the Family Educational
244 Rights and Privacy Act (FERPA) as provided in s. 1002.22.
- 245 2. Powers of attorney as provided in chapter 709.
- 246 3. Guardian advocacy as provided in s. 393.12.
- 247 4. Guardianship as provided in chapter 744.
- 248 5. Supported decisionmaking agreements as provided in s.
249 709.2209.

250

251 The State Board of Education shall adopt rules to administer
252 this paragraph.

253 Section 8. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 446

INTRODUCER: Senator Simon

SUBJECT: Supported Decisionmaking Authority

DATE: January 15, 2024

REVISED: _____

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

I. Summary:

SB 446 explicitly incorporates the concepts of supported decision-making (SDM) and SDM agreements into state law. SDM is a tool that allows people with disabilities to retain their decision-making capacity by choosing supporters to help them make choices, instead of relying upon court-appointed guardians or guardian advocates to make choices for them.

In summary, the bill:

- Amends the statute governing the appointment of guardian advocates for persons with developmental disabilities to require:
 - Courts to consider the specific needs and abilities of individuals when delegating decision-making tasks.
 - Petitions and court orders to identify and assess the sufficiency of guardian advocacy alternatives like SDM.
- Amends the powers of attorney statute to authorize the granting of SDM agreements as a form of a power of attorney.
- Creates a statute defining, authorizing, and regulating SDM agreements.
- Amends statutes governing adjudications of incapacity and the appointment of guardians to:
 - Require petitions to state whether alleged incapacitated persons use assistance, including SDM, and if so, why it is insufficient for them to exercise their rights.
 - Authorize examining committee members to facilitate, when requested by appointed counsel, communication between supporters and allegedly incapacitated persons.
 - Clarify that suggestions of capacity must address whether the ward has the ability to exercise removed rights on his or her own or with appropriate assistance.
- Amends the statute regulating the development of an individual education plan (IEP) for the purpose of accommodating students with disabilities in public schools, to include SDM agreements as one method by which students may provide informed consent to allow his or her parents to continue to participate in educational decisions.

II. Present Situation:

Guardianship

If a court finds that a person does not have the ability to safely manage the things that belong to him or her, or the ability to meet his or her basic health, safety, and self-care needs, the court will rule that this person is incapacitated.¹ In many cases, after a court decides that a person is incapacitated, it will choose someone else to make some or all the decisions for the incapacitated person. This is called a guardianship.²

Being placed in a guardianship results in the loss of an individual's right to make his or her own life choices. The rights that a person can lose include the right to contract, vote, travel, marry, work, consent to treatment, sue or defend lawsuits, choose living arrangements, make decisions about their social life, have a driver's license, personally apply for benefits, and manage money or property.³

Guardianships must be specific to the abilities and needs of the individual and should not be any more restrictive than necessary.⁴ Consequently, there are different types of guardianships under state law. They include:⁵

- Preneed guardian.⁶
- Voluntary guardianship.⁷
- Emergency temporary guardianship.⁸
- Limited guardianship.⁹
- Guardian advocate for individuals who have a developmental disability.¹⁰
- Guardian advocate for individuals receiving mental health treatment.¹¹
- Full (*i.e.* plenary) guardianship.¹²

The powers and duties of a court-appointed guardian include, but are not limited to:

- Filing an initial plan and annual reports.¹³
- Making provision for the medical, mental, rehabilitative, and personal care of the person.¹⁴
- Making residential decisions on behalf of the person.¹⁵

¹ See generally Part V, Ch. 744, F.S.

² See *id.*

³ See 744.1012(1), F.S.; see also Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited Jan. 12, 2024).

⁴ Section 744.1012(2), F.S.; see also Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited Jan. 12, 2024).

⁵ See generally Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited Jan. 12, 2024).

⁶ Sections 744.3045 and 744.3046, F.S.

⁷ Section 744.341, F.S.

⁸ Section 744.3031, F.S.

⁹ Section 744.441, F.S.; see also s. 744.102(9)(a), F.S. (defining "limited guardian").

¹⁰ Sections 744.3085 and 393.12, F.S.

¹¹ Sections 744.3085 and 394.4598, F.S.

¹² Section 744.441(1), F.S.; see also s. 744.102(9)(b), F.S. (defining "plenary guardian").

¹³ Section 744.361(6)-(7), F.S.

¹⁴ Section 744.361(13)(f), F.S.

¹⁵ Section 744.361(13)(h), F.S.

- Advocating on behalf of the person in institutional and other residential settings.¹⁶
- Making financial decisions on behalf of the person.¹⁷

Any resident of the state who is 18 years old and of sound mind is qualified to act as a guardian.¹⁸ Additionally, a non-resident may serve if he or she is related to the person with a developmental disability by blood, adoption, or law.¹⁹ Certain individuals, however, cannot be appointed to act as a guardian.²⁰

Guardians must file an initial guardianship report with the court within 60 days after appointment.²¹ The initial guardianship report must consist of an initial guardianship plan,²² which must include certain specified information for the person for whom the guardianship is being established. For example, the initial guardianship plan must include information regarding the provision of medical, mental, or personal care services for the welfare of the person, as well as the place and kind of residential setting best suited for the needs of the person.²³

Guardians must also file an annual guardianship report with the court.²⁴ The annual guardianship report must be filed within 90 days after the last day of the anniversary month that the letters of guardianship were signed, and the plan must cover the coming fiscal year, ending on the last day in such anniversary month. The annual guardianship report must include an annual guardianship plan²⁵ containing information regarding the residence of the person for whom the guardianship has been established; the medical and mental health conditions, treatment, and rehabilitation needs of the person; the social condition of the person; and a list of any preexisting orders not to resuscitate, or preexisting advance directives.²⁶

Incapacity

The term “incapacitated person” means a person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of the person.²⁷

The process to determine incapacity and appoint a guardian begins with the filing of a petition in the appropriate circuit court. The petition must be served on, and read to, the alleged incapacitated person. Notice and copies of the petition must also be provided to the attorney for the alleged incapacitated person and served on all next of kin identified in the petition.²⁸

¹⁶ Section 744.361(13)(i), F.S.

¹⁷ Section 744.361(12), F.S.

¹⁸ Section 744.309(1), F.S.

¹⁹ Section 744.309(2), F.S.

²⁰ *See generally* ss. 744.309(3), (6), F.S.

²¹ Sections 744.361(6) and 744.362(1), F.S.

²² Section 744.362(1), F.S.

²³ *See* s. 744.363(1)(a)-(f), F.S.

²⁴ Section 744.367(1), F.S.

²⁵ Section 744.367(3)(a), F.S.

²⁶ *See generally* s. 744.3675, F.S.

²⁷ Section 744.102(12), F.S.

²⁸ Section 744.331(1), F.S.

At hearing, the partial or total incapacity of the person must be established by clear and convincing evidence.²⁹ After finding that a person is incapacitated with respect to the potential exercise of one or more rights, the court must enter a written order of incapacity. A person is deemed incapacitated only as to those rights specified in the court's order.³⁰ If the order provides that the person is incapable of exercising delegable rights (described below), the court must next consider whether there are any alternatives to guardianship which will sufficiently address the incapacitated person's problems. If not, a guardian will be appointed.³¹

Rights of Incapacitated Persons

A person who has been determined to be incapacitated retains certain rights, regardless of the determination of incapacity, including (among others) the right to be treated humanely and with dignity and respect; the right to be protected against abuse, neglect, and exploitation; the right to receive visitors and communicate with others; and the right to privacy.³²

Certain rights may be removed from a person by an order determining incapacity, but not delegated to a guardian. They include the right to marry (if the right to enter into a contract has been removed, the right to marry is subject to court approval); the right to vote; the right to personally apply for government benefits; the right to have a driver license; the right to travel; and the right to seek or retain employment.³³

Additionally, certain other "delegable" rights may be removed from a person by an order determining incapacity, and also delegated to a guardian. They include the rights to:

- Contract.
- Sue and defend lawsuits.
- Apply for government benefits.
- Manage property or to make any gift or disposition of property.
- Determine his or her residence.
- Make health care decisions.
- Make decisions about his or her social environment or other social aspects of his or her life.³⁴

Advance Directives

State law defines an advance directive as a witnessed, oral statement or written instruction that expresses a person's desires about any aspect of his or her future health care, including the designation of a health care surrogate, a living will, or an anatomical gift.³⁵ Designation of each of these can serve different purposes and have their own unique requirements and specifications under the law.³⁶

²⁹ Section 744.331(5)(c), F.S.

³⁰ Section 744.331(6), F.S.

³¹ Section 744.331(6)(b), F.S.

³² See s. 744.3215(1)(a)-(o), F.S. (specifying all retained rights).

³³ Section 744.3215(2)(a)-(f), F.S.

³⁴ Section 744.3215(3)(a)-(g), F.S.

³⁵ Section 765.101(1), F.S.

³⁶ See *id.*

One type of advance directive, an “order not to resuscitate” or a “do not resuscitate order,” results in the withholding of cardiopulmonary resuscitation from an individual if the order is presented to the health care professional treating the patient.³⁷ For the order to be valid, it must be on the yellow form adopted by the Department of Health, signed by the patient’s physician and by the patient, or if the patient is incapacitated, the patient’s health care surrogate or proxy, court-appointed guardian, or agent under a durable power of attorney.³⁸

A power of attorney is a writing that grants authority to an agent to act in the place of the principal.³⁹ A “durable” power of attorney is a kind of power of attorney that is not terminated by the principal’s incapacity.⁴⁰ Among many other things, a durable power of attorney may be used to allow another person to make health care decisions on behalf of an incapacitated principal.⁴¹

Guardian Advocates

A “guardian advocate” is a person appointed by a written order of the court to represent a person with developmental disabilities.⁴² A “developmental disability” means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.⁴³

Guardian advocacy is a circuit court process for family members, caregivers, or friends of individuals with a developmental disability to obtain the legal authority to act on their behalf if:

- The person lacks the decision-making ability to do some, but not all, of the decision-making tasks necessary to care for his or her person or property; or
- The person has voluntarily petitioned for the appointment of a guardian advocate.⁴⁴

State law recognizes the appointment of a guardian advocate as a less restrictive alternative to guardianship.⁴⁵ A guardian advocate can be appointed without having to declare the person with a developmental disability incapacitated.⁴⁶ The process of becoming a guardian advocate of a person with a developmental disability does not require the hiring of an attorney, although during

³⁷ See Fla. Admin. Code R. 64J-2.018(1).

³⁸ Section 401.45(3), F.S.; see also Fla. Admin. Code R. 64J-2.018(1)-(3).

³⁹ Section 709.2102(9), F.S.

⁴⁰ Section 709.2102(4), F.S.; see also s. 709.2104 (specifying that a power of attorney is durable if it contains the words: “This durable power of attorney is not terminated by subsequent incapacity of the principal except as provided in chapter 709, Florida Statutes,” or similar words that show the principal’s intent that the authority conferred is exercisable notwithstanding the principal’s subsequent incapacity).

⁴¹ See *id.*; see also The Florida Bar, *Consumer Pamphlet: Florida Power of Attorney, About the Power of Attorney*, available at <https://www.floridabar.org/public/consumer/pamphlet13/#about> (last visited Jan. 13, 2024).

⁴² Sections 393.063(20), F.S.; see also s. 393.12, F.S. (regulating the appointment of guardian advocates for persons with developmental disabilities).

⁴³ Section 393.063(11), F.S.

⁴⁴ See s. 393.12(2)(a), F.S.; see also Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 1, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocate_Law_and_Information_Guide.pdf (last visited Jan. 13, 2024).

⁴⁵ Section 744.3085, F.S.

⁴⁶ Section 393.12(2)(a), F.S.

the proceedings the court will appoint an attorney for the person with the developmental disability to ensure that his or her best interests are protected.⁴⁷

If the person lacks the capacity to make any decisions about his or her care, it may be more appropriate for the court to appoint a plenary guardian who is authorized to act on the person's behalf in all matters. The process of appointing a plenary guardian requires the court to determine that the person is incapacitated. Additionally, the person petitioning to become a plenary guardian must have an attorney.⁴⁸

A guardian advocate for a person with a developmental disability has the same powers, duties, and responsibilities required of a guardian under the guardianship statute or as defined by court order issued under the statute governing the appointment of guardian advocates.⁴⁹

The qualifications to serve as a guardian advocate are the same as those required of any guardian under the guardianship statute.⁵⁰ The court will also consider the wishes expressed by a developmentally disabled person as to whom will be appointed as his or her guardian advocate.⁵¹ A guardian advocate need not be the caregiver of the person with a disability.⁵²

Supported Decision-making

Generally

Supported decision-making (SDM) is a tool that allows people with disabilities to retain their decision-making capacity by choosing supporters to help them make choices.⁵³ SDM assumes that people commonly seek advice and guidance with respect to decision-making and, so long as people have the ability to communicate, they should also have the ability and right to make choices, and to have those choices honored by third parties.⁵⁴

A person using SDM selects trusted advisors, such as friends, family members, or professionals, to serve as supporters. The supporters then agree to help the person with a disability understand,

⁴⁷ Section 393.12(2)(b), F.S.; *see also* Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 2, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocacy_Law_and_information_Guide.pdf (last visited Jan. 13, 2024).

⁴⁸ Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 1, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocacy_Law_and_information_Guide.pdf (last visited Dec. 22, 2023).

⁴⁹ Section 393.12(10), F.S.

⁵⁰ Fifth Judicial Circuit, Lake County, Florida, *Florida Law and Guardian Advocacy: A Guide for Families and Friends of Developmentally Disabled Individuals* (Oct. 2014), at 2, available at <https://www.lakecountyclerk.org/forms/Guardianship/DavisGuardianAdvocacyManual.pdf> (last visited Jan. 13, 2024).

⁵¹ *Id.*

⁵² Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 2, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocacy_Law_and_information_Guide.pdf (last visited Jan. 13, 2024).

⁵³ American Civil Liberties Union, *Supported Decision-Making: Frequently Asked Questions*, available at https://www.aclu.org/wp-content/uploads/legal-documents/faq_about_supported_decision_making.pdf (last visited Jan. 13, 2024).

⁵⁴ Blanck, P., and Martinis, J., *The Right to Make Choices: The National Resource Center for Supported Decisionmaking*, 3 INCLUSION 24 (2015), available at www.bbi.syr.edu/publications/2015/SDM_Overview.pdf.

consider, and communicate decisions, giving the person with a disability the tools to make his or her own informed decisions.⁵⁵ For example, supporters can help a person using SDM by:

- Collecting and communicating information that is related to the decision.
- Helping to understand a problem and explore options.
- Explaining the risks and benefits of options.
- Giving guidance and recommendations.
- Assisting in communicating and carrying out decisions.⁵⁶

Although there is a structure and a process to SDM, it is also flexible and can be adapted to meet an individual's situation and needs. While SDM can vary from place to place and from individual to individual, it generally follows a four-step process:⁵⁷

- The individual identifies the areas where he or she needs decision-making assistance – e.g. health care, employment, relationships, finances, etc. – and the type of support he or she needs.
- The individual chooses supporters he or she trusts.
- Supporters commit to providing information to the individual so that he or she can make his or her own decisions, and honoring the individual's decisions.
- The individual and supporters execute an SDM agreement.⁵⁸

SDM Agreements

An SDM agreement is a written document evidencing an agreement between a disabled person and at least one supporter that describes, in detail, the type of help the person needs. The agreement outlines the terms and conditions of both parties and asks that third parties, including courts, recognize and respect the agreement. In an SDM agreement, those who can help in making decisions are called supporters; supporters agree to help explain information, answer questions, weigh options, and let others know about the decisions that are made. The supporter does not make the decisions. Although signed writings are not necessarily required, SDM agreements can be beneficial in helping doctors, bankers, lawyers, and other third parties to feel confident in accepting the decisions of people with disabilities without fearing lawsuits or malpractice claims.⁵⁹

⁵⁵ Disability Rights Florida, *What is Supported Decision-Making?*, <https://disabilityrightsflorida.org/disability-topics/disability-topic-info/what-is-supported-decision-making> (last visited Jan. 13, 2024).

⁵⁶ *Id.*

⁵⁷ Center for Public Representation, *About Supported Decision-Making: Does Supported Decision-Making work?*, <https://supporteddecisions.org/about-supported-decision-making/> (last visited Jan. 13, 2024).

⁵⁸ *Id.*

⁵⁹ Disability Rights Florida, *What is Supported Decision-Making?*, available at <https://disabilityrightsflorida.org/disability-topics/disability-topic-info/what-is-supported-decision-making> (last visited Jan. 13, 2024); American Civil Liberties Union, *Supported Decision-Making: Frequently Asked Questions*, available at https://www.aclu.org/wp-content/uploads/legal-documents/faq_about_supported_decision_making.pdf (last visited Jan. 13, 2024); see also National Resource Center for Supported Decision-Making, *Supported Decision-Making Model Agreements*, available at https://supporteddecisionmaking.org/resource_library/sdm-model-agreements/ (last visited Jan. 13, 2024) (providing model agreements from various jurisdictions).

State Legislation

SDM is gaining support at both state and federal levels of government. As of June 2023, 27 states and the District of Columbia have adopted some kind of SDM legislation.⁶⁰ SDM has also been recognized and endorsed by the Administration for Community Living of the U.S. Department of Health and Human Services, which funds the National Resource Center for Supported Decision-Making,⁶¹ and has gained international recognition, notably in the United Nations Convention on Rights of Persons with Disabilities.⁶²

III. Effect of Proposed Changes:

Although existing law already allows SDM,⁶³ it neither specifically regulates SDM agreements, nor expressly requires consideration of SDM in connection with the appointment of a guardian or guardian advocate. Accordingly, the bill amends several statutes, and also creates a new statute, in order to explicitly require consideration of SDM and SDM agreements as less restrictive alternatives to appointing a guardian or guardian advocate.

Considering SDM in Connection with the Appointment of Guardian Advocates

Section 1 of the bill amends the developmental disabilities statute⁶⁴ in connection with the appointment of guardian advocates.

When determining whether to appoint a guardian advocate, the bill amends the statute to require circuit courts to:

- Consider the person’s unique needs and abilities, including, but not limited to, the person’s ability to independently exercise his or her rights with appropriate assistance.
- Only delegate decision-making tasks that the person lacks the decision-making ability to exercise.

With respect to petitions to appoint a guardian advocate for persons with developmental disabilities, the bill amends the statute to require petitions to:

- Identify any other type of guardian advocacy or alternatives to guardian advocacy that the person has designated, is in currently, or has been in previously and the reasons why alternatives to guardian advocacy are insufficient to meet the needs of the person.

⁶⁰ American Bar Association, *Supported Decision-Making: A Statutory Chart*, Jun. 2023, available at https://www.americanbar.org/content/dam/aba/administrative/law_aging/2022-sdm-lst-rstctd-altntvs.pdf (identifying the 27 states as Alabama, Alaska, Arkansas, Arizona, California, Colorado, Delaware, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Minnesota, Montana, Nevada, New Hampshire, North Dakota, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming).

⁶¹ The National Resource Center for Supported Decision-Making provides many resources on SDM including, among other things, tools, state-level information, and newsletters and webinars. *See generally* National Resource Center for Supported Decision-Making, *Home*, available at <https://supporteddecisionmaking.org/> (last visited Jan. 13, 2024).

⁶² American Bar Association, *Less Restrictive Options*, Nov. 21, 2023, available at https://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/supported-decision-making/.

⁶³ *See, e.g.*, s. 765.523(1)(a), F.S. (identifying SDM services as one of several “auxiliary aids and services” for purposes of ensuring access to anatomical gifts and organ transplants).

⁶⁴ Section 393.12, F.S.

- State whether the person uses assistance to exercise his or her rights, including, but not limited to, SDM, and if so, why the assistance is inappropriate or insufficient to allow the person to independently exercise the person's rights.

The bill also amends the statute to require court orders appointing a guardian advocate to identify existing alternatives, and to include a finding as to the validity or sufficiency of such alternatives, to alleviate the need for the appointment of a guardian advocate.

Authorization and Regulation of SDM Agreements

Section 2 of the bill amends the powers of attorney statute⁶⁵ to include explicit authority to grant an SDM agreement as defined under the bill, if such authority is specifically limited.

Section 3 of the bill creates s. 709.2209, F.S., entitled "Supported decisionmaking agreements," to authorize and regulate SDM agreements. Specifically, the new statute:

- Defines the term "supported decisionmaking agreement" to mean an agreement in which the power of attorney grants an agent the authority to receive information and to communicate on behalf of the principal without granting the agent the authority to bind or act on behalf of the principal on any subject matter.
- Provides that an SDM agreement is not a durable power of attorney under state law, and that any language of durability in an SDM agreement is of no effect.
- Provides that an SDM agreement may only include the authority to:
 - Obtain information on behalf of the principal, including, but not limited to, protected health information under the Health Insurance Portability and Accountability Act of 1996, as amended;⁶⁶ educational records under the Family Educational Rights and Privacy Act of 1974;⁶⁷ or information protected under certain provisions of federal law.⁶⁸
 - Assist the principal in communicating with third parties, including conveying the principal's communications, decisions, and directions to third parties on behalf of the principal.
- Provides that a communication made by the principal with the assistance of or through an agent under an SDM agreement that is within the authority granted to the agent may be recognized as a communication of the principal.

Considering SDM in Connection with the Adjudication of Incapacity and Appointment of Guardians

Section 4 of the bill amends s. 744.3201, F.S., which identifies the information that must be included in a petition to determine incapacity, to require the petition to state whether the alleged incapacitated person uses assistance to exercise his or her rights, including, but not limited to, SDM, and if so, why the assistance is inappropriate or insufficient to allow the person to independently exercise the person's rights.

⁶⁵ Section 709.2201, F.S.

⁶⁶ 42 U.S.C. s. 1320d.

⁶⁷ 20 U.S.C. s. 1232g.

⁶⁸ 42 U.S.C. s. 290dd-2; 42 C.F.R. pt. 2.

Section 5 of the bill amends s. 744.331, F.S., which identifies the procedures to determine incapacity, to provide that an examining committee member may allow a person to assist in communicating with the alleged incapacitated person when requested by the court-appointed counsel for the alleged incapacitated person. The examining committee member must identify the person who provided assistance and describe the nature and method of assistance provided in his or her report.

Section 6 of the bill amends s. 744.464, F.S., which addresses how a ward may be restored from an adjudication of incapacity to capacity, to clarify that a suggestion of capacity must state that the ward is currently capable of exercising some or all of the rights which were removed, including the capability to independently exercise his or her rights with appropriate assistance.

Considering SDM in Connection with Accommodating Students with Disabilities in Public Schools

Section 7 of the bill amends s. 1003.5716, F.S., which regulates the development of an individual education plan for the purpose of accommodating students with disabilities in public schools, to include SDM agreements as one method by which students may provide informed consent to allow his or her parents to continue to participate in educational decisions.

Effective Date

Section 8 of the bill provides that it takes effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

Supported decision-making agreements will result in fewer expenditures relating to guardianships and guardian advocates to the extent that the SDM agreements substitute for the more costly arrangements.

C. Government Sector Impact:

The bill will reduce costs to the court system for guardianship and guardian advocate proceedings to the extent that those proceedings are replaced by supported decision-making agreements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.12, 709.2201, 744.3201, 744.331, 744.464, and 1003.5716.

This bill creates section 709.2209 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Garcia

36-00994-24

2024536__

1 A bill to be entitled
2 An act relating to community-based child welfare
3 agencies; amending s. 409.987, F.S.; revising
4 requirements for contracts the Department of Children
5 and Families has with community-based care lead
6 agencies; revising requirements for an entity to serve
7 as a lead agency; revising the definition of the term
8 "conflict of interest"; defining the term "related
9 party"; requiring the lead agency's board of directors
10 to disclose any known or potential conflicts of
11 interest; prohibiting a lead agency from entering into
12 a contract or being a party to a transaction that
13 creates a conflict of interest; requiring a lead
14 agency to submit to the department for approval any
15 contract involving related parties; imposing civil
16 penalties for lead agency contracts having undisclosed
17 conflicts of interest; amending s. 409.988, F.S.;
18 revising community-based care lead agency duties;
19 making technical changes; amending s. 409.990, F.S.;
20 requiring a lead agency to submit to the department a
21 spending plan approved by its board of directors which
22 satisfies certain requirements before funds may be
23 released; specifying requirements for the spending
24 plan; requiring the lead agency to submit a revised
25 spending plan to the department if the lead agency's
26 actual expenditures project an end-of-year deficit;
27 amending s. 409.991, F.S.; revising the definition of
28 the term "core services funds"; deleting definitions;
29 requiring that the allocation of core services funds

36-00994-24

2024536__

30 be based on a three-tiered payment model; providing
31 specifications for the payment model; requiring that
32 reports be submitted annually to the Governor and the
33 Legislature by a specified date; requiring that all
34 funding for core services be based on the department's
35 methodology; amending s. 409.992, F.S.; revising
36 requirements for lead agency practices in the
37 procurement of commodities and contractual services;
38 requiring the department to impose certain penalties
39 for a lead agency's noncompliance with applicable
40 procurement law; requiring lead agencies to comply
41 with established purchasing practices for the
42 procurement of real property and professional
43 services; revising certain limitations on the salaries
44 of community-based care lead agency administrative
45 employees and the amount of federal grant funds that
46 may be used for executive salaries; amending s.
47 409.994, F.S.; authorizing the department to petition
48 a court for the appointment of a receiver if the
49 secretary of the department determines that certain
50 conditions endanger the dependent children under a
51 lead agency's care; providing that a written
52 certification by the secretary of the department of
53 the dangerous conditions satisfies certain evidentiary
54 requirements; authorizing the department to petition
55 the court for the appointment of a receiver if the
56 lead agency is unlikely to meet its current financial
57 obligations; amending s. 409.996, F.S.; revising
58 requirements for contracts between the department and

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59 lead agencies; revising the actions the department may
60 take under certain circumstances; amending s. 409.997,
61 F.S.; deleting the requirement for an annual
62 performance report; amending s. 409.988, F.S.;
63 conforming a provision to changes made by the act;
64 providing an effective date.

65

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

67

68 Section 1. Subsections (3) and (4) and paragraphs (a) and
69 (b) of subsection (7) of section 409.987, Florida Statutes, are
70 amended, and paragraphs (g) and (h) are added to subsection (7)
71 of that section, to read:

72 409.987 Lead agency procurement; boards; conflicts of
73 interest.—

74 (3) Notwithstanding s. 287.057, the department shall use 5-
75 year contracts with lead agencies. The 5-year contract must be
76 reprocured at the end of each 5-year contract term. The contract
77 may be extended at the discretion of the department for up to 1
78 year, based on department needs.

79 (4) In order to serve as a lead agency, an entity must:

80 (a) Be organized as a Florida corporation or a governmental
81 entity.

82 (b) Be governed by a board of directors or a board
83 committee composed of board members. Board members shall provide
84 oversight and ensure accountability and transparency for the
85 system of care. The board of directors shall provide fiduciary
86 oversight to prevent conflicts of interest, promote
87 accountability and transparency, and protect state and federal

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88 funding from misuse. The membership of the board of directors or
89 board committee must be described in the bylaws or articles of
90 incorporation of each lead agency, which must provide that at
91 least 75 percent of the membership of the board of directors or
92 board committee must be composed ~~consist~~ of persons residing in
93 this state, and at least 51 percent of the state residents on
94 the board of directors must reside within the service area of
95 the lead agency. However, for procurements of lead agency
96 contracts initiated on or after July 1, 2014:

97 1. At least 75 percent of the membership of the board of
98 directors must be composed ~~consist~~ of persons residing in this
99 state, and at least 51 percent of the membership of the board of
100 directors must be composed ~~consist~~ of persons residing within
101 the service area of the lead agency. If a board committee
102 governs the lead agency, 100 percent of its membership must be
103 composed ~~consist~~ of persons residing within the service area of
104 the lead agency.

105 2. The powers of the board of directors or board committee
106 include, but are not limited to, approving the lead agency's
107 budget and setting the lead agency's operational policy and
108 procedures. A board of directors must additionally have the
109 power to hire the lead agency's executive director, unless a
110 board committee governs the lead agency, in which case the board
111 committee must have the power to confirm the selection of the
112 lead agency's executive director.

113 (c) Demonstrate financial responsibility through an
114 organized plan for regular fiscal audits and the posting of a
115 performance bond.

116 (7) (a) As used in this subsection, the term:

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117 1. "Activity" includes, but is not limited to, a contract
118 for goods and services, a contract for the purchase of any real
119 or tangible property, or an agreement to engage with a lead
120 agency for the benefit of a third party in exchange for an
121 interest in real or tangible property, a monetary benefit, or an
122 in-kind contribution.

123 2. "Conflict of interest" means when an employee, a board
124 member or an officer, or a relative of a board member or an
125 officer, of a lead agency does any of the following:

126 a. Enters into a contract or other transaction for goods or
127 services with the lead agency.

128 b. Holds a direct or indirect interest in a corporation,
129 limited liability corporation, partnership, limited liability
130 partnership, or other business entity that conducts business
131 with the lead agency or proposes to enter into a contract or
132 other transaction with the lead agency. For purposes of this
133 paragraph, the term "indirect interest" has the same meaning as
134 in s. 112.312.

135 c. Knowingly obtains a direct or indirect personal,
136 financial, professional, or other benefit as a result of the
137 relationship of such employee, board member or officer, or
138 relative of the board member or officer, with the lead agency.
139 For purposes of this paragraph, the term "benefit" does not
140 include per diem and travel expenses paid or reimbursed to board
141 members or officers of the lead agency in connection with their
142 service on the board.

143 3. "Related party" means any entity of which a director or
144 an executive of the entity is also directly or indirectly
145 related to, or has a direct or indirect financial or other

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146 material interest in, the lead agency. The term also includes
147 any subsidiary, parent entity, associate firm, or joint venture,
148 or any entity that is controlled, influenced, or managed by
149 another entity or an individual related to such entity,
150 including an individual who is, or was within the immediately
151 preceding 3 years, an executive officer or a board member of the
152 entity.

153 ~~4.3-~~ "Relative" means a relative within the third degree of
154 consanguinity by blood or marriage.

155 (b)1. The lead agency's board of directors is responsible
156 for all activity and contractual obligations of the lead agency
157 and must disclose to the department any known or potential
158 conflicts of interest. This duty to disclose is ongoing for the
159 duration of each contract or relevant activity of the lead
160 agency ~~For any activity that is presented to the board of a lead~~
161 ~~agency for its initial consideration and approval after July 1,~~
162 ~~2021, or any activity that involves a contract that is being~~
163 ~~considered for renewal on or after July 1, 2021, but before~~
164 ~~January 1, 2022, a board member or an officer of a lead agency~~
165 ~~shall disclose to the board any activity that may reasonably be~~
166 ~~construed to be a conflict of interest before such activity is~~
167 ~~initially considered and approved or a contract is renewed by~~
168 ~~the board. A rebuttable presumption of a conflict of interest~~
169 ~~exists if the activity was acted on by the board without prior~~
170 ~~notice as required under paragraph (c).~~

171 2. A lead agency may not enter into a contract or be a
172 party to any transaction that creates a conflict of interest.
173 The lead agency must submit to the department, for their review
174 and approval, any proposed contract for allowable services

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175 involving related parties, prior to contract award and
176 execution. For contracts with a lead agency which are in
177 existence on July 1, 2021, and are not subject to renewal before
178 January 1, 2022, a board member or an officer of the lead agency
179 shall disclose to the board any activity that may reasonably be
180 construed to be a conflict of interest under this section by
181 December 31, 2021.

182 (g) Civil penalties in the amount of \$5,000 per occurrence
183 shall be imposed for each known and potential conflict of
184 interest which is not disclosed to the department.

185 (h) A contract procured for which there was a conflict of
186 interest that was not disclosed shall result in:

187 1. A civil penalty in the amount of \$50,000 for a first
188 offense.

189 2. A civil penalty in the amount of \$100,000 for a second
190 or subsequent offense.

191 (i) Any contract procured in this manner must be
192 reprocured.

193 Section 2. Subsection (1) of section 409.988, Florida
194 Statutes, is amended to read:

195 409.988 Community-based care lead agency duties; general
196 provisions.—

197 (1) DUTIES.—A lead agency:

198 (a)1. Shall serve:

199 a. All children referred as a result of a report of abuse,
200 neglect, or abandonment to the department's central abuse
201 hotline, including, but not limited to, children who are the
202 subject of verified reports and children who are not the subject
203 of verified reports but who are at moderate to extremely high

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204 risk of abuse, neglect, or abandonment, as determined using the
205 department's risk assessment instrument, regardless of the level
206 of funding allocated to the lead agency by the state if all
207 related funding is transferred.

208 b. Children who were adopted from the child welfare system
209 and whose families require postadoption supports.

210 2. May also serve children who have not been the subject of
211 reports of abuse, neglect, or abandonment, but who are at risk
212 of abuse, neglect, or abandonment, to prevent their entry into
213 the child protection and child welfare system.

214 (b) Shall provide accurate and timely information necessary
215 for oversight by the department pursuant to the child welfare
216 results-oriented accountability system required by s. 409.997.

217 (c) Shall follow the financial guidelines developed by the
218 department and shall comply with regular, independent auditing
219 of its financial activities, including any requests for records
220 associated with such financial audits within the timeframe
221 established by the department or its contracted vendors ~~provide~~
222 ~~for a regular independent auditing of its financial activities.~~
223 The results of the financial audit must ~~Such financial~~
224 ~~information shall~~ be provided to the community alliance
225 established under s. 20.19(5).

226 (d) Shall prepare all judicial reviews, case plans, and
227 other reports necessary for court hearings for dependent
228 children, except those related to the investigation of a
229 referral from the department's child abuse hotline, and shall
230 submit these documents timely to the department's attorneys for
231 review, any necessary revision, and filing with the court. The
232 lead agency shall make the necessary staff available to

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233 department attorneys for preparation for dependency proceedings,
234 and shall provide testimony and other evidence required for
235 dependency court proceedings in coordination with the
236 department's attorneys. This duty does not include the
237 preparation of legal pleadings or other legal documents, which
238 remain the responsibility of the department. Timely submission
239 of documents by the lead agency to the department's attorneys
240 includes the following parameters:

241 1. All documents prepared and kept by the lead agency must
242 be made available at the request of the department's attorneys
243 within 1 business day.

244 2. Before each court hearing, the department's attorneys
245 and the case manager must confer on any case to be heard in
246 court. For dependency and termination of parental rights
247 adjudicatory hearings, the department's attorneys and the case
248 manager must confer no fewer than 3 days before the hearing.

249 3. For judicial review hearings, the department's attorneys
250 and the case manager must confer no fewer than 3 days before the
251 hearing, provided that the attorneys receive from the case
252 manager the judicial review social study report 10 business days
253 before the hearing.

254 (e) Shall ensure that all individuals providing care for
255 dependent children receive:

256 1. Appropriate training and meet the minimum employment
257 standards established by the department. Appropriate training
258 shall include, but is not limited to, training on the
259 recognition of and responses to head trauma and brain injury in
260 a child under 6 years of age developed by the Child Protection
261 Team Program within the Department of Health.

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262 2. Contact information for the local mobile response team
263 established under s. 394.495.

264 (f) Shall maintain eligibility to receive all available
265 federal child welfare funds.

266 (g) Shall adhere to all best child welfare practices under
267 ss. 39.4087, 39.523, 409.1415, and 409.145.

268 (h) Shall maintain written agreements with Healthy Families
269 Florida lead entities in its service area pursuant to s. 409.153
270 to promote cooperative planning for the provision of prevention
271 and intervention services.

272 (i) Shall comply with federal and state statutory
273 requirements and agency rules in the provision of contractual
274 services. Any subcontract in excess of the simplified
275 acquisition threshold specified in 2 C.F.R. part 200 must comply
276 with the competitive procurement process in chapter 287.

277 (j) May subcontract for the provision of services,
278 excluding administrative and management functions, required by
279 the contract with the lead agency and the department; however,
280 the subcontracts must specify how the provider will contribute
281 to the lead agency meeting the performance standards established
282 pursuant to the child welfare results-oriented accountability
283 system required by s. 409.997. The lead agency shall directly
284 provide no more than 35 percent of all child welfare services
285 ~~provided unless it can demonstrate a need, within the lead~~
286 ~~agency's geographic service area, to exceed this threshold. The~~
287 ~~local community alliance in the geographic service area in which~~
288 ~~the lead agency is seeking to exceed the threshold shall review~~
289 ~~the lead agency's justification for need and recommend to the~~
290 ~~department whether the department should approve or deny the~~

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291 ~~lead agency's request for an exemption from the services~~
292 ~~threshold. If there is not a community alliance operating in the~~
293 ~~geographic service area in which the lead agency is seeking to~~
294 ~~exceed the threshold, such review and recommendation shall be~~
295 ~~made by representatives of local stakeholders, including at~~
296 ~~least one representative from each of the following:~~

- 297 ~~1. The department.~~
- 298 ~~2. The county government.~~
- 299 ~~3. The school district.~~
- 300 ~~4. The county United Way.~~
- 301 ~~5. The county sheriff's office.~~
- 302 ~~6. The circuit court corresponding to the county.~~
- 303 ~~7. The county children's board, if one exists.~~

304 (k) Shall publish on its website by the 15th day of each
305 month at a minimum the data specified in subparagraphs 1.-9. ~~1.-~~
306 ~~5.~~, calculated using a standard methodology determined by the
307 department, for the preceding calendar month regarding its case
308 management services. The following information must ~~shall~~ be
309 reported by each individual subcontracted case management
310 provider, by the lead agency, if the lead agency provides case
311 management services, and in total for all case management
312 services subcontracted or directly provided by the lead agency:

- 313 1. The average caseload of case managers, including only
314 filled positions;
- 315 2. The total number and percentage of case managers who
316 have 25 or more cases on their caseloads;
- 317 3. The turnover rate for case managers and case management
318 supervisors for the previous 12 months;
- 319 4. The percentage of required home visits completed; ~~and~~

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320 5. Performance on outcome measures required pursuant to s.
321 409.997 for the previous 12 months;~~-~~

322 6. The number of unlicensed placements for the previous
323 month;

324 7. The percentages and trends for foster parent and group
325 home recruitment and licensure for the previous month;

326 8. The percentage of families being served through family
327 support, in-home, and out-of-home services for the previous
328 month; and

329 9. The percentage of cases that converted from nonjudicial
330 to judicial for the previous month.

331 (l) Shall identify an employee to serve as a liaison with
332 the community alliance and community-based and faith-based
333 organizations interested in collaborating with the lead agency
334 or offering services or other assistance on a volunteer basis to
335 the children and families served by the lead agency. The lead
336 agency shall ensure that appropriate lead agency staff and
337 subcontractors, including, but not limited to, case managers,
338 are informed of the specific services or assistance available
339 from community-based and faith-based organizations.

340 (m) Shall include the statement "... (community-based care
341 lead agency name)... is a community-based care lead agency
342 contracted with the Department of Children and Families" on its
343 website and, at a minimum, in its promotional literature, lead
344 agency-created documents and forms provided to families served
345 by the lead agency, business cards, and stationery letterhead.

346 (n) Shall ensure that it is addressing the unique needs of
347 the fathers of children who are served by the lead agency.

348 1. The lead agency shall:

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349 a. Conduct an initial assessment of its engagement with
350 such fathers and provision of and referral to father-oriented
351 services.

352 b. Create an action plan to address any gaps identified
353 through the assessment and implement the action plan.

354 c. Employ a father-engagement specialist to, at a minimum,
355 build relationships with fathers, help identify their needs,
356 assist them in accessing services, and communicate with the lead
357 agency about the challenges faced by these fathers and how to
358 appropriately meet their unique needs. The lead agency shall
359 prioritize individuals who have faced experiences similar to the
360 fathers who are being served by the lead agency for selection as
361 a father-engagement specialist.

362 2. The department shall annually review how the lead agency
363 is meeting the needs of fathers, including, at a minimum, how
364 the lead agency is helping fathers establish positive, stable
365 relationships with their children and assisting fathers in
366 receiving needed services. The lead agency shall provide any
367 relevant information on how it is meeting the needs of these
368 fathers to the department, which must be included in the report
369 required under s. 409.997.

370 Section 3. Present subsections (2) through (8) of section
371 409.990, Florida Statutes, are redesignated as subsections (3)
372 through (9), respectively, and a new subsection (2) is added to
373 that section, to read:

374 409.990 Funding for lead agencies.—A contract established
375 between the department and a lead agency must be funded by a
376 grant of general revenue, other applicable state funds, or
377 applicable federal funding sources.

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378 (2) Before the release of funds, each lead agency shall
 379 submit a detailed spending plan, approved by its board of
 380 directors, to the department for all projected expenditures for
 381 the fiscal year. The spending plan must demonstrate that core
 382 expenditures will not exceed the appropriated amount of core
 383 services funds and that the plan reserves a certain amount of
 384 funding for unanticipated expenses. Each lead agency must
 385 receive its statutory 2-month advance; however, the department
 386 may not release additional funds until it has reviewed and
 387 approved the lead agency's spending plan. At any point during
 388 the year, if a lead agency's actual expenditures project an end-
 389 of-year deficit, the lead agency must submit a revised spending
 390 plan to the department. The revised spending plan must reflect
 391 actions the lead agency will take to remain within appropriated
 392 core services fund amounts for the remainder of the fiscal year.

393 Section 4. Section 409.991, Florida Statutes, is amended to
 394 read:

395 409.991 Allocation of funds for community-based care lead
 396 agencies.—

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

398 ~~(a)~~—“core services funds” means all funds allocated to
 399 ~~community-based care~~ lead agencies operating under contract with
 400 the department pursuant to s. 409.987. The term does not include
 401 any of, with the following ~~exceptions~~:

402 (a)1. Funds appropriated for independent living services.

403 (b)2. Funds appropriated for maintenance adoption
 404 subsidies.

405 (c)3. Funds allocated by the department for child
 406 protective investigation service ~~investigations~~ training.

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- 407 (d)~~4.~~ Nonrecurring funds.~~;~~
- 408 (e)~~5.~~ Designated mental health wrap-around service ~~services~~
- 409 funds.~~;~~
- 410 (f)~~6.~~ Funds for special projects for a designated
- 411 ~~community-based care lead agency.~~~~;~~ and
- 412 (g)~~7.~~ Funds appropriated for the Guardianship Assistance
- 413 Program established under s. 39.6225.
- 414 ~~(b) "Equity allocation model" means an allocation model~~
- 415 ~~that uses the following factors:~~
- 416 ~~1. Proportion of the child population;~~
- 417 ~~2. Proportion of child abuse hotline workload; and~~
- 418 ~~3. Proportion of children in care.~~
- 419 ~~(c) "Proportion of child population" means the proportion~~
- 420 ~~of children up to 18 years of age during the previous calendar~~
- 421 ~~year in the geographic area served by the community-based care~~
- 422 ~~lead agency.~~
- 423 ~~(d) "Proportion of child abuse hotline workload" means the~~
- 424 ~~weighted average of the following subcomponents:~~
- 425 ~~1. The average number of initial and additional child abuse~~
- 426 ~~reports received during the month for the most recent 12 months~~
- 427 ~~based on child protective investigations trend reports as~~
- 428 ~~determined by the department. This subcomponent shall be~~
- 429 ~~weighted as 20 percent of the factor.~~
- 430 ~~2. The average count of children in investigations in the~~
- 431 ~~most recent 12 months based on child protective investigations~~
- 432 ~~trend reports as determined by the department. This subcomponent~~
- 433 ~~shall be weighted as 40 percent of the factor.~~
- 434 ~~3. The average count of children in investigations with a~~
- 435 ~~most serious finding of verified abuse in the most recent 12~~

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436 ~~months based on child protective investigations trend reports as~~
437 ~~determined by the department. This subcomponent shall be~~
438 ~~weighted as 40 percent of the factor.~~

439 ~~(e) "Proportion of children in care" means the proportion~~
440 ~~of the number of children in care receiving in-home services~~
441 ~~over the most recent 12-month period, the number of children~~
442 ~~whose families are receiving family support services over the~~
443 ~~most recent 12-month period, and the number of children who have~~
444 ~~entered into out-of-home care with a case management overlay~~
445 ~~during the most recent 24-month period. This subcomponent shall~~
446 ~~be weighted as follows:~~

447 ~~1. Fifteen percent shall be based on children whose~~
448 ~~families are receiving family support services.~~

449 ~~2. Fifty-five percent shall be based on children in out-of-~~
450 ~~home care.~~

451 ~~3. Thirty percent shall be based on children in in-home~~
452 ~~care.~~

453 (2) Allocation of core services funds must be based on an
454 actuarially sound, tiered payment model. The tiered model's
455 purpose is to achieve the overarching goals of a stable payment
456 model that adjusts to workload and incentivizes prevention,
457 family preservation, and permanency.

458 (a) Tier 1 provides operational base costs, including
459 administrative and other expenses that do not vary based on the
460 number of children and families served. Tier 1 payments may vary
461 by geographic catchment area and cost of living differences. The
462 department shall establish and annually update Tier 1 payment
463 rates to maintain cost expectations that are aligned with the
464 population served, services provided, and environment.

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465 (b) Tier 2 is a per-child, per-month payment designed to
466 provide funding for lead agencies' expenses that vary based on
467 the number of children served for a particular month. The
468 payment rate blends out-of-home rates and in-home rates specific
469 to each lead agency to create a rate that provides a financial
470 incentive to lead agencies to provide services in the least
471 restrictive safe placement. The department shall establish and
472 annually update Tier 2 payment rates to maintain cost
473 expectations that are aligned with the population served,
474 services provided, and environment. Tier 2 rates must be set
475 annually.

476 (c) Tier 3 provides financial incentives that the
477 department shall establish to reward lead agencies that achieve
478 performance measures aligned with the department's goals of
479 prevention, family preservation, and permanency.

480 ~~(2) The equity allocation of core services funds shall be~~
481 ~~calculated based on the following weights:~~

482 ~~(a) Proportion of the child population shall be weighted as~~
483 ~~5 percent of the total.~~

484 ~~(b) Proportion of child abuse hotline workload shall be~~
485 ~~weighted as 35 percent of the total.~~

486 ~~(c) Proportion of children in care shall be weighted as 60~~
487 ~~percent of the total.~~

488 (3) By December 1 of each year, the department shall submit
489 a report to the Governor, the President of the Senate, and the
490 Speaker of the House of Representatives which includes each lead
491 agency's actual performance in attaining the previous fiscal
492 year's targets, recommendations for adjustments to lead agency
493 funding, and adjustments to the tiered payment model, if

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494 ~~necessary~~ Beginning in the 2015-2016 state fiscal year, 100
495 percent of the recurring core services funding for each
496 community-based care lead agency shall be based on the prior
497 year recurring base of core services funds.

498 (4) Unless otherwise specified in the General
499 Appropriations Act, the department shall allocate all funding
500 for core services, based on the department's methodology any new
501 core services funds shall be allocated based on the equity
502 allocation model as follows:

503 ~~(a) Seventy percent of new funding shall be allocated among~~
504 ~~all community-based care lead agencies.~~

505 ~~(b) Thirty percent of new funding shall be allocated among~~
506 ~~community-based care lead agencies that are funded below their~~
507 ~~equitable share. Funds allocated pursuant to this paragraph~~
508 ~~shall be weighted based on each community-based care lead~~
509 ~~agency's relative proportion of the total amount of funding~~
510 ~~below the equitable share.~~

511 Section 5. Subsections (1) and (3) of section 409.992,
512 Florida Statutes, are amended to read:

513 409.992 Lead agency expenditures.—

514 (1) The procurement of commodities or contractual services
515 by lead agencies is ~~shall be~~ governed by the financial
516 guidelines developed by the department and must comply with
517 applicable state and federal law and follow good business
518 practices. Pursuant to s. 11.45, the Auditor General may provide
519 technical advice in the development of the financial guidelines.

520 (a) Lead agencies shall competitively procure all
521 contracts, consistent with the simplified acquisition threshold
522 as specified in 2 C.F.R. part 200. Financial penalties or

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523 sanctions, as established by the department and incorporated
524 into the contract, shall be imposed by the department for
525 noncompliance with applicable local, state, or federal law for
526 the procurement of commodities or contractual services.

527 (b) Notwithstanding s. 402.73, for procurement of real
528 property or professional services, lead agencies shall comply
529 with established purchasing practices, including the provisions
530 of s. 287.055, as required, for professional services, including
531 engineering or construction design. Upon termination of the lead
532 agency's contract, the department shall immediately retain all
533 rights to and ownership of real property procured.

534 (3) Notwithstanding any other provision of law, a
535 community-based care lead agency administrative employee may not
536 receive a salary, whether base pay or base pay combined with any
537 bonus or incentive payments, in excess of 150 percent of the
538 annual salary paid to the secretary of the Department of
539 Children and Families from state-appropriated funds, including
540 state-appropriated federal funds. This limitation applies
541 regardless of the number of contracts a community-based care
542 lead agency may execute with the department. Additionally, the
543 amount of federal grant funds that may be used for an executive
544 salary may not exceed the Executive Level II salary level, as
545 directed by the federal Health Resources and Services
546 Administration. This subsection does not prohibit any party from
547 providing cash that is not from appropriated state funds to a
548 community-based care lead agency administrative employee.

549 Section 6. Paragraphs (c) and (d) of subsection (1) of
550 section 409.994, Florida Statutes, are amended to read:

551 409.994 Community-based care lead agencies; receivership.-

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552 (1) The Department of Children and Families may petition a
553 court of competent jurisdiction for the appointment of a
554 receiver for a community-based care lead agency established
555 pursuant to s. 409.987 if any of the following conditions exist:

556 (c) The secretary of the department determines that
557 conditions exist in the lead agency which present a ~~an imminent~~
558 danger to the health, safety, or welfare of the dependent
559 children under that agency's care or supervision. A written
560 certification of such conditions by the secretary of the
561 department constitutes prima facie evidence that this
562 requirement is satisfied. Whenever possible, the department
563 shall make a reasonable effort to facilitate the continued
564 operation of the program.

565 (d) The lead agency cannot meet, or is unlikely to meet,
566 its current financial obligations to its employees, contractors,
567 or foster parents. Issuance of bad checks or the existence of
568 delinquent obligations for payment of salaries, utilities, or
569 invoices for essential services or commodities constitutes ~~shall~~
570 ~~constitute~~ prima facie evidence that the lead agency lacks the
571 financial ability to meet its financial obligations.

572 Section 7. Paragraph (d) of subsection (1) of section
573 409.996, Florida Statutes, is amended to read:

574 409.996 Duties of the Department of Children and Families.—
575 The department shall contract for the delivery, administration,
576 or management of care for children in the child protection and
577 child welfare system. In doing so, the department retains
578 responsibility for the quality of contracted services and
579 programs and shall ensure that, at a minimum, services are
580 delivered in accordance with applicable federal and state

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581 statutes and regulations and the performance standards and
582 metrics specified in the strategic plan created under s.
583 20.19(1).

584 (1) The department shall enter into contracts with lead
585 agencies for the performance of the duties by the lead agencies
586 established in s. 409.988. At a minimum, the contracts must do
587 all of the following:

588 (d) Provide for contractual actions ~~tiered interventions~~
589 ~~and graduated penalties~~ for failure to comply with contract
590 terms or in the event of performance deficiencies, as determined
591 appropriate by the department. Such interventions and penalties
592 must ~~shall~~ include, but are not limited to:

593 1. ~~Enhanced monitoring and reporting.~~

594 2. ~~Corrective action plans.~~

595 2.3. ~~Requirements to accept technical assistance and~~
596 ~~consultation from the department under subsection (6).~~

597 3.4. ~~Financial penalties, which shall require a lead agency~~
598 ~~to direct reallocate funds from administrative costs to the~~
599 ~~department. The department shall use the funds collected to~~
600 ~~support service delivery of quality improvement activities for~~
601 ~~children in the lead agency's care to direct care for children.~~

602 These penalties may be imposed for failure to provide timely,
603 sufficient resolution of deficiencies resulting in a corrective
604 action plan or other performance improvement plan issued by the
605 department. Financial penalties may include liquidated damages.

606 4. The department shall include in each lead agency
607 contract executed a provision that requires payment to the
608 department of sanctions or disincentives for failure to comply
609 with contractual obligations. The department shall establish a

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610 schedule of daily monetary sanctions or disincentives for lead
611 agencies, which schedule shall be incorporated by reference into
612 the contract. Contracts must, at a minimum, include sanctions or
613 disincentives for failure to comply with the following:

614 (I) A corrective action plan;

615 (II) A child placement agreement that includes all required
616 safety and care precautions and behavior management plans needed
617 to keep the children and others safe;

618 (III) State and federal law requirements for the
619 procurement of commodities or contractual services;

620 (IV) State and federal law requirements for related parties
621 which address conflicts of interest;

622 (V) Disclosure or reporting of any conflict of interest to
623 the department;

624 (VI) Provision of timely data and information as requested
625 by the department or its contracted vendors; and

626 (VII) Maintenance of an adequate network of placement
627 arrangements based on the needs of the children in the lead
628 agency's care, including placement locations that are licensed
629 or that provide an authorized setting or stable nightly
630 placements.

631

632 The department is solely responsible for determining the
633 monetary value of liquidated damages.

634 5. Early termination of contracts, as provided in s.
635 402.1705(3)(f).

636 Section 8. Paragraph (g) of subsection (2) of section
637 409.997, Florida Statutes, is amended to read:

638 409.997 Child welfare results-oriented accountability

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639 program.—

640 (2) The purpose of the results-oriented accountability
641 program is to monitor and measure the use of resources, the
642 quality and amount of services provided, and child and family
643 outcomes. The program includes data analysis, research review,
644 and evaluation. The program shall produce an assessment of
645 individual entities' performance, as well as the performance of
646 groups of entities working together on a local, judicial
647 circuit, regional, and statewide basis to provide an integrated
648 system of care. Data analyzed and communicated through the
649 accountability program shall inform the department's development
650 and maintenance of an inclusive, interactive, and evidence-
651 supported program of quality improvement which promotes
652 individual skill building as well as organizational learning.
653 The department may use data generated by the program regarding
654 performance drivers, process improvements, short-term and long-
655 term outcomes, and quality improvement efforts to determine
656 contract compliance and as the basis for payment of performance
657 incentives if funds for such payments are made available through
658 the General Appropriations Act. The information compiled and
659 utilized in the accountability program must incorporate, at a
660 minimum:

661 ~~(g) An annual performance report that is provided to~~
662 ~~interested parties including the dependency judge or judges in~~
663 ~~the community-based care service area. The report shall be~~
664 ~~submitted to the Governor, the President of the Senate, and the~~
665 ~~Speaker of the House of Representatives by November 15 of each~~
666 ~~year.~~

667 Section 9. Paragraph (n) of subsection (1) of section

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668 409.988, Florida Statutes, is amended to read:

669 409.988 Community-based care lead agency duties; general
670 provisions.—

671 (1) DUTIES.—A lead agency:

672 (n) Shall ensure that it is addressing the unique needs of
673 the fathers of children who are served by the lead agency.

674 1. The lead agency shall:

675 a. Conduct an initial assessment of its engagement with
676 such fathers and provision of and referral to father-oriented
677 services.

678 b. Create an action plan to address any gaps identified
679 through the assessment and implement the action plan.

680 c. Employ a father-engagement specialist to, at a minimum,
681 build relationships with fathers, help identify their needs,
682 assist them in accessing services, and communicate with the lead
683 agency about the challenges faced by these fathers and how to
684 appropriately meet their unique needs. The lead agency shall
685 prioritize individuals who have faced experiences similar to the
686 fathers who are being served by the lead agency for selection as
687 a father-engagement specialist.

688 2. The department shall annually review how the lead agency
689 is meeting the needs of fathers, including, at a minimum, how
690 the lead agency is helping fathers establish positive, stable
691 relationships with their children and assisting fathers in
692 receiving needed services. The lead agency shall provide any
693 relevant information on how it is meeting the needs of these
694 fathers to the department, ~~which must be included in the report~~
695 ~~required under s. 409.997.~~

696 Section 10. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 536

INTRODUCER: Senator Garcia

SUBJECT: Community-based Child Welfare Agencies

DATE: January 15, 2023

REVISED: _____

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

I. Summary:

The Department of Children and Families (DCF) mission is to work in partnership with local communities to protect the vulnerable, promote strong economically self-sufficient families, and advance personal and family recovery and resiliency. The DCF must delivery services by contract through private providers, including community-based care lead agencies (CBCs) delivering child welfare services. The DCF is responsible for program oversight and the overall performance of the child welfare system

SB 536 amends laws related to DCF contracts with CBCs to increase transparency and accountability of the services provided by the CBCs. Specifically, the bill:

- Requires DCF to reprocure contracts with CBCs every five years to incentivize performance, encourage competition within the provider network, and require competitive procurement of all CBC subcontracts above \$250,000.
- Limits executive compensation funded through CBC contracts to a capped total amount regardless of how many contracts the CBC has with DCF.
- Requires a CBC’s board of directors to ensure accountability and transparency of operations in addition to providing fiduciary oversight.
- Prohibits a CBC from contracting out administrative and management functions with a related party and requires DCF’s approval prior to a CBC entering a contract with a related party.
- Prohibits a CBC from directly providing more than 35 percent of child welfare services in its catchment area.
- Expands those who may have a conflict of interest to include a CBC employee and includes a financial penalty on a CBC for failure to disclose known conflicts of interest.
- Requires DCF to retain ownership of real property purchased through a CBC contract.

- Revises the criteria for corrective action plans to allow more timely action by DCF for performance deficiencies and allows DCF to petition for receivership when DCF's secretary determines there is a danger to children under the CBC's care.
- Requires CBCs to comply with all financial audits and request for records.
- Requires DCF to include monetary sanctions or disincentives for performance deficiencies in CBC contracts.
- Expands the information a CBC must publish on its website to include the number of unlicensed placements, foster parent recruiting and licensing efforts, and other information.
- Requires the CBCs to submit information timely to DCF to prevent delays of judicial review hearings.
- The bill amends the current statutory funding model for the allocation of funds to CBCs from an equity model to an actuarially sound model using a tiered methodology.
- The bill also requires CBCs to submit to DCF spending plans that align with budgeted allocations prior to receiving monthly allocations.

The bill has no fiscal impact on state government and an indeterminate fiscal impact on the private sector. See Section V. Fiscal Impact Statement.

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

II. Present Situation:

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline (hotline) and child protective investigations. The Department of Children and Families (DCF) and community-based care lead agencies (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 children.

The child welfare system includes the following key elements:

- A report to the hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent, if the child is determined to need such protection.
- Case planning to address the problems resulting in the child's dependency.
- Reunification with the child's parents or another option to establish permanency, such as adoption.

The DCF is responsible for program oversight and the overall performance of the child welfare system.¹

¹ Office of Program Policy Analysis & Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, Report No. 06-50, June 2006, available at: <https://oppaga.fl.gov/Documents/Reports/06-50.pdf>.

Department of Children and Families

The DCF's mission is to work in partnerships with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.² The DCF must develop a strategic plan to fulfil this mission and establish measurable goals, objectives, performance standards, and quality assurance requirements to ensure DCF is accountable to taxpayers.³

The DCF must deliver services by contract through private providers to the extent allowed by law and funding.⁴ These private providers include Community-Based Care Lead Agencies (CBC) delivering child welfare services.

The total agency budget is \$4,847,138,852.⁵

Community-Based Care Lead Agencies

Community-based care combines the outsourcing of foster care and related services to local nonprofits with an increased local community ownership of service delivery and design.⁶ CBCs are responsible for providing foster care and related services, including, but not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.⁷ Because CBCs are to partner with community providers to meet the needs of children and families in its service area, the CBCs contract with subcontractors for case management and direct care services to children and families.⁸ The CBCs are to plan, administer, and coordinate the delivery of client services, ensure compliance with federal and state laws, rules, and regulations, and monitor subcontractors.⁹ There are 17 CBCs statewide, which serve the state's 20 judicial circuits.¹⁰

A CBC is statutorily limited from directly providing more than 35 percent of all child welfare services in its catchment area unless it can demonstrate a justification for need to exceed the 35 percent threshold.¹¹ The local community alliance¹² in the CBC's service area must review the CBC's justification for need to exceed the threshold and recommend whether DCF should

² Section 20.19(1), F.S.

³ *Id.*

⁴ *Id.*

⁵ Governor Ron Desantis, *Focus on Florida's Future*, available at <http://www.bolderbrighterbetterfuture.com/web%20forms/Budget/BudgetAgency.aspx> (last visited Jan 10, 2024).

⁶ Florida Department of Children and Families, *Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care> (last visited Jan. 10, 2024).

⁷ Section 409.145(1), F.S.

⁸ *Id.*

⁹ Section 409.988, F.S.

¹⁰ Florida Department of Children and Families, *Lead Agency Information*, <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited Jan. 13, 2024).

¹¹ Section 409.988(1)(j), F.S.

¹² Section 20.19(5), F.S., requires the DCF, in consultation with local communities, to establish community alliances of the stakeholders, community leaders, client representatives and funders of human services in each county to provide a focal point for community participation and governance of community-based services.

approve or deny the justification.¹³ Currently, nine CBCs utilize the waiver to exceed the 35 percent threshold.¹⁴

CBCs are obligated to perform several duties, including:

- Serve children referred to the CBC as a result of abuse, neglect, or abandonment hotline reports.
- Provide DCF with accurate and timely information necessary for DCF oversight.
- Follow financial guidelines developed by DCF and provide for regular independent audits.
- Prepare and file all necessary court documents and attend dependency court proceedings.
- Ensure all individuals providing care to dependent children receive training and specified information and meet employment requirements.
- Maintain eligibility to receive all available federal child welfare funds.
- Adhere to all best child welfare practices.
- Maintain written agreements with Healthy Families Florida entities in its service area to promote cooperative planning for the provision of prevention and intervention services.
- Comply with federal and state statutory requirements and agency rules in the provision of contractual services.
- Use authority to subcontract for the provision of services provided CBCs contribute to services and meet specified criteria.
- Identify an employee to serve as a liaison with the community alliance and community-based and faith-based organizations interested in collaborating or offering services or other assistance on a volunteer basis to the children and families served by the CBC.
- Ensure that appropriate CBC staff and subcontractors are informed of the specific services or assistance available from local community-based and faith-based organizations.
- Identify it as a DCF contractor on its website and promotional literature.
- Ensure that it is addressing the unique needs of the fathers of children who are served by the CBC by employing a father-engagement specialist.
- Post information regarding case management services on its website by a specified date, including the average caseload of case managers for filled positions, the turnover rate for case managers and their supervisors for the previous 12 months, the percentage of required home visits completed, and performance on outcome measures required under s. 409.997, F.S., for the previous 12 months.¹⁵

There are minimum requirements with which CBCs must comply to be eligible to contract with DCF, including:

- Being organized as a Florida corporation or a governmental entity.¹⁶

¹³ *Supra* note 11.

¹⁴ Florida Department of Children and Families, 2024 Agency Analysis, pg. 4. (on file with the Children, Families, and Elder Affairs Committee). The nine CBCs that currently exceed the 35 percent threshold include: Kids First of Florida, Inc.; Childnet, Inc. (Palm Beach); Childnet, Inc. (Broward); Community Partnership for Children, Inc.; Brevard Family Partnerships; Family Integrity Program (St. Johns County); Kids Central, Inc.; Safe Children Coalition; and Children's Network of Southwest Florida.

¹⁵ Section 409.988(1), F.S.

¹⁶ Section 409.987(4)(a), F.S.

- Having a board of directors or board committee with authority to approve the CBC budget and hire a CBC executive director.¹⁷
- Demonstrating financial responsibility by having a plan for regular fiscal audits and securing performance bond.¹⁸

The DCF must ensure contracts with CBCs:

- Provide for the services as required under s. 409.988, F.S.
- Provide relevant information to DCF related to a quality assurance program and the child welfare results-oriented accountability system.
- Include tiered interventions and graduated penalties for failure to comply with contract or performance deficiencies.
- Require CBCs to provide current and accurate information about activities related to case records in the statewide automated child welfare information system.
- Require CBCs to annually provide written and published operating procedures on specific topics.
- Require CBCs to gather all information to complete the requirements for the child-specific section of the unified home study and enter data into the statewide automated child welfare information system no later than 90 days after the filing of a petition for termination of parental rights.
- Specify the procedures to resolve differences in interpreting the contract or to resolve a disagreement amongst the parties regarding compliance with the contract.¹⁹

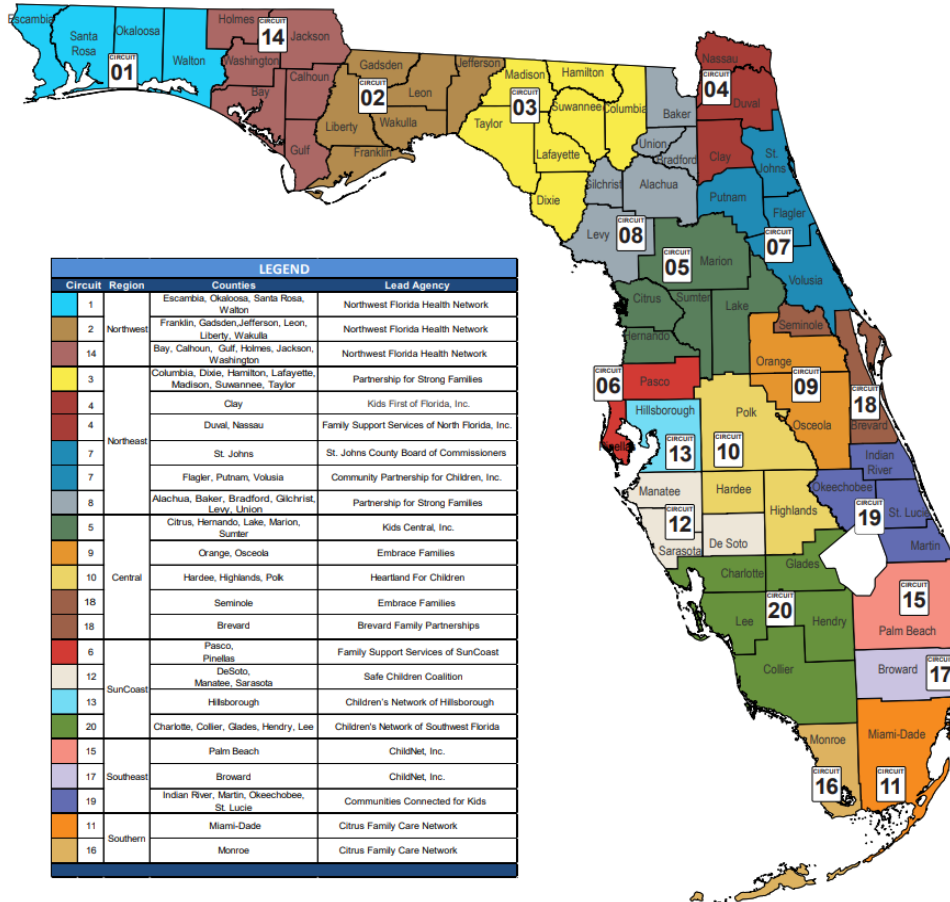
The DCF contracts with the following CBCs as illustrated in the following map:²⁰

¹⁷ Section 409.987(4)(b), F.S.

¹⁸ Section 409.987(4)(c), F.S.

¹⁹ Section 409.996(1), F.S.

²⁰ *Supra* note 10.



The DCF must develop and maintain written policies and procedures for monitoring compliance with the services the CBCs provide under contract. The DCF is required to evaluate each CBC’s programmatic, operation, and fiscal operations at least once annually.²¹

The DCF typically enters into 5-year contracts with CBCs, with the option for an extension or a renewal of up to 5-years or for the original term of the contract, whichever period is longer.²² While entering into 5-year contracts has provided stability within the CBC system, it has also had the effect of reducing competition. For example, since the creation of CBCs, the DCF has conducted 19 procurements; for 11 of these procurements, only one entity submitted a bid for the contract.²³ The DCF is currently in the process of procuring CBC services in 12 circuits, which includes 11 CBC service areas.²⁴

Funding allocated to the CBCs during the 2023-24 state fiscal year totaled over \$1.3 billion.²⁵

²¹ Section 409.996(19)(a), F.S.

²² Section 409.987(3), F.S.

²³ *Supra* note 14, pg. 3.

²⁴ Florida Department of Children and Families, Invitation to Negotiate, Community-Based Care Lead Agencies, DCF ITN 2324 063

²⁵ Chapter 2023-239, L.O.F., General Appropriations Act FY 2023-2024, specific appropriations 328, 329, and 330.

Funding

Section 409.990, F.S., requires that funding for a contract between DCF and CBC be through general revenue or other applicable state or federal funding sources. The DCF allocates core funding²⁶ to CBCs based on a statutory “equity model”, which considers the proportion of child population, child abuse hotline workload, and children in care.²⁷

In addition to annually evaluating CBC fiscal operations, current law requires DCF to do several things to ensure that the CBCs are providing services within its allocated budget:

- Section 409.996, F.S., requires DCF to annually conduct a comprehensive, multi-year review of the revenues, expenditures and financial positions of all CBCs that cover the most recent two consecutive fiscal years. The review must include a comprehensive system-of-care analysis and the CBCs must develop and maintain a plan to achieve financial viability to accompany DCF’s review. The DCF must submit the review to the Governor, the Senate President, and the Speaker of the House of Representatives by November 1 each year.
- The 2023-2024 General Appropriations Act required each CBC to submit a detailed spending plan, approved by its board of directors, to DCF for all projected expenditures for the current fiscal year. The spending plan must demonstrate that core expenditures will not exceed the appropriated amount of core funding and reserve a certain amount of funding for unanticipated expenses. The DCF cannot release addition funds outside the two-month advance until it has reviewed and approved a CBC’s spending plan. At any point during the year, if a CBC’s actual expenditures project an end of year deficit, the CBC must submit a revised spending plan to DCF that reflects actions to be taken to remain within appropriated core funding for the remained of the fiscal year.²⁸

The following table includes the total allocated funding amount (state and federal dollars) for each CBC for FY 23-24 and the total contract amount for each CBC.²⁹

CBC Lead Agency	Circuit	FY 23-24 Allocation	Total Contract Amount
Northwest Florida Health Network (Big Bend)	2, 14	\$56,369,236	\$238,526,446
	1	\$82,885,014	\$405,072,361
Partnership for Strong Families	3, 8	\$54,767,819	\$393,779,654

²⁶ Section 409.997(1)(a), defines “core services funds” as all funds allocated to CBCs operating under contract with the DCF, with the following exceptions: funds appropriated for independent living; funds appropriated for maintenance adoption subsidies; Funds allocated by the DCF for protective investigations training; nonrecurring funds; designated mental health wrap-around services funds; funds for special projects for a designated CBC; and funds appropriated for the Guardianship Assistance Program under s. 39.6225, F.S.

²⁷ Section 409.991, F.S. provides that core services funds are calculated based on the proportion of the (a) child population weighted as five percent of the total; (b) child abuse hotline workload weighted as 35 percent of the total; and (c) children in care weighted as 60 percent of the total. Section 409.991(3), F.S., provides that beginning in the 2015-16 FY, 100 percent of the recurring core services funding must be based on the prior year recurring base core services funds, and any new funding be allocated as: (a) 70 percent of new funding among all CBCs and (b) 35 percent of new funding to CBCs below their equitable share.

²⁸ *Supra* note 25, specific appropriation 328.

²⁹ Information on a CBC’s FY 2023-24 allocation can be found in the respective CBC contract; *See* Florida Accountability Contract Tracking System, available at <https://facts.fldfs.com/Search/ContractSearch.aspx> (last visited Dec. 7, 2023).

CBC Lead Agency	Circuit	FY 23-24 Allocation	Total Contract Amount
Family Support Services of North Florida	4 (Duval, Nassau)	\$39,569,518	\$637,352,496
Kids First of Florida	4 (Clay)	\$17,989,867	\$113,824,668
St. Johns County Board of Commissioners	7 (St. Johns)	\$11,029,295	\$75,361,163
Community Partnership for Children	7 (Flagler, Volusia, Putnam)	\$63,794,188	\$306,403,794
Safe Children Coalition	12	\$51,438,346	\$255,500,845
Family Support Services of Suncoast	6 (Pasco, Pinellas)	\$132,525,326	\$658,177,868
Kids Central	5	\$76,436,349	\$369,953,294
Embrace Families	9, 18 (Orange, Osceola, Seminole)	\$96,434,878	\$432,245,145
Heartland for Children	10	\$66,958,780	\$492,511,758
Brevard Family Partnerships	18 (Brevard)	\$22,163,788 ³⁰	\$296,691,729
Communities Connected for Kids	19	\$21,164,340 ³¹	\$326,868,835
ChildNet	15 (Palm Beach)	\$60,203,225	\$509,655,207
	17 (Broward)	\$90,672,980	\$437,235,275
Children’s Network of Southwest Florida	20	\$74,963,612	\$373,815,208
Children’s Network of Hillsborough	13	\$114,169,279	\$563,336,139
Citrus Family Care Network	11, 16	\$118,092,501	\$563,973,467
TOTAL		\$1,251,628,34	\$7,450,285,352

Because the core services funding for each CBC was established based on the total expenditures by DCF when the CBCs were created, significant core funding inequities have been institutionalized in the system of care. To mitigate financial risk, the Legislature created a CBC Risk Pool that allows CBCs to apply to DCF for additional funding.³² A committee that includes DCF’s secretary and three nonapplicant CBC representatives review the risk pool applications.³³ The DCF may authorize risk pool funding to address:

- Significant changes in the number or composition of clients eligible to receive services.³⁴
- Significant changes in the services that are eligible for reimbursement.³⁵

³⁰ This reflects six months of payments (07/01/2023-12/31/2023) because the contract end date is Dec. 31, 2023.

³¹ This reflects six months of payments (07/01/2023-12/31/2023) because the contract end date is Dec. 31, 2023.

³² Section 409.990(8), F.S.

³³ *Id.*

³⁴ Section 409.990(8)(c)1., F.S.

³⁵ Section 409.990(8)(c)2., F.S.

- Continuity of care in the event of failure, discontinuance of service, or financial misconduct by a CBC.³⁶
- Significant changes in the mix of available funds.³⁷

The Legislature added the “equity model” CBC funding model into statute in 2011 because the allocation of state or federal funds to CBCs was based primarily on the number of children in care with funding direction to DCF through proviso in the General Appropriations Act (GAA).³⁸ In 2019, the Legislature directed DCF and the CBCs to develop an alternative funding model.³⁹ This produced the Florida Funding Model for Children (FMC) that calculated the cost of providing services by setting case worker caseload ratios, an incentive for prevention spending, and a target to reduce use of group care and a per child cost calculation.⁴⁰ The Legislature, through proviso in the GAA, used the FMC methodology to allocate increases in CBC core services funding of \$25 million in 2020 and \$150 million in 2022.⁴¹ However, the current “equity model” and the FMC allocation methodology do not use an actuarially-sound model that many other programs in the state utilize; therefore, the DCF contracted with Mercer, a government human services consulting firm, to assist it in developing an actuarially sound model. The DCF released the initial report with a proposed model and draft rates on September 30, 2022. The DCF expects to release a final report by January 2024.⁴²

Oversight and Monitoring

The DCF has the responsibility to monitor and oversee CBCs to ensure that CBCs are delivering services in accordance with applicable federal and state statutes and regulations and the performance standards and metrics specified in its strategic plan.⁴³ The DCF must, at a minimum, evaluate each of the CBCs under contract annually.⁴⁴ The evaluation must cover the programmatic, operational, and fiscal operations of the CBC.⁴⁵

The DCF Office of Quality (Office) ensures that CBCs and other contracted providers meet high levels of performance. The duties of the Office include, at a minimum:

³⁶ Section 409.990(8)(c)3., F.S.

³⁷ Section 409.990(8)(c)4., F.S.

³⁸ Chapter 2011-62, s. 1, L.O.F. In fiscal year 2010-11, the allocation was based on four weighted factors: the number of children in poverty (30 percent); the number of reports the DCF’s central abuse hotline that are either referred for investigation or whose findings have been verified (30 percent); the number of children in out-of-home care (30 percent); and contribution to a safe reduction in out-of-home care (10 percent).

³⁹ Chapter 2019-115, L.O.F., General Appropriations Act FY 2019-2020, specific appropriation 326.

⁴⁰ *Supra* note 14, pg. 5.

⁴¹ In 2022, the Florida Legislature addressed the funding inequities by appropriating \$150 million in increases to core funding to bring all CBCs up to 100 percent funding levels to ensure that each CBC has the tools to best serve the children and families in their respective service area. [*Supra* note 40] Even with this \$150 million increase in core funding, last fiscal year, at the request of certain CBCs, the Legislature appropriated an addition \$18.5 million dollars in Back of Bill funding to address CBC funding deficits incurred in the 2022-23 fiscal year. [*Supra* note 25, Section 88.]

⁴² *Supra* note 14, pg. 5.

⁴³ Section 409.996, F.S.

⁴⁴ Section 409.996(21)(a), F.S.

⁴⁵ *Id.*

- Identifying performance standards and metrics for DCF programs and all service providers. The performance standards and metrics must be included in DCF's strategic plan and must, at minimum, have the same child welfare results-oriented performance standards.
- Strengthening DCF's data and analytic capabilities to identify systemic strengths and deficiencies.
- Recommending initiatives to correct any deficiencies.
- Reporting consistent performance failures to DCF's secretary for corrective action.
- Engaging and collaborating with stakeholders to improve quality, efficiency, and effectiveness of the DCF's programs and services.

CBC contracts specify required performance measures that generally align with the state and federal measures.⁴⁶ The DCF contract manager must periodically identify whether any gaps exist between actual and required CBC performance. If contractor performance is insufficient, the DCF may allow a reasonable time for correction. If the deficiencies are not resolved and there are no extenuating circumstances, DCF must terminate the contract and it may not contract again with the same provider during the next 24 months.⁴⁷

Section 409.996(1)(d), F.S., requires CBC contracts to include tiered interventions DCF may use if CBCs fail to comply with contractual terms or in the event of performance deficiencies. Such interventions include, but are not limited to:

- Enhanced monitoring and reporting;
- Corrective action plans;
- Requirements for contracted providers to accept technical assistance and consultations from the DCF;
- Financial penalties that require a CBC to reallocate funds from administrative costs to direct care for children; and
- Early termination of contracts.

The DCF may provide technical assistance and consultation to CBCs as necessary for the achievement of performance standings, including, but not limited to, providing additional resources to assist a CBC to implement best practices or institute operation efficiencies.⁴⁸

The DCF may impose financial penalties on a CBC that does not comply with a DCF corrective action plan.⁴⁹ The DCF must request corrective action on a provider when the delivery of services is unacceptable or the provider is not in compliance with contractual terms and conditions. The DCF can impose financial penalties for failure to comply with a corrective action plan, unless the DCF determines that extenuating circumstances exist.⁵⁰ The imposed financial

⁴⁶ November 2022 CBC Services Contract, Contract AJ500, pp. 40-44, available at: <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=600000&ContractId=AJ500&Tab=4>.

⁴⁷ Section 402.7305(3)(f), F.S.

⁴⁸ Section 409.996(6), F.S.

⁴⁹ Section 402.73(1), F.S.; *See also* R. 65C-29.001, F.A.C. All contracts entered into by the DCF for services shall contain a notice that penalties shall be imposed for failure to implement or to make acceptable progress on corrective action plans develop as a result of noncompliance, non-performance, or unacceptable performance with the terms and conditions of a contract.

⁵⁰ Rule 65C-29.001(3)(a), F.A.C.

penalties are based on the severity of the noncompliance, nonperformance, or unacceptable performance that generated the need for the corrective action plan.⁵¹ A provider is prohibited from paying a financial penalty with funds intended to be used, or which are budgeted, to provide services to clients and cannot reduce the amount of quality of services delivered to clients as a result of the imposition of a financial penalty.⁵²

The DCF may also petition a court for the appointment of a receiver for a CBC if:

- The CBC is operating without a license as a child-placing agency;
- The CBC has given less than 120 days' notice of its intent to cease operations, and arrangements have not been made for another CBC or DCF to continue the uninterrupted provision of services;
- The DCF determines that conditions exist in the CBC which present an imminent danger to the health, safety, or welfare of the dependent children under the CBC's care or supervision; or
- A CBC is struggling to meet its financial obligations to its employees, contractors, or foster parents as supported by issuance of bad checks or the existence of delinquent obligations for payment of salaries, utilities, or invoices for essential services or commodities.⁵³

Audits

Over the years, the Governor's Office of Inspector General (OIG) and the DCF's Office of Inspector General (DCF OIG) have conducted audits due to concerns about CBC executive compensation and related parties within the CBC structure.

On February 20, 2020, Florida's Governor issued an executive order requiring the OIG to review entities which had sole-source, public-private agreements with state agencies; received more than 50 percent or more of their budget from state and federal funds; and had compensation totals exceeding federal or state law and regulations.⁵⁴ The OIG issued a report finding nine CBCs⁵⁵

⁵¹ Rule 65C-29.001(3)(b), F.A.C. The penalty, if imposed, shall not exceed ten percent of the total contract payments during the period in which the corrective action plan has not been implemented or in which acceptable progress toward implementation has not been made. Noncompliance that is determined to have a direct effect on client health and safety shall result in the imposition of a ten percent penalty of the total contract payments during the period in which the corrective action plan was has not been implemented or in which acceptable progress toward implementation has not been made. Noncompliance involving the provision of service not having a direct effect on client health and safety shall result in the imposition of a five percent penalty. Noncompliance as a result of unacceptable performance of administrative tasks shall result in the imposition of a two percent penalty.

⁵² Rule 65C-29.001(5), F.A.C.

⁵³ Section 409.994(1), F.S.

⁵⁴ Executive Order Number 20-44. The executive order arose from the Florida Coalition Against Domestic Violence, Inc., using funds from the DCF to subsidize exorbitant executive leadership team compensation payouts.

⁵⁵ Big Bend Community Based Care [d/b/a North West Florida Health Network (NWFHN)]; ChildNet, Inc.; Citrus Health Network, Inc.; Community Based Care of Brevard, Inc.; Eckerd Youth Alternatives (d/b/a Eckerd Connects); Embrace Families Community Based Care, Inc.; Florida Support Services of North Florida (FSSNF); Lakeview Center, Inc.; and Safe Children Coalition, Inc. See Executive Office of the Governor, Office of the Chief Inspector General, Executive Order Number 20-44, *Data Compilation and Statutory Compensation Limit Review*, CIG Number 2021-01-25-0017, June 30, 2021, pg. vi, available at <https://www.flgov.com/wp-content/uploads/2021/06/Final-Report-with-Responses-6.30.21-2.pdf>.

had compensation that potentially exceeded statutory limits.⁵⁶ The report also identified additional areas of concern related to employees and related parties.⁵⁷ At the request of the OIG, the DCF OIG conducted a review of the nine CBCs and identified two CBCs⁵⁸ for which executive leadership compensation appeared to exceed state limits.⁵⁹

On December 3, 2021, the DCF OIG issued a report focused on the creation of management companies and other related parties within the CBCs.⁶⁰ The report found that “the purposes and functions of these related organizations are not clear and pose risks to DCF fulfilling its mission.”⁶¹ Based on these findings, DCF contracted with two auditing firms to conduct financial and operation examinations on all CBCs. The DCF released the findings for six of the CBCs on August 22, 2023.⁶² Key findings include:

- Noncompliance with competitive procurement requirements for non-related and related entities.
- Overbilling related to PPP Loan Forgiveness.
- Board approval of departmental deficit budgets.
- Excessive compensation.
- Establishment of sub-contracts to related parties that provide administrative support and management services.
- Related parties holding real estate that may have been purchased through the use of state/federal funds or acquired based on the existence of those funding streams.

Another key finding was a significant overlap of key individuals serving on both CBC board of directors and the board of a CBC related party. Additionally, CBC boards were not providing high level fiduciary oversight of CBC operations and budgets. Certain executive leadership positions were also integrally involved in related parties creating the potential for conflict of interest in CBC contracts for services with such related parties.⁶³

The DCF took corrective action against the six CBCs because of the examinations’ findings.

Executive Compensation

CBC expenditures must comply with financial guidelines developed by DCF and with federal and state law.

Current law prohibits a CBC administrative employee in excess of 150 percent of the annual

⁵⁶ Executive Office of the Governor, Office of the Chief Inspector General, Executive Order Number 20-44, *Data Compilation and Statutory Compensation Limit Review*, CIG Number 2021-01-25-0017, June 30, 2021, pg. vi., available at <https://www.flgov.com/wp-content/uploads/2021/06/Final-Report-with-Responses-6.30.21-2.pdf>.

⁵⁷ *Id.*

⁵⁸ Eckerd Connects and Family Support Services of North Florida.

⁵⁹ *Supra* note 56.

⁶⁰ Florida Department of Children and Families, Office of Inspector General, Internal Audit, Project #A-1819DCF-043, December 3, 2021, available at <https://eds.myflfamilies.com/IGRPTS/AuditFileView.aspx>.

⁶¹ *Id.*

⁶² Florida Department of Children and Families, Community-Based Care Lead Agencies Audit Findings, available at <https://www.myflfamilies.com/community-based-care-lead-agencies-audit-findings> (last visited Jan. 12, 2024).

⁶³ *Id.*

salary paid to DCF’s secretary from state-appropriate funds, including state-appropriated federal funds.⁶⁴ The law does not prohibit any party from providing cash that is not appropriated state funds to a CBC administrative employee.⁶⁵ The Legislature codified the statutory salary cap into law in 2015 after the Florida Auditor General found instances where salary payments, including bonuses and leave balances, did not appear to be properly supported or calculated in accordance with established CBC policy or state law.⁶⁶

CBCs must also comply with the federal salary rate limit because CBCs receive federal pass-through awards from the DCF. Federal funds from the United States Health and Human Services (HHS) may not be used to pay the salary, or any percentage of salary, to an individual at a rate in excess of the established Executive Level II rate, currently \$212,100.⁶⁷

Therefore, the maximum amount a CBC executive may be compensated with combined state and federal funds is \$315,000, of which only \$212,100 can be federal funds.⁶⁸

The DCF is required to publish the compensation information for a CBC’s chief executive, chief administrator, or other chief officer.⁶⁹ The following table includes the *total* compensation for CBC executive officers as of the last annual reporting to DCF.⁷⁰

CBC Lead Agency	Circuit	CEO	CFO	COO
Northwest Florida Health Network (Big Bend)	1, 2,14	\$563,842	\$272,261	\$217,194
Partnership for Strong Families	3, 8	\$169,043	\$116,277	\$105,445
Family Support Services of North Florida	4 (Duval, Nassau)	\$230,125	\$146,978	Vacant
Family Support Services of Suncoast	6 (Pasco, Pinellas)			
Kids First of Florida	4 (Clay)	\$113,656	\$113,040	\$101,656
St. Johns County Board of Commissioners	7 (St. Johns)	N/A	N/A	N/A
Community Partnership for Children	7 (Flagler, Volusia, Putnam)	\$205,000	\$114,500	\$122,360
Safe Children Coalition	12	\$220,000	\$110,000	\$145,000
Kids Central	5	\$218,624	\$177,786	\$162,350
Embrace Families	9, 18 (Orange, Osceola, Seminole)	\$332,023	\$206,520	\$254,635
Heartland for Children	10	\$175,000	\$130,000	\$152,499
Brevard Family Partnerships	18 (Brevard)	\$157,757	\$103,716	\$129,024
Communities Connected for Kids	19	\$169,161	\$141,474	\$145,757

⁶⁴ Section 409.992(3), F.S.

⁶⁵ *Id.*

⁶⁶ Florida Auditor General, Department of Children and Families and Selected Community-Based Care Lead Agencies, Oversight of Foster Care and Related Services, Operational Audit, Report No. 2015-156, March 2015, available at: https://flauditor.gov/pages/pdf_files/2015-156.pdf.

⁶⁷ Email from Sam Kerce, Legislative Affairs Director, Florida Department of Children and Families, re: Questions, on file with the Senate Children, Families, and Elder Affairs Committee. *See also* Health Resources & Services Administration, Grants Policy Bulletin, Legislative Mandates in Grants Management for FY 2023, Feb. 1, 2023, available at: <https://www.hrsa.gov/sites/default/files/hrsa/grants/manage/legislative-mandates-grants-management-2023.pdf>.

⁶⁸ *Supra* note 14, pg. 6.

⁶⁹ Section 409.996(4)(a)1., F.S.

⁷⁰ *Supra* note 10.

CBC Lead Agency	Circuit	CEO	CFO	COO
ChildNet	15 (Palm Beach)	\$266,492	\$201,956	\$212,630
	17 (Broward)			
Children’s Network of Southwest Florida	20	\$209,830	\$162,931	\$163,513
Children’s Network of Hillsborough	13	\$197,600	\$166,400	\$166,400
Citrus Family Care Network	11, 16	\$263,800	\$176,342	\$203,059

Conflicts of Interest

The outsourced nature of DCF services, including child welfare, requires DCF to engage in contract management functions focused on accountability. One area of possible lack of accountability is conflicts of interest between a CBC member, officer, or relative and CBC subcontractor.

Section 409.987(7), F.S., requires a process for disclosing and eliminating any transaction or activity that could reasonably be construed to be a conflict of interest for a member, officer, or relative of a CBC. This requirement applies to situations in which a CBC board member or an officer, or a relative within the third degree of consanguinity by blood or marriage of a member or officer:

- Enters into a contract or other transaction for goods or services with the CBC.
- Holds a direct or indirect interest⁷¹ in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the CBC or proposes to enter into a contract or other transaction with the CBC.
- Knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship with a board member or officer, or relative of the board member or officer of the CBC.

Any activity that involves a contract for goods and services, a purchase of any real or tangible property, an agreement to engage with the CBC for a benefit, or an in-kind contribution, or if a CBC board member or officer notifies the CBC board of a potential conflict of interest under an existing CBC contract, the proposed activity or potential conflict of interest must be presented to the CBC board for approval which includes:

- Listing the proposed activity on the CBC board’s agenda for the next general or special meeting;
- Providing copies of all contracts and relevant documents related to the proposed transaction; and
- Giving the CBC board an opportunity to approve or disapprove the conflict of interest by a vote of two-thirds of all other members present.⁷²

If the CBC board votes against the proposed activity, the CBC board member or officer must notify the CBC board in writing of his or her intention, or the relative’s intention, not to pursue the proposed activity or the CBC board member or officer must resign. If the CBC board finds a CBC member or officer has violated the requirements for approval, the CBC board member or

⁷¹ "Indirect interest" means an interest in which legal title is held by another as trustee or other representative capacity, but the equitable or beneficial interest is held by the person required to file under Ch. 112, Part III, F.S.

⁷² Section 409.987(7)(c), F.S.

officer will be deemed removed from the CBC board before the next scheduled board meeting.

If the CBC board does not approve a conflict of interest, the parties to the activity where the conflict of interest exist may opt to cancel the activity or resign from the CBC board or office before the next scheduled board meeting.⁷³

A contract entered into between a CBC board member or officer, or relative of a CBC board member or officer, and a CBC which has not been properly disclosed as a conflict of interest or potential conflict of interest is voidable and terminates upon the filing of a written notice to the CBC board of directors.⁷⁴

Findings from the most recent CBC financial and operational examinations included concerns of significant overlap of key individuals serving on both a CBC board of directors and a related party board and executive leadership positions being integrally involved in multiple related parties creating the potential for conflict of interest in CBC contracts for services with related parties.⁷⁵ Findings also noted a perception that CBC board of directors were not providing proper fiduciary oversight of CBC operations and budgets.⁷⁶

Dependency System Process

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such known or suspicion to the Florida’s central abuse hotline (Hotline).⁷⁷ A child protective investigation begins if the Hotline determines the allegations meet the statutory definition of abuse, abandonment, or neglect. A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.⁷⁸

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.⁷⁹ The dependency court process is summarized in the table below.

The Dependency Court Process		
Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines a child is unsafe in his or her home and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. A judge determines whether to keep the child out of home.	s. 39.401, F.S.

⁷³ Section 409.987(7)(d)2., F.S.

⁷⁴ Section 409.987(7)(f), F.S.

⁷⁵ *Supra* note 60.

⁷⁶ *Id.*

⁷⁷ Section 39.201(1), F.S.

⁷⁸ Section 39.101(2), F.S.

⁷⁹ See s. 39.01(14), F.S., for the definition of “child who is found to be dependent.”

The Dependency Court Process		
Dependency Proceeding	Description of Process	Controlling Statute
Petition for Dependency	A petition for dependency is filed within 21 days of the shelter hearing. The petition seeks to find the child dependent.	s. 39.501, F.S.
Arrestment Hearing and Shelter Review	An arrestment and shelter review occur within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arrestment. A judge determines if the child is dependent.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs with 15 days of arrestment or 30 days of adjudication. A judge reviews and orders the case plan and appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Post-disposition Hearing	The court may change temporary placement at a post-disposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	An advisory hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory hearing is set within 45 days after the advisory hearing. A judge determines whether to terminate parental rights to the child.	s. 39.809, F.S.

Section 39.701, F.S., requires the court to hold judicial review hearings to review the status of the child at least every six months until the child reaches permanency. The purpose of judicial review is to ensure that any barriers to permanency are being addressed so that children can achieve permanency as expeditiously as possible.

To make the judicial process efficient, the DCF’s children’s legal services’ attorneys and the case managers must be prepared for court appearances and file the necessary documentation for judicial reviews. At least 72 hours prior to a judicial review hearing, the DCF must file a copy of the Judicial Review Social Study Report⁸⁰ with the court and provide a copy to all parties to the

⁸⁰ The Judicial Review Social Study Report is a written report that contains all pertinent details relating to the child and includes, but is not limited to, a description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement; documentation of the diligent

child's case and the foster parents or legal custodians.⁸¹ If the DCF does not timely file the report, the court may continue the judicial review hearing. To ensure all parties and the court can appropriately prepare for hearings, the CBC and subcontractors are contractually required to provide the reports to the DCF at least 10 days in advance of any judicial review hearing.⁸² For state fiscal year 2022-23, only 46 percent of the judicial reports provided by case management to the DCF were timely.⁸³ As a result, 4,947 children had a judicial review hearing continued.⁸⁴ Continuances result in delays in permanency and can compromise federal funding, as federal law requires the court to make certain judicial determinations every 12 months for ongoing eligibility.⁸⁵

Competitive Solicitation for Commodities or Contractual Services

Section 287.057, F.S., requires state agencies that wish to procure commodities or contractual services in excess of \$35,000 to use a competitive solicitation process. A competitive solicitation is the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of procurement method.⁸⁶ Depending on the type of contract and scope of work or goods sought, an agency may use one of three procurement methods: invitation to bid,⁸⁷ request for proposals,⁸⁸ or invitation to negotiate.⁸⁹

III. Effect of Proposed Changes:

Section 1 of the bill requires the DCF to reprocur CBC contracts every 5-years and allows for the DCF to extend a CBC contract for up to 1-year based on need.

efforts made by all parties to the case plan to comply with each applicable provision of the plan; the amount of fees assessed and collected during the period of time being reported; the services provided to the foster family or caregiver in an effort to address the needs of the child as indicated in the case plan; a statement regarding how the parent(s) have or have not complied with the case plan; a statement from the foster parent or caregiver providing any material evidence concerning the well-being of the child, the impact of any services provided to the child, the working relationship between the parents and caregivers; and the return of the child to the parents; a statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency and caregiver recommendations for an expansion or restriction of future visitation; the number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement; the number of times a child's educational placement has been changed, the number of types of educational placements which have occurred, and the reason for any change in placement; if the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the progress the child has made in acquiring independent living skills; copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the last judicial review hearing; and copies of the current health, mental health, and educational records.

⁸¹ Section 39.701(1)(b), F.S.

⁸² November 2022 CBC Services Contract, Contract AJ500, pg. 71.

⁸³ *Supra* note 14 pg. 4.

⁸⁴ *Id.*

⁸⁵ 45 CFR s. 1356.21(b)(2).

⁸⁶ Section 287.012(6), F.S.

⁸⁷ Section 287.057(1)(a), F.S.

⁸⁸ Section 287.057(1)(b), F.S.

⁸⁹ Section 287.057(1)(c), F.S.

The bill requires a CBC board of directors to ensure accountability and transparency of the system of care, which includes fiduciary oversight to prevent conflicts of interest, promote accountability and transparency, and protect state and federal funding from misuse.

The bill expands those who may have a conflict of interest to include a CBC employee and creates a definition for “related party” to conform to changes made in this section.

The bill removes obsolete language related to conflicts of interest; instead, requiring a CBC to disclose to the DCF any known and potential conflicts of interest and further requires the CBC board of directors to disclose to the DCF any actual or potential conflicts of interest due to their responsibility for all activity and contractual obligations entered by the CBC. This duty to disclose is ongoing for the life of each contract or relevant activities.

The bill prohibits CBCs from entering into a contract or be a party to any transaction with any conflict of interest, including for the provision of management or administrative services or oversight with related parties, which includes any:

- Entity where any director or executive of such entity is also directly or indirectly related to, or has a direct or indirect financial or other material interest in, the CBC.
- Subsidiary, parent entity, associate firm, joint venture, or any entity that is controlled, influenced, or managed by another entity or any individual related to such entity
- Individual who is, or was within the immediately preceding 36 months, an executive officer of board member.

The bill requires CBCs to submit to the DCF for review and approval any proposed contract for allowable services involving related parties prior to contract award and execution.

The bill creates civil penalties in the amount of \$5,000 per occurrence when a CBC does not disclose a known and potential conflict of interest

The bill creates civil penalties when a CBC procures a contract that was a conflict of interest and not disclosed to the DCF to include \$50,000 for a first offense and \$100,000 for a second or subsequent offense. The bill requires any contract procured in violation of the disclosure requirements to be reprocured.

These provisions all focus on the corporate function and business operations of CBCs, clarifying and detailing requirements around reporting, conflicts of interest, board of director functions, and financial penalties.

Section 2 of the bill requires CBCs to comply with regular, independent auditing of the CBC’s financial activities, including any requests for records associated with such financial audits within the timeframe established by the DCF or its contracted vendors. It also requires the financial audits to be provided to the community alliance in the CBC’s services area rather than the financial information being provided to the community alliance.

The bill creates timeframes for the timely submission of dependency proceeding documents by the CBC to the DCF to include:

- All documents prepared and kept by the CBC must be made available at the request of the DCF's attorneys within one business day.
- DCF's attorneys and the case manager must confer on any case before each court hearing. Specifically:
 - For dependency and termination of parental rights hearings, the case manager must confer with the DCF attorney no fewer than three days before the hearing.
 - For judicial review hearings, the case manager must confer with the DCF attorney no fewer than three days before the hearing if the DCF attorney receives the judicial review social study report 10 business days before the hearing.

The bill requires any subcontract in excess of the simplified acquisition threshold specified in federal rule (2 C.F.R. part 200) must comply with the competitive procurement process in Ch. 287, F.S.

The bill prohibits a CBC from providing more than 35 percent of direct child welfare services by removing a CBC's ability to demonstrate a justification of need to exceed the threshold.

The bill expands the data that a CBC must publish on its website to include:

- The number of unlicensed placements for the previous month;
- The percentages and trends for foster parent and group home recruitment and licensure for the previous month;
- The percentage of families being served through family support, in-home, and out-of-home services for the previous month; and
- The percentage of cases that converted from nonjudicial to judicial for the previous month.

These provisions focus on the business operations of CBCs and tighten requirements around procurement and provision of services, transparency, and the procurement of services.

Section 3 of the bill requires each CBC to submit a detailed spending plan, approved by its board of directors, to the DCF for all projected expenditures for the fiscal year. The spending plan must demonstrate that core expenditures will not exceed the appropriated amount of core services funds and that the plan reserves a certain amount of funding for unanticipated expenses. The bill requires CBCs to receive its statutory 2-month advance but prohibits the DCF from releasing additional funds until it has reviewed and approved the CBC's spending plan. The bill requires a CBC to submit a revised spending plan to the DCF if, at any point during the fiscal year, there's a projected end-of-year deficit. The revised spending plan must reflect actions taken by the CBC to remain within appropriated core services fund amounts for the remainder of the fiscal year.

Section 4 of the bill creates a new funding model for the allocation of funds from the DCF to the CBCs. The language removes the current equity-funding model and requires an actuarially sound, tiered payment model intended to achieve a stable payment model that adjusts to workload and incentivizes prevention, family preservation, and permanency. The bill creates a tiered payment model for the allocation of core funds to CBCs that includes:

- Tier 1 provides operational base costs, including administrative and other expenses that do not vary based on the number of children and families served. Tier 1 payments may vary by geographic catchment area and costs of living differences. The bill requires the DCF to

establish and annually update Tier 1 payment rates to maintain cost expectations aligned with the population served, services provided, and environment. The bill does not redefine or change what core funding is, only the frequency and method of calculation.

- Tier 2 is a per-child, per month payment designed to provide funding for CBC's expenses that vary based on the number of children served for a particular month. The per-child, per month payment rate blends out-of-home rates and in-home rates specific to each CBC to create a financial incentive to CBCs to provide services in the least restrictive safe placement. The bill requires the DCF to establish and annually update Tier 2 payment rates to maintain a cost expectation that is aligned with the population served, services provided, and environment.
- Tier 3 provides a financial incentive payment that the DCF must establish to reward CBCs that achieve performance measures aligned with the DCF's goals of prevention, family preservation, and permanency.

The bill requires the DCF to submit a report the Governor, the Senate President, and the Speaker of the House of Representatives by December 1 each year that includes:

- Each CBC's actual performance in attaining the previous fiscal year's targets;
- Recommendations for adjustments to CBC funding; and
- Adjustments to the tiered payment model, if necessary.

The bill requires the DCF to allocate funding based on the newly created actuarially-sound, tiered based model, unless otherwise specified by proviso in the General Appropriations Act.

Section 5 of the bill requires CBCs to competitively procure all contracts consistent with the simplified acquisition threshold in federal rule (2 C.F.R. part 200). It also creates financial penalties or sanctions for noncompliance with applicable local, state, or federal law for the procurement of commodities or contractual services. The bill requires the DCF to establish and incorporate the financial penalties or sanctions into the CBC contracts.

The bill requires CBCs to comply with purchasing practices for professional services, including engineering or construction design, in s. 287.055, F.S. It also requires the DCF to retain all rights to and ownership of any real property procured by the CBC upon termination of the CBC's contract.

The bill limits the compensation a CBC administrative employee may receive to a capped total amount, 150 percent of the annual salary paid to the secretary of the DCF, regardless of the number of contracts a CBC executes with the DCF. This is currently \$315,000 of combined state and federal funds. Additionally, the language makes clear that any portion of that \$315,000 that is funded by federal grant may not exceed the Executive Level II salary level set by the federal Health Resources and Services Administration.⁹⁰

Section 6 of the bill expands the situations in which the DCF can petition the court to initiate receivership of a CBC. The bill allows the DCF to petition the court for receivership when the DCF's secretary determines that conditions exist within the CBC that present a danger (rather

⁹⁰ This is currently \$213,000; *Supra* note 67

than an *imminent* danger as in current law) to the health, safety, or welfare of the dependent children in the CBC's care or supervision. It allows a written certification by the secretary to serve as prima facie evidence that such conditions exist. Further, it expands when the DCF may petition for receivership from when a CBC *cannot* meet financial obligations to also include when a CBC is *unlikely* to meet financial obligations.

Section 7 of the bill creates flexibility for the DCF to take action against a CBC by removing a tiered intervention and graduated penalties process and instead require contractual actions and financial penalties for performance deficiencies. The bill requires the DCF to include the following in CBC contracts:

- Contractual actions for failure to comply with contract terms or in the event of performance deficiencies, as determined by the DCF. Such interventions and penalties include, but are not limited to:
 - Corrective action plans.
 - Requirements to accept technical assistance and consultation from the DCF.
 - Financial penalties, including liquidated damages which the DCF will be solely responsible for determining the monetary value of, that require the CBC to direct, rather than reallocate, funds from administrative costs to the DCF. The bill requires the DCF to use the collected funds to support service delivery of quality improvement activities for children in the CBC's care. The bill allows the penalties to be imposed for failure to provide timely, sufficient resolution of deficiencies resulting in a corrective action plan or other performance improvement plan issued by the DCF.
 - Payment of sanctions or disincentives to the DCF for failure to comply with contractual obligations. The bill requires CBC contracts to include, at a minimum, sanctions or disincentives for failure to comply with:
 - A corrective action plan;
 - A child placement agreement that includes all required safety and care precautions and behavior management plans needed to keep the children and others safe;
 - State and federal law requirements for the procurement of commodities or contractual services;
 - State and federal law requirements for related parties which address conflicts of interest;
 - Disclosure or reporting of any conflicts of interest of the DCF;
 - Provision of timely data and information as requested by the DCF or its contracted vendors; and
 - Maintenance of an adequate network of placement arrangements based on the needs of the children in the CBC's care, including placement locations that are licensed or that provide an authorized setting or stable nightly placements.

Section 8 of the bill removes the annual performance report on the results-oriented accountability program that must be submitted to the Governor, Senate President, and Speaker of the House of Representatives by November 15 of each year.

Section 9 of the bill removes the requirement that a CBC must provide relevant information on how it is meeting the needs of fathers to the DCF in the annual performance report on the results-oriented accountability program.

Section 10 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There is an indeterminate fiscal impact on the CBCs due to the funding model changes and financial penalties included in the bill.

Funding Model

The CBCs will experience an adjustment in state funding levels due to the funding model changes made by the bill; some CBCs will have an increase in funding, while others will have a decrease in funding. However, over time, the state could potentially experience a positive fiscal impact due to the funding model change if the proper incentives built into the new model increase prevention and in-home services and ultimately decrease the amount of funding spent on costly out-of-home care services.

Financial Penalties

A CBC that fails to disclose known or actual conflicts of interest or does not comply with other requirements mandated by the bill will experience a negative fiscal impact in the event of the DCF imposing the financial penalties authorized by the bill.

C. Government Sector Impact:

Current funding levels to the DCF will not need to change based on the language in the bill. However, over time, the cost of funding the child welfare system of care may decrease if the new actuarially sound funding model properly promotes and increases the use of prevention and in-home services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 409.987, 409.988, 409.990, 409.991, 409.992, 409.994, 409.996, 409.997 of the Florida Statutes.

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

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

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (3) and (4) and paragraphs (a) and
(b) of subsection (7) of section 409.987, Florida Statutes, are
amended to read:

409.987 Lead agency procurement; boards; conflicts of
interest.—

(3) Notwithstanding s. 287.057, the department shall use 5-



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11 year contracts with lead agencies. The 5-year contract must be
12 reprocured at the end of each 5-year contract term. The contract
13 may be extended at the discretion of the department for up to 1
14 year, based on department needs.

15 (4) In order to serve as a lead agency, an entity must:

16 (a) Be organized as a Florida corporation or a governmental
17 entity.

18 (b) Be governed by a board of directors or a board
19 committee composed of board members. Board members shall provide
20 oversight and ensure accountability and transparency for the
21 system of care. The board of directors shall provide fiduciary
22 oversight to prevent conflicts of interest, promote
23 accountability and transparency, and protect state and federal
24 funding from misuse. The lead agency shall ensure that board
25 members participate in annual training, as approved by the
26 department, related to their responsibilities. The membership of
27 the board of directors or board committee must be described in
28 the bylaws or articles of incorporation of each lead agency,
29 which must provide that at least 75 percent of the membership of
30 the board of directors or board committee must be composed
31 ~~consist~~ of persons residing in this state, and at least 51
32 percent of the state residents on the board of directors must
33 reside within the service area of the lead agency. However, for
34 procurements of lead agency contracts initiated on or after July
35 1, 2014:

36 1. At least 75 percent of the membership of the board of
37 directors must be composed ~~consist~~ of persons residing in this
38 state, and at least 51 percent of the membership of the board of
39 directors must be composed ~~consist~~ of persons residing within



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40 the service area of the lead agency. If a board committee
41 governs the lead agency, 100 percent of its membership must be
42 composed ~~consist~~ of persons residing within the service area of
43 the lead agency.

44 2. The powers of the board of directors or board committee
45 include, but are not limited to, approving the lead agency's
46 budget and setting the lead agency's operational policy and
47 procedures. A board of directors must additionally have the
48 power to hire the lead agency's executive director, unless a
49 board committee governs the lead agency, in which case the board
50 committee must have the power to confirm the selection of the
51 lead agency's executive director.

52 (c) Demonstrate financial responsibility through an
53 organized plan for regular fiscal audits and the posting of a
54 performance bond.

55 (7) (a) As used in this subsection, the term:

56 1. "Activity" includes, but is not limited to, a contract
57 for goods and services, a contract for the purchase of any real
58 or tangible property, or an agreement to engage with a lead
59 agency for the benefit of a third party in exchange for an
60 interest in real or tangible property, a monetary benefit, or an
61 in-kind contribution.

62 2. "Conflict of interest" means when a board member,
63 director, or ~~an~~ officer, or a relative of a board member,
64 director, or ~~an~~ officer, of a lead agency does any of the
65 following:

66 a. Enters into a contract or other transaction for goods or
67 services with the lead agency.

68 b. Holds a direct or indirect interest in a corporation,



69 limited liability corporation, partnership, limited liability
70 partnership, or other business entity that conducts business
71 with the lead agency or proposes to enter into a contract or
72 other transaction with the lead agency. For purposes of this
73 paragraph, the term "indirect interest" has the same meaning as
74 in s. 112.312.

75 c. Knowingly obtains a direct or indirect personal,
76 financial, professional, or other benefit as a result of the
77 relationship of such board member, director, or officer, or
78 relative of the board member, director, or officer, with the
79 lead agency. For purposes of this paragraph, the term "benefit"
80 does not include per diem and travel expenses paid or reimbursed
81 to board members or officers of the lead agency in connection
82 with their service on the board.

83 3. "Related party" means any entity of which a director or
84 an executive of the entity is also directly or indirectly
85 related to, or has a direct or indirect financial or other
86 material interest in, the lead agency. The term also includes
87 any subsidiary, parent entity, associate firm, or joint venture,
88 or any entity that is controlled, influenced, or managed by
89 another entity or an individual related to such entity,
90 including an individual who is, or was within the immediately
91 preceding 3 years, an executive officer or a board member of the
92 entity.

93 ~~4.3.~~ "Relative" means a relative within the third degree of
94 consanguinity by blood or marriage.

95 (b)1. For any activity that is presented to the board of a
96 lead agency for its initial consideration and approval ~~after~~
97 ~~July 1, 2021~~, or any activity that involves a contract that is



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98 being considered for renewal ~~on or after July 1, 2021, but~~
99 ~~before January 1, 2022,~~ a board member, a director, or an
100 officer of a lead agency shall disclose to the board any
101 activity that may reasonably be construed to be a conflict of
102 interest before such activity is initially considered and
103 approved or a contract is renewed by the board. A rebuttable
104 presumption of a conflict of interest exists if the activity was
105 acted on by the board without prior notice as required under
106 paragraph (c). The board shall disclose any known, actual, or
107 potential conflicts to the department.

108 2. A lead agency may not enter into a contract or be a
109 party to any transaction that creates a conflict of interest,
110 including with related parties for the provision of management
111 or administrative services or oversight. The lead agency shall
112 competitively procure all contracts with related parties in
113 excess of \$35,000 ~~For contracts with a lead agency which are in~~
114 ~~existence on July 1, 2021, and are not subject to renewal before~~
115 ~~January 1, 2022, a board member or an officer of the lead agency~~
116 ~~shall disclose to the board any activity that may reasonably be~~
117 ~~construed to be a conflict of interest under this section by~~
118 ~~December 31, 2021.~~

119 (g)1. Civil penalties in the amount of \$5,000 per
120 occurrence shall be imposed for each known and potential
121 conflict of interest, as described in paragraph (b), which is
122 not disclosed to the department.

123 2. If a contract is procured for which a conflict of
124 interest was not disclosed to the department before execution of
125 the contract, the following penalties apply:

126 a. A civil penalty in the amount of \$50,000 for a first



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127 offense.

128 b. A civil penalty in the amount of \$100,000 for a second
129 or subsequent offense.

130 3. The civil penalties for failure to disclose a conflict
131 of interest under subparagraphs 1. and 2. apply to any contract
132 entered into, regardless of the method of procurement,
133 including, but not limited to, formal procurement, single-source
134 contracts, and contracts that do not meet the minimum threshold
135 for formal procurement.

136 4. A contract procured for which a conflict of interest was
137 not disclosed to the department before execution of the contract
138 shall be reprocured.

139 5. The department may, at its sole discretion, prohibit
140 execution of a contract for which a conflict of interest exists,
141 or will exist after execution.

142 Section 2. Paragraphs (c), (i), (j), (k), and (l) of
143 subsection (1) of section 409.988, Florida Statutes, are amended
144 to read:

145 409.988 Community-based care lead agency duties; general
146 provisions.—

147 (1) DUTIES.—A lead agency:

148 (c) Shall follow the financial guidelines developed by the
149 department and shall comply with regular, independent auditing
150 of its financial activities, including any requests for records
151 associated with such financial audits within the timeframe
152 established by the department or its contracted vendors ~~provide~~
153 for a regular independent auditing of its financial activities.

154 The results of its financial audit must ~~Such financial~~
155 ~~information shall~~ be provided to the community alliance



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156 established under s. 20.19(5).

157 (i) Shall comply with federal and state statutory
158 requirements and agency rules in the provision of contractual
159 services. Any subcontract in excess of \$250,000 must comply with
160 the competitive procurement process.

161 (j) May subcontract for the provision of services,
162 excluding administrative and management functions, required by
163 the contract with the lead agency and the department; however,
164 the subcontracts must specify how the provider will contribute
165 to the lead agency meeting the performance standards established
166 pursuant to the child welfare results-oriented accountability
167 system required by s. 409.997. The lead agency shall directly
168 provide no more than 35 percent of all child welfare services
169 provided unless it can demonstrate a need, within the lead
170 agency's geographic service area where there is a lack of viable
171 providers available to perform the necessary services. The
172 approval period to exceed the threshold must be limited to 2
173 years. The lead agency shall reprocur for these services before
174 the end of the 2-year period, to exceed this threshold. The
175 local community alliance in the geographic service area in which
176 the lead agency is seeking to exceed the threshold shall review
177 the lead agency's justification for need and recommend to the
178 department whether the department should approve or deny the
179 lead agency's request for an exemption from the services
180 threshold. If there is not a community alliance operating in the
181 geographic service area in which the lead agency is seeking to
182 exceed the threshold, such review and approval or denial of the
183 lead agency's request for an exemption from the services
184 threshold recommendation shall be made by the department. by



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185 ~~representatives of local stakeholders, including at least one~~
186 ~~representative from each of the following:~~

- 187 ~~1. The department.~~
- 188 ~~2. The county government.~~
- 189 ~~3. The school district.~~
- 190 ~~4. The county United Way.~~
- 191 ~~5. The county sheriff's office.~~
- 192 ~~6. The circuit court corresponding to the county.~~
- 193 ~~7. The county children's board, if one exists.~~

194 (k) Shall publish on its website by the 15th day of each
195 month at a minimum the data specified in subparagraphs ~~1.-9.1.-~~
196 ~~5.-~~, calculated using a standard methodology determined by the
197 department, for the preceding calendar month regarding its case
198 management services. The following information must ~~shall~~ be
199 reported by each individual subcontracted case management
200 provider, by the lead agency, if the lead agency provides case
201 management services, and in total for all case management
202 services subcontracted or directly provided by the lead agency:

- 203 1. The average caseload of case managers, including only
204 filled positions;
- 205 2. The total number and percentage of case managers who
206 have 25 or more cases on their caseloads;
- 207 3. The turnover rate for case managers and case management
208 supervisors for the previous 12 months;
- 209 4. The percentage of required home visits completed; ~~and~~
- 210 5. Performance on outcome measures required pursuant to s.
211 409.997 for the previous 12 months; ~~-~~
- 212 6. The number of unlicensed placements for the previous
213 month;



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214 7. The percentage and trends for foster parent and group
215 home recruitment and licensure for the previous month;

216 8 The percentage of families being served through family
217 support, in-home, and out-of-home services for the pervious
218 month; and

219 9. The percentage of cases that converted from nonjudicial
220 to judicial for the previous month.

221 Section 3. Section 409.991, Florida Statutes, is amended to
222 read:

223 409.991 Allocation of funds for community-based care lead
224 agencies.—

225 (1) As used in this section, the term—

226 ~~(a) "core services funds" means all funds allocated to~~
227 ~~community-based care lead agencies operating under contract with~~
228 ~~the department pursuant to s. 409.987. The term does not include~~
229 ~~any of, with the following exceptions:~~

230 (a)1. Funds appropriated for independent living services;

231 (b)2. Funds appropriated for maintenance adoption
232 subsidies;

233 (c)3. Funds allocated by the department for child
234 protective investigation service investigations—training;

235 (d)4. Nonrecurring funds;

236 (e)5. Designated mental health wrap-around service services
237 funds;

238 (f)6. Funds for special projects for a designated
239 ~~community-based care lead agency~~; and

240 (g)7. Funds appropriated for the Guardianship Assistance
241 Program under s. 39.6225.

242 ~~(b) "Equity allocation model" means an allocation model~~



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243 ~~that uses the following factors:~~

- 244 ~~1. Proportion of the child population;~~
245 ~~2. Proportion of child abuse hotline workload; and~~
246 ~~3. Proportion of children in care.~~

247 ~~(c) "Proportion of child population" means the proportion~~
248 ~~of children up to 18 years of age during the previous calendar~~
249 ~~year in the geographic area served by the community-based care~~
250 ~~lead agency.~~

251 ~~(d) "Proportion of child abuse hotline workload" means the~~
252 ~~weighted average of the following subcomponents:~~

253 ~~1. The average number of initial and additional child abuse~~
254 ~~reports received during the month for the most recent 12 months~~
255 ~~based on child protective investigations trend reports as~~
256 ~~determined by the department. This subcomponent shall be~~
257 ~~weighted as 20 percent of the factor.~~

258 ~~2. The average count of children in investigations in the~~
259 ~~most recent 12 months based on child protective investigations~~
260 ~~trend reports as determined by the department. This subcomponent~~
261 ~~shall be weighted as 40 percent of the factor.~~

262 ~~3. The average count of children in investigations with a~~
263 ~~most serious finding of verified abuse in the most recent 12~~
264 ~~months based on child protective investigations trend reports as~~
265 ~~determined by the department. This subcomponent shall be~~
266 ~~weighted as 40 percent of the factor.~~

267 ~~(e) "Proportion of children in care" means the proportion~~
268 ~~of the number of children in care receiving in-home services~~
269 ~~over the most recent 12-month period, the number of children~~
270 ~~whose families are receiving family support services over the~~
271 ~~most recent 12-month period, and the number of children who have~~



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272 ~~entered into out-of-home care with a case management overlay~~
273 ~~during the most recent 24-month period. This subcomponent shall~~
274 ~~be weighted as follows:~~

275 ~~1. Fifteen percent shall be based on children whose~~
276 ~~families are receiving family support services.~~

277 ~~2. Fifty-five percent shall be based on children in out-of-~~
278 ~~home care.~~

279 ~~3. Thirty percent shall be based on children in in-home~~
280 ~~care.~~

281 (2) Effective July 1, 2025, allocation of core services
282 funds must be based on an actuarially sound, tiered payment
283 model. The tiered model's purpose is to achieve the overarching
284 goals of a stable payment model that adjusts to workload and
285 incentivizes prevention, family preservation, and permanency.

286 (a) Tier 1 provides operational base and fixed costs, which
287 do not vary based on the number of children and families served.
288 Tier 1 payments may vary by geographic catchment area and cost
289 of living differences. The department shall establish and
290 annually update Tier 1 payment rates to maintain cost
291 expectations that are aligned with the population served,
292 services provided, and environment. Tier 1 expenses may include:

293 1. Administrative expenditures;

294 2. Lease payments;

295 3. Asset depreciation;

296 4. Utilities;

297 5. Select components of case management, including
298 administrative elements;

299 6. Mandated activities such as training, quality, and
300 contract management; or



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301 7. Activities performed for children and families which are
302 nonjudicial and not candidates for Title IV-E funding, including
303 true prevention and community-focused activities.

304 (b) Tier 2 is a per-child, per-month payment designed to
305 provide funding for lead agencies' expenses that vary based on
306 the number of children served for a particular month. The
307 payment rate blends out-of-home rates and in-home rates specific
308 to each lead agency to create a rate that provides a financial
309 incentive to lead agencies to provide service in the least
310 restrictive safe placement. The department shall establish and
311 annually update Tier 2 payment rates to maintain cost
312 expectations that are aligned with the population served,
313 services provided, and environment. Tier 2 rates must be set
314 annually.

315 (c) Tier 3 provides financial incentives that the
316 department shall establish to reward lead agencies that achieve
317 performance measures aligned with the department's goals of
318 prevention, family preservation, and permanency. ~~The equity~~
319 ~~allocation of core services funds shall be calculated based on~~
320 ~~the following weights:~~

321 ~~(a) Proportion of the child population shall be weighted as~~
322 ~~5 percent of the total.~~

323 ~~(b) Proportion of child abuse hotline workload shall be~~
324 ~~weighted as 35 percent of the total.~~

325 ~~(c) Proportion of children in care shall be weighted as 60~~
326 ~~percent of the total.~~

327 (3) By December 1 of each year, beginning in 2024, the
328 department shall submit a report to the Governor, the President
329 of the Senate, and the Speaker of the House of Representatives



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330 which includes each lead agency's actual performance in
331 attaining the previous fiscal year's targets, recommendations
332 for adjustments to lead agency funding, and adjustments to the
333 tiered payment model, if necessary ~~Beginning in the 2015-2016~~
334 ~~state fiscal year, 100 percent of the recurring core services~~
335 ~~funding for each community-based care lead agency shall be based~~
336 ~~on the prior year recurring base of core services funds.~~

337 (4) Effective July 1, 2025, unless otherwise specified in
338 the General Appropriations Act, the department shall allocate
339 all funding for core services based on the methodology
340 established in this section ~~any new core services funds shall be~~
341 ~~allocated based on the equity allocation model as follows:~~

342 (a) ~~Seventy percent of new funding shall be allocated among~~
343 ~~all community-based care lead agencies.~~

344 (b) ~~Thirty percent of new funding shall be allocated among~~
345 ~~community-based care lead agencies that are funded below their~~
346 ~~equitable share. Funds allocated pursuant to this paragraph~~
347 ~~shall be weighted based on each community-based care lead~~
348 ~~agency's relative proportion of the total amount of funding~~
349 ~~below the equitable share.~~

350 Section 4. Subsections (1) and (3) of section 409.992,
351 Florida Statutes, are amended to read:

352 409.992 Lead agency expenditures.—

353 (1) The procurement of commodities or contractual services
354 by lead agencies is ~~shall be~~ governed by the financial
355 guidelines developed by the department and must comply with
356 applicable state and federal law and follow good business
357 practices. Pursuant to s. 11.45, the Auditor General may provide
358 technical advice in the development of the financial guidelines.



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359 (a) Lead agencies shall competitively procure all
360 contracts, consistent with the simplified acquisition threshold
361 as specified in 2 C.F.R. part 200. Financial penalties or
362 sanctions, as established by the department and incorporated
363 into the contract, shall be imposed by the department for
364 noncompliance with applicable local, state, or federal law for
365 the procurement of commodities or contractual services.

366 (b) Notwithstanding s. 402.73, for procurement of real
367 property or professional services, lead agencies shall comply
368 with established purchasing practices, including the provisions
369 of s. 287.055, as required, for professional services, including
370 engineering or construction design. Upon termination of the
371 contract, the department shall immediately retain all rights to
372 and ownership of real property procured. Any funds from the
373 sale, transfer, or other dispossession of such property during
374 the contract term shall be returned to the department.

375 (3) Notwithstanding any other provision of law, a
376 community-based care lead agency administrative employee may not
377 receive a salary, whether base pay or base pay combined with any
378 bonus or incentive payments from the lead agency or any related
379 party, in excess of 150 percent of the annual salary paid to the
380 secretary of the Department of Children and Families from state-
381 appropriated funds, including state-appropriated federal funds.
382 This limitation applies regardless of the number of contracts a
383 community-based care lead agency may execute with the
384 department. This subsection does not prohibit any party from
385 providing cash that is not from appropriated state funds to a
386 community-based care lead agency administrative employee.

387 Section 5. Paragraphs (c) and (d) of subsection (1) of



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388 section 409.994, Florida Statutes, are amended to read:

389 409.994 Community-based care lead agencies; receivership.-

390 (1) The Department of Children and Families may petition a
391 court of competent jurisdiction for the appointment of a
392 receiver for a community-based care lead agency established
393 pursuant to s. 409.987 if any of the following conditions exist:

394 (c) The department determines that conditions exist in the
395 lead agency which present a ~~an imminent~~ danger to the health,
396 safety, or welfare of the dependent children under that agency's
397 care or supervision. Whenever possible, the department shall
398 make a reasonable effort to facilitate the continued operation
399 of the program.

400 (d) The lead agency cannot meet, or is unlikely to meet,
401 its current financial obligations to its employees, contractors,
402 or foster parents. Issuance of bad checks or the existence of
403 delinquent obligations for payment of salaries, utilities, or
404 invoices for essential services or commodities constitutes ~~shall~~
405 ~~constitute~~ prima facie evidence that the lead agency lacks the
406 financial ability to meet its financial obligations.

407 Section 6. Paragraph (d) of subsection (1) of section
408 409.996, Florida Statutes, is amended to read:

409 409.996 Duties of the Department of Children and Families.-
410 The department shall contract for the delivery, administration,
411 or management of care for children in the child protection and
412 child welfare system. In doing so, the department retains
413 responsibility for the quality of contracted services and
414 programs and shall ensure that, at a minimum, services are
415 delivered in accordance with applicable federal and state
416 statutes and regulations and the performance standards and



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417 metrics specified in the strategic plan created under s.
418 20.19(1).

419 (1) The department shall enter into contracts with lead
420 agencies for the performance of the duties by the lead agencies
421 established in s. 409.988. At a minimum, the contracts must do
422 all of the following:

423 (d) Provide for contractual actions ~~tiered interventions~~
424 ~~and graduated penalties~~ for failure to comply with contract
425 terms or in the event of performance deficiencies, as determined
426 appropriate by the department.

427 1. Such contractual actions ~~must interventions and~~
428 ~~penalties shall~~ include, but are not limited to:

429 ~~1. Enhanced monitoring and reporting.~~

430 ~~a.2.~~ Corrective action plans.

431 ~~b.3.~~ Requirements to accept technical assistance and
432 consultation from the department under subsection (6).

433 ~~c.4.~~ Financial penalties, which ~~shall~~ require a lead agency
434 to direct reallocate funds from administrative costs to the
435 department. The department shall use the funds collected to
436 support service delivery of quality improvement activities for
437 children in the lead agency's care ~~to direct care for children.~~
438 These penalties may be imposed for failure to provide timely,
439 sufficient resolution of deficiencies resulting in a corrective
440 action plan or other performance improvement plan issued by the
441 department. Financial penalties may include liquidated damages.

442 ~~d.5.~~ Early termination of contracts, as provided in s.
443 402.7305(3)(f) ~~s. 402.1705(3)(f).~~

444 2. The department shall include in each lead agency
445 contract executed a provision that requires payment to the



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446 department of sanctions or disincentives for failure to comply
447 with contractual obligations. The department shall establish a
448 schedule of daily monetary sanctions or disincentives for lead
449 agencies, which must be incorporated by reference into the
450 contract. The department is solely responsible for determining
451 the monetary value of liquidated damages.

452 Section 7. This act shall take effect July 1, 2024.

453 ===== T I T L E A M E N D M E N T =====

454 And the title is amended as follows:

455 Delete everything before the enacting clause
456 and insert:

457 A bill to be entitled

458 An act relating to community-based child welfare
459 agencies; amending s. 409.987, F.S.; revising
460 requirements for contracts the Department of Children
461 and Families has with community-based care lead
462 agencies; revising requirements for an entity to serve
463 as a lead agency; requiring that lead agencies ensure
464 that board members participate in certain annual
465 training; revising the definition of the term
466 "conflict of interest"; defining the term "related
467 party"; requiring the lead agency's board of directors
468 to disclose any known, actual, or potential conflicts
469 of interest; prohibiting a lead agency from entering
470 into a contract or being a party to a transaction that
471 creates a conflict of interest; requiring a lead
472 agency to competitively procure certain contracts;
473 imposing civil penalties on lead agencies for
474 undisclosed conflicts of interest; providing



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475 applicability; amending s. 409.988, F.S.; revising
476 community-based care lead agency duties; amending s.
477 409.991, F.S.; revising the definition of the term
478 "core services funds"; removing definitions; requiring
479 that the allocation of core services funds be based on
480 a three-tiered payment model; providing specifications
481 for the payment model; requiring that reports be
482 submitted annually to the Governor and the Legislature
483 by a specific date; requiring that all funding for
484 core services be based on the statutory methodology;
485 amending s. 409.992, F.S.; revising requirements for
486 lead agency practices in the procurement of
487 commodities and contractual services; requiring the
488 department to impose certain penalties for a lead
489 agency's noncompliance with applicable procurement
490 law; requiring lead agencies to comply with
491 established purchasing practices for the procurement
492 of real property and professional services; requiring
493 the department to retain all right to and ownership of
494 real property procured upon termination of contracts;
495 requiring certain funds to be returned to the
496 department; providing applicability of certain
497 limitations on the salaries of community-based care
498 lead agency administrative employees; amending s.
499 409.994, F.S.; revising the conditions under which the
500 department may petition a court for the appointment of
501 a receiver for a community-based care lead agency;
502 amending s. 409.996, F.S.; revising requirements for
503 contracts between the department and lead agencies;



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504 revising the actions the department may take upon
505 certain circumstances; making a technical change;
506 providing duties to the department; providing an
507 effective date.

By Senator Rouson

16-00721B-24

2024550__

1 A bill to be entitled
2 An act relating to transparency for autism-related
3 services; amending s. 393.063, F.S.; providing a
4 definition for the term "manifests" or "onset";
5 amending s. 393.065, F.S.; requiring the Agency for
6 Persons with Disabilities or its designee to provide
7 specified information when notifying an applicant of
8 his or her eligibility determination; providing an
9 effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Present subsections (26) through (46) of section
14 393.063, Florida Statutes, are redesignated as subsections (27)
15 through (47), respectively, and a new subsection (26) is added
16 to that section, to read:

17 393.063 Definitions.—For the purposes of this chapter, the
18 term:

19 (26) "Manifests" or "onset" means the display or disclosure
20 of characteristic signs or symptoms of an illness.

21 Section 2. Subsection (3) of section 393.065, Florida
22 Statutes, is amended to read:

23 393.065 Application and eligibility determination.—

24 (3) The agency or its designee shall notify each applicant,
25 in writing, of its individualized eligibility determination,
26 including any specific criteria the applicant has not met from
27 the agency's eligibility criteria described in rule 65G-4.0215,
28 Florida Administrative Code. Any applicant or client determined
29 by the agency to be ineligible for services has the right to

16-00721B-24

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30 appeal this determination pursuant to ss. 120.569 and 120.57.

31 Section 3. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 550

INTRODUCER: Senator Rouson

SUBJECT: Transparency for Autism-related Services

DATE: December 11, 2023

REVISED: _____

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

I. Summary:

SB 550 adds the new definition of “manifests” and “onset” to ch. 393, F.S. This effects the definitions of “autism,” “developmental disability,” and “intellectual disability.”

The bill also requires the Agency for Persons with Disability to provide each applicant an individualized eligibility determination that includes the specific criteria the applicant has not met when denied.

The bill is expected to have an indeterminate negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective beginning July 1, 2024.

II. Present Situation:

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) is responsible for the provision of services to individuals with developmental disabilities and for administering the Home and Community-Based Services (HCBS) Waiver.¹ Florida has procured waivers of federal Medicaid requirements for the purpose of providing home and community-based services to individuals at risk of institutionalization.² The HCBS Waiver provides services to individuals with developmental

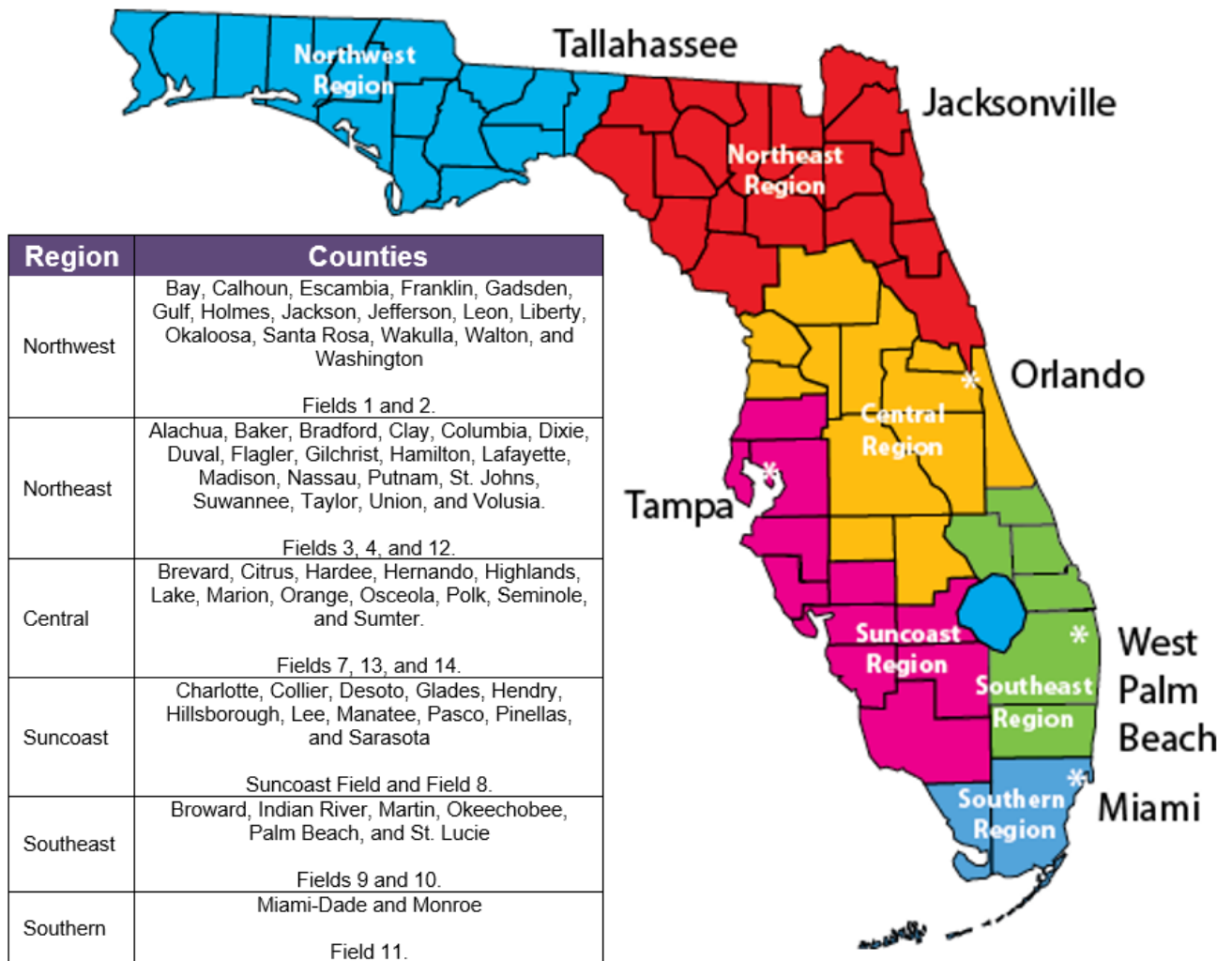
¹ See Section 20.197(3), F.S.

² Rule 59G-13.080(1), F.A.C.

disabilities that allow them to continue to live in their home or home-like setting and avoid institutionalization.³ Eligible individuals must meet institutional level of care requirements.⁴

The overarching goal for the APD is to prevent or reduce the severity of developmental disabilities and implement community-based services that will help individuals with developmental disabilities achieve their greatest potential for independent and productive living in the least restrictive means.⁵

In addition to central headquarters in Tallahassee, the APD operates a total of six regional offices and 14 field offices throughout the state, as detailed below:



³ The Centers for Medicare and Medicaid Services, <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited Dec. 11, 2023).

⁴ Id.; Rule 59G-13.080(1), F.A.C.

⁵ See Section 393.062, F.S.

iBudget Florida Program

The APD administers Florida's individual budget-based HCBS Waiver, known as iBudget Florida, for individuals with specified developmental disabilities who meet Medicaid eligibility requirements. These individuals may choose to receive services in the community through iBudget Florida. Alternatively, they may choose to live in an institutional setting known as Intermediate Care Facility for the Developmentally Disabled (ICF/DD)⁶ through traditional Medicaid administered by the Agency for Health Care Administration (AHCA).⁷

The APD initiated implementation of iBudget Florida on May 1, 2011 with the final areas transitioned from the previous teared waiver system on July 1, 2013.⁸ The iBudget Florida program uses an algorithm, or formula, to set individuals' funding allocations for waiver services.⁹ The APD administers iBudget Florida pursuant to s. 393.0662, F.S.

The APD serves just over 34,900 individuals through iBudget Florida, contracting with service providers to offer 27 supports and services to assist individuals to live in their community.¹⁰ Examples of waiver services enabling children and adults to live, learn, and work in their communities include residential habilitation, behavioral services, personal supports, adult day training, employment services, and occupational and physical therapy.¹¹

Eligibility for iBudget Services

The application process for individuals wishing to receive services through the iBudget program are detailed in s. 393.065, F.S. The APD must review applications for eligibility within 45 days for individuals with developmental disabilities deemed to be in crisis¹² and within 60 days for all other applicants.¹³ Individuals who are determined to be eligible for the Waiver program are either given a slot in the program or placed on a wait list. In fiscal year 2022-2023 APD reports iBudget plans for 36,672 individuals. Due to demand exceeding available funding, individuals with developmental disabilities who wish to receive HCBS services from the APD are placed on a wait list for services in priority categories of need, unless they are in crisis. As of January 15, 2024, there were 21,587 individuals on the HCBS Waiver wait list.¹⁴

⁶ Section 393.063(24), F.S., defines "intermediate care facility for the developmentally disabled" to mean a residential facility licensed and certified under part VIII of ch. 400, F.S.

⁷ Section 393.0662, F.S.

⁸ The APD, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: First Quarter Fiscal Year 2022-23*, p. 2, November 15, 2022, <https://apd.myflorida.com/publications/reports/docs/FY%202023%20Quarterly%20Report%201st%20Quarter%20report.pdf> (last visited Dec. 11, 2023).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² See Rule 65G-1.047, F.A.C.

¹³ Section 393.065(1), F.S.

¹⁴ Email from Kendall Kelley, Legislative Affairs Director, Florida Agency for Persons with Disabilities, *RE: Waitlist number*, Monday, January 15, 2024 11:16 AM (on file with the Senate Children, Families, and Elder Affairs Committee).

The needs of APD clients are classified into seven categories and are prioritized in the following decreasing order of priority:¹⁵

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Specified children from the child welfare system.¹⁶
- Category 3 – Includes, but is not limited to, clients:
 - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternative caregiver is available;
 - Who are at substantial risk of incarceration or court commitment without supports;
 - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
 - Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
- Category 4 – Includes, but is not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternative caregiver is available;
- Category 5 – Includes, but is not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.¹⁷

Because APD requires extensive documentation to verify identity, domicile, and documentation of clinical eligibility, most applications are incomplete upon receipt and require additional time to process. The APD also provides for a comprehensive assessment when needed to confirm eligibility for an applicant.

Section 393.066, F.S. requires the APD to plan, develop, organize, and implement its programs and services and treatment for persons with developmental disabilities to allow clients to live as independently as possible in their own homes or communities and to achieve productive lives as close to normal as possible.¹⁸ All elements of community-based services must be made available, and eligibility for these services must be consistent across the state.¹⁹

¹⁵ Section 393.065(5), F.S.

¹⁶ See s. 393.065(5)(b), F.S., for specific criteria.

¹⁷ Section 393.065(5), F.S.

¹⁸ Section 393.066(1), F.S.

¹⁹ *Id.*

Eligibility Criteria

Pursuant to 65G-4.017, F.A.C., there are eligibility criteria for each disability as follows:

Disability	Eligibility Criteria
Autism	<p>A diagnosis may only be made by one of the following:</p> <ul style="list-style-type: none"> • A Florida-licensed psychiatrist; • A Florida-licensed psychologist; • A board-certified pediatric neurologist who is qualified by training and experience to make a diagnosis of autism; • A board-certified developmental pediatrician; or • Collateral information received from another state may be accepted if the evaluator is licensed through the same credentials required for licensure in Florida for the professions listed above.
Cerebral Palsy	<p>Diagnosis is confirmed by written documentation from:</p> <ul style="list-style-type: none"> • A medical doctor; • A doctor of osteopathy; or • Medical records documenting a diagnosis of cerebral palsy before the age of 18.
Intellectual Disability	<p>To establish that an individual has intellectual disability, the following criteria shall be applied:</p> <ul style="list-style-type: none"> • A single test should not be used alone to determine eligibility. If a person has a great deal of variability on different scales or subtest scores of an IQ test, the full-scale score may not indicate intellectual disability and should not be relied on as a valid score. In that instance, closer scrutiny is required to make an appropriate differential diagnosis. This may include a review of school records, school placement, achievement scores, medical records, medication history, behavior during testing, and the psychosocial situation at the time of testing. Closer scrutiny must be required when there is a great deal of variability between IQ scores on different IQ tests or different administrations of the same test. • The performance measures for this category must be validated by the professional judgment of a psychologist who is experienced in working with people who have intellectual disability, who has specific training and validation in the assessment instrument that is used, and who is one of the following: <ul style="list-style-type: none"> ○ A Florida-licensed psychologist; ○ A Florida-licensed school psychologist; ○ A certified school psychologist. • Any standardized test may be submitted as proof, with specific tests presumptively accepted.
Prader-Willi Syndrome	<p>Diagnosis is confirmed by written documentation from:</p> <ul style="list-style-type: none"> • A medical doctor; • A doctor of osteopathy; or • Medical records that document a diagnosis of Prader-Willi syndrome before the age of 18.
Spina Bifida	<p>Diagnosis is confirmed by written documentation from one or more of the following:</p> <ul style="list-style-type: none"> • A medical doctor; • A doctor of osteopathy; or • Medical records that document a diagnosis of spina bifida cystica or myelomeningocele before the age of 18.
Down Syndrome	<p>Evidence requires medical records documenting a chromosome analysis (also referred to as a karyotype) finding the individual has an extra genetic material on their number 21 chromosome.</p>
Phelan-McDermid Syndrome	<p>The diagnosis must be confirmed utilizing genetic testing, with written documentation from:</p> <ul style="list-style-type: none"> • A medical doctor; • A doctor of osteopathy;

Disability	Eligibility Criteria
High Risk Children, ages 3-5	<p>Evidence requires a determination by an APD area office that a medical diagnosis of developmental delay evidenced by the child indicates a high probability that the child is likely to have an eventual diagnosis of a qualifying condition under Rule 65G-4.014, F.A.C., if early intervention services are not provided, or the child has one or more physical or genetic anomalies associated with specific developmental disabilities.</p> <ul style="list-style-type: none"> If a child between three and five years of age already has been determined to have a developmental disability in one of the five categories identified in chapter 393, F.S., that a child shall be eligible for services from the agency under the appropriate diagnosis and shall be added to a preenrollment category.

III. Effect of Proposed Changes:

Section 1 of the bill amends s.393.063, F.S., to include new definitions of “manifest” and “onset” to be “the display or disclosure of characteristic signs or symptoms of an illness.”

This broadens the point in time in which the APD can consider the manifestation of specific disabilities defined in statute. The definitions of “autism,” “developmental disability,” and “intellectual disability” all use the term manifest or onset. . Currently, administrative rule requires diagnosis by specific medical providers and/or specific tests, including intelligence tests and genetic testing. These new definitions could result in individuals becoming eligible for services prior to actual diagnosis as currently required.

Section 2 of the bill amends s. 393.065, F.S., to require the APD to provide any specific criteria the applicant has not met from the APD’s eligibility criteria as described in administrative code in their individual eligibility determination.

This language is a codification of the APD’s existing process of providing individual eligibility determinations, but clarifies that specific eligibility criteria must be provided.

Section 3 provides an effective date for July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The APD reports an indeterminate but potentially significant negative fiscal impact to the state. An increase in the eligible autism population would require an increase in needed funding as follows per eligible individual:

- Currently, the average cost plan for the iBudget Waiver is \$58,356.61 based on service allocations for FY 2022-23 for 36,672 clients.
- The average costs for individuals using Individual and Family Supports (IFS) funding during FY 2022-23 was \$5,114 for approximately 2,548 clients.

For example, if the eligible population were to increase by only 50 individuals there would be a needed increase in funding of:

50 (individuals) x \$58,356.61 (avg. iBudget plan) = **\$2,917,830.50, recurring**
 50 (individuals) x \$5,114 (avg. IFS costs) = **\$255,700, recurring**

Furthermore, a significant increase in population to the waiver program will require provider development and additional staff. Currently, the APD has 4,863 providers that provide iBudget Waiver services to approximately 36,672 clients.

VI. Technical Deficiencies:

The bill cites a specific rule in Florida's Administrative Code. This should be generalized.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 393.063 and 393.065, Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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



784930

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 13 - 20

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

And the title is amended as follows:

Delete lines 3 - 4

and insert:

services;



176916

LEGISLATIVE ACTION

Senate

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. .
. .
. .
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House

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

Senate Amendment

Delete lines 27 - 28
and insert:
the agency's eligibility criteria, as described in rule.
Any applicant or client determined

By Senator Collins

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

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

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

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

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

141
142 Be It Enacted by the Legislature of the State of Florida:
143

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

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

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

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

150 or

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

153 1. Five consecutive days; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

238 39.5035 Deceased parents; special procedures.—

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

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

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

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

267 (a) Be in writing.

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

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

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

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

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

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

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

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

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

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

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

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

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

334 39.522 Postdisposition change of custody.—

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

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

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

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

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

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

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

376 39.6221 Permanent guardianship of a dependent child.—

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

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

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

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

388 39.6225 Guardianship Assistance Program.—

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

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

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

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

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

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

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

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

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

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

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

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

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

425 39.812 Postdisposition relief; petition for adoption.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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523 were successful;

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

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

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

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

540 63.032 Definitions.—As used in this chapter, the term:
541 (12) "Licensed child-placing agency" has the same meaning
542 as in s. 39.01.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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610 parent.

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

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

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

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

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

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

641 63.097 Fees.—

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

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

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

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

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

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

654 409.1451 The Road-to-Independence Program.—

655 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

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

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

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

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

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668 pursuant to s. 1003.435;

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

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

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

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

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

688 (3) AFTERCARE SERVICES.—

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

692 a. Not in foster care.

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

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

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

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

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

708 1. Mentoring and tutoring.

709 2. Mental health services and substance abuse counseling.

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

712 4. Parenting classes.

713 5. Job and career skills training.

714 6. Counselor consultations.

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

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

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

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

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

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

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

737 (4) ADOPTION ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

894 (1) DUTIES.—A lead agency:

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

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

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

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

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1486

INTRODUCER: Senator Collins

SUBJECT: Child Permanency

DATE: January 15, 2024

REVISED: _____

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

I. Summary:

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

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

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

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

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

II. Present Situation:

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

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

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

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

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

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

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

⁵ *Id.*

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

⁷ Part V of ch. 409, F.S.

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

Florida's Child Welfare System – Generally

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

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

Department of Children and Families

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

The DCF is required to provide services relating to¹⁷:

- Adult protection.
- Child care regulation.

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

⁹ Chapter 39, F.S.

¹⁰ Section 39.001(8), F.S.

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

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

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

¹⁴ *Id.*

¹⁵ Section 20.19(1)(a), F.S.

¹⁶ Section 20.19(1)(b), F.S.

¹⁷ Section 20.19(4)(a), F.S.

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

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

Community-Based Care System

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

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

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

The Dependency System Process – Generally

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

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

¹⁸ Section 20.19(1)(d), F.S.

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

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

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

²² Section 409.988(3), F.S.

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

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

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

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

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

Central Abuse Hotline

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

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

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

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

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

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

²⁹ Section 39.201(4), F.S.

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

³¹ Section 39.201(4) and (5), F.S.

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

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

In-Home Services

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

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

Out-of-Home Placements

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

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

³³ Section 39.201, F.S.

³⁴ Section 39.202(1), F.S.

³⁵ Section 39.202(2)(o), F.S.

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

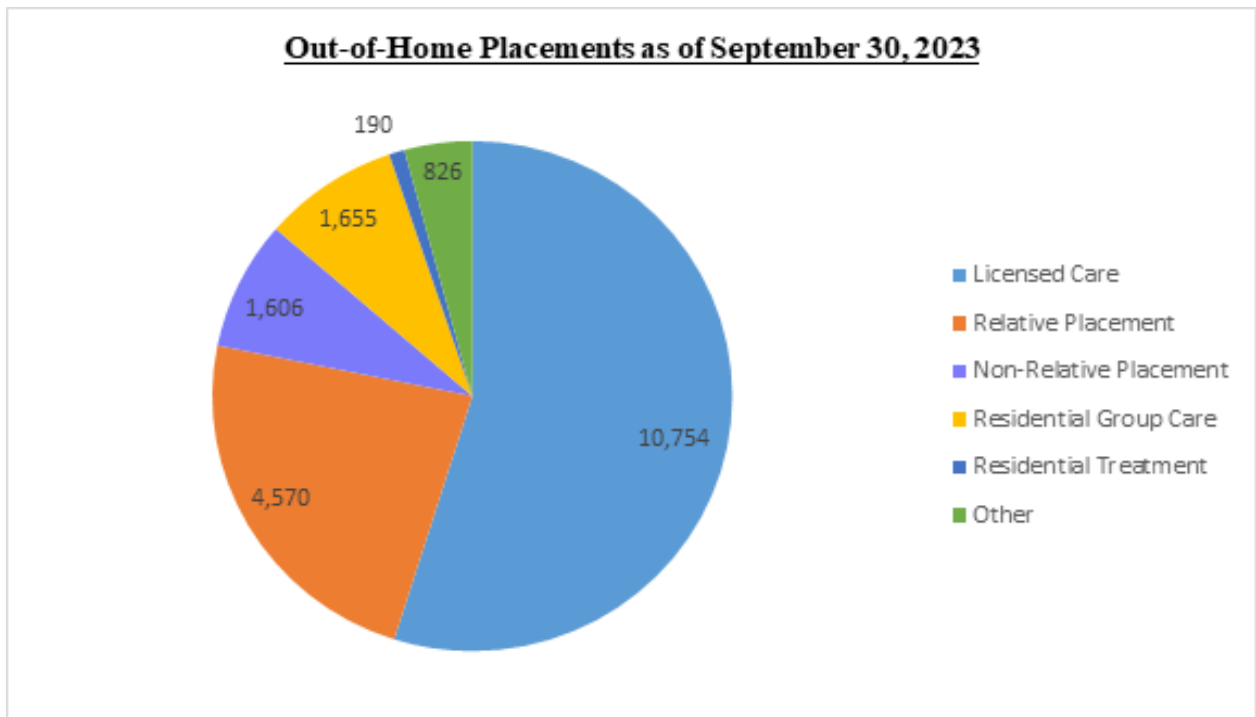
³⁷ Sections 39.402(7), 39.521(1)(f), and 39.701(d), F.S.

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

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

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

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



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

³⁹ Section 39.4021, F.S.

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

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

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

Background Screening Requirements for Out-of-Home Placements

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

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

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

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

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

Emergency Postdisposition Change of Placements

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

⁴³ Section 39.0138, F.S.

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

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

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

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

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

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

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

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

Termination of Parental Rights

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

⁴⁸ Section 39.01375, F.S.

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

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

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

⁵² *Id.*

⁵³ *Id.*

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

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

Permanency

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

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

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

Adoptions

Child Welfare Adoptions and Adoption Decision Review Process

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

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

⁵⁴ Section 39.811, F.S.

⁵⁵ Section 39.802, F.S.

⁵⁶ Section 39.502(2), F.S.

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

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

⁵⁹ Section 39.621 (1), F.S.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Section 39.621, F.S.

⁶³ Ch. 63, F.S.

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

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

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

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

Adoption Decision Review Process

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

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

⁶⁵ Section 39.01 (5), F.S.

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

⁶⁷ Section 39.811(9), F.S.

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

⁶⁹ Rule 65C-16.004, F.A.C.

⁷⁰ Rule 65C-16.007, F.A.C.

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

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

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

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

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

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

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

⁷¹ Rule 65C-16.005(9), F.A.C.

⁷² *Id.*

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

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

⁷⁵ Section 63.042(2), F.S.

⁷⁶ Section 63.062(7), F.S.

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

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

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

Adoption Costs

Private Adoptions

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

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

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

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

⁷⁹ *Id.*

⁸⁰ Section 63.302, F.S.

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

⁸² Section 63.097, F.S.

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

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

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

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

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

Adoption from the Child Welfare System

Adoption Assistance

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

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

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

⁸⁵ Section 63.097, F.S.

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

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

⁸⁸ Section 409.166, F.S.

⁸⁹ *Id.*

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

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

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

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

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

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

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

⁹² Chapter 2000-241, Laws of Fla.

⁹³ Chapter 2007-119, Laws of Fla.

⁹⁴ Chapter 2010-158, Laws of Fla.

⁹⁵ Chapter 2015-130, Laws of Fla.

⁹⁶ Chapter 2015-130, Laws of Fla.

⁹⁷ Chapter 2017-140, Laws of Fla.

⁹⁸ Chapter 2020-22, Laws of Fla.

⁹⁹ Chapter 2022-23, Laws of Fla.

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

¹⁰¹ Section 409.1664, F.S.

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

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

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

Statewide Adoption Services

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

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

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

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

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

¹⁰² Section 409.1664, F.S.

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

¹⁰⁴ R. 65C-16.004, F.A.C

¹⁰⁵ 65C-16.012 F.A.C.

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

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

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

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

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

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

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

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

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

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

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

Adoption Incentive Program

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

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

¹¹² *Id.*

¹¹³ *Id.*

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

¹¹⁵ Section 409.1662, F.S.

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

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

Adoption of Orphaned Children

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

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

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

¹¹⁶ Section 409.1662(3), F.S.

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

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

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

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

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

¹²² *Id.*

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

Florida’s Independent Living Services

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

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

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

¹²³ *Id.*

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

¹²⁵ Rule 65C-30.022, F.A.C.

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

¹²⁷ Chapter 2013-178, Laws of Florida

¹²⁸ Section 39.6251, F.S.

¹²⁹ Section 409.1451(2), F.S.

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

III. Effect of Proposed Changes:

Background Screenings (Sections 1 and 2)

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

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

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

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

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

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

¹³⁰ Section 409.1451(3), F.S.

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

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

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

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

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

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

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

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

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

Child Abuse Records (Section 3)

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

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

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

Adoption of Orphaned Children (Section 4)

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

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

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

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

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

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

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

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

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

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

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

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

Emergency Postdisposition Change of Placement (Section 5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Independent Living Services (Section 14)

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

Effective Dates

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Community-Based Care Lead Agencies

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

Child-Placing Agencies

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

Adoption Entities

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

C. Government Sector Impact:

Expansion of Independent Living Services

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

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

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

Expansion of the Adoption Benefits Program

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

Court System

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(88) "Visitor" means a person who:

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



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

13 1. Five consecutive days; or

14 2. Seven days or more in 1 month.

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

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

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



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

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

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



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

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

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

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

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

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



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

100 39.5035 .Deceased parents; special procedures.-

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

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

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

124 (2) The petition must be:

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



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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

224 39.522 Postdisposition change of custody.—

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

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



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

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

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

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

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

269 39.6221 Permanent guardianship of a dependent child.—

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



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

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

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

281 39.6225 Guardianship Assistance Program.—

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

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

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

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

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

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

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



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301 more life activities.

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

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

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

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

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

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



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330 Florida Statutes, are amended to read:

331 39.812 Postdisposition relief; petition for adoption.—

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

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

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

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

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



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

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

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

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

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



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388 foster home or custodian, except when:

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

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

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

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

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

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



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

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

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

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

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

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



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446 amended to read:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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504 department, through its contracted child-placing agency,
505 ~~community-based care lead agency or its subcontracted agency~~
506 must complete an adoptive home study of a prospective adoptive
507 parent that includes observation, screening, and evaluation of
508 the child and the prospective adoptive parent. An adoptive home
509 study must be updated every ~~is valid for~~ 12 months after the
510 date on which the study was approved. If the child was placed
511 before the termination of parental rights, the updated placement
512 or licensed home study may serve as the adoption home study. In
513 addition, the department, through its contracted child-placing
514 agency, ~~community-based care lead agency or its subcontracted~~
515 ~~agency~~ must complete a preparation process, as established by
516 department rule, with the prospective adoptive parent.

517 (6) ~~(5)~~ At the conclusion of the adoptive home study and
518 preparation process, a decision must ~~shall~~ be made about the
519 prospective adoptive parent's appropriateness to adopt. This
520 decision shall be reflected in the final recommendation included
521 in the adoptive home study. If the recommendation is for
522 approval, the adoptive parent application file must be submitted
523 to the department, through its contracted child-placing agency,
524 ~~community-based care lead agency or its subcontracted agency~~ for
525 approval. The contracted child-placing agency ~~community-based~~
526 ~~care lead agency or its subcontracted agency~~ must approve or
527 deny the home study within 14 business days after receipt of the
528 recommendation.

529 (7) The department shall adopt rules to eliminate
530 duplicative practices and delays in the adoption home study
531 process for a member of a uniformed service on active duty
532 seeking to adopt in the state, including, but not limited to,



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533 providing a credit for adoption classes that have been taken in
534 another state which substantially cover the preservice training
535 required under s. 409.175(14) (b).

536 (8) By November 15 of each year, the department shall
537 submit an annual report to the Governor, the President of the
538 Senate, and the Speaker of the House of Representatives on the
539 status of adoptions within the state.

540
541 Notwithstanding subsections (2) and (3) ~~(1) and (2)~~, this
542 section does not apply to a child adopted through the process
543 provided in s. 63.082(6).

544 Section 13. Subsections (6) of section 63.097, Florida
545 Statutes, is renumbered as subsection (7), paragraphs (a) and
546 (c) of subsection (3) are amended, and a new subsection (6) is
547 added to that section, to read:

548 63.097 Fees.—

549 (3) Approval of the court is not required until the total
550 of amounts permitted under subsection (2) exceeds:

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

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

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

555 (6) Excluding reasonable medically necessary expenses, the
556 court may not approve the fees per child specified in this
557 section if the fees exceed the total amount of the federal
558 adoption tax credit for the current tax year.

559 (7) ~~(6)~~ Unless otherwise indicated in this section, when an
560 adoption entity uses the services of a licensed child-placing
561 agency, a professional, any other person or agency pursuant to



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562 s. 63.092, or, if necessary, the department, the person seeking
563 to adopt the child must pay the licensed child-placing agency,
564 professional, other person or agency, or the department an
565 amount equal to the cost of all services performed, including,
566 but not limited to, the cost of conducting the preliminary home
567 study, counseling, and the final home investigation.

568 Section 14. Paragraph (a) of subsection (2) and paragraph
569 (a) of subsection (3) of section 409.1451, Florida Statutes, are
570 amended to read:

571 409.1451 The Road-to-Independence Program.—

572 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

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

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

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

583 3. Earned a standard high school diploma pursuant to s.
584 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent
585 pursuant to s. 1003.435;

586 4. Has been admitted for enrollment as a full-time student
587 or its equivalent in an eligible postsecondary educational
588 institution as provided in s. 1009.533. For purposes of this
589 section, the term "full-time" means 9 credit hours or the
590 vocational school equivalent. A student may enroll part-time if



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591 he or she has a recognized disability or is faced with another
592 challenge or circumstance that would prevent full-time
593 attendance. A student needing to enroll part-time for any reason
594 other than having a recognized disability must get approval from
595 his or her academic advisor;

596 5. Has reached 18 years of age but is not yet 23 years of
597 age;

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

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

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

605 (3) AFTERCARE SERVICES.—

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

609 a. Not in foster care.

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

612 c. Eligible for the Extended Guardianship Assistance
613 Program under s. 39.6225(9) or the extended adoption assistance
614 program under s. 409.166(4), but is not participating in either
615 program.

616 2. Subject to available funding, aftercare services as
617 specified in subparagraph (b)8. are also available to a young
618 adult who is between the ages of 18 and 22, is receiving
619 financial assistance under subsection (2), is experiencing an



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620 emergency situation, and whose resources are insufficient to
621 meet the emergency situation. Such assistance shall be in
622 addition to any amount specified in paragraph (2) (b).

623 Section 15. Paragraph (d) of subsection (4) of section
624 409.166, Florida Statutes, is amended to read:

625 409.166 Children within the child welfare system; adoption
626 assistance program.—

627 (4) ADOPTION ASSISTANCE.—

628 (d) Effective January 1, 2019, adoption assistance payments
629 may be made for a child whose adoptive parent entered into an
630 initial adoption assistance agreement after the child reached 14
631 ~~16~~ years of age but before the child reached 18 years of age.
632 Such payments may be made until the child reaches age 21 if the
633 child is:

634 1. Completing secondary education or a program leading to
635 an equivalent credential;

636 2. Enrolled in an institution that provides postsecondary
637 or vocational education;

638 3. Participating in a program or activity designed to
639 promote or eliminate barriers to employment;

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

641 5. Unable to participate in programs or activities listed
642 in subparagraphs 1.-4. full time due to a physical, an
643 intellectual, an emotional, or a psychiatric condition that
644 limits participation. Any such barrier to participation must be
645 supported by documentation in the child's case file or school or
646 medical records of a physical, an intellectual, an emotional, or
647 a psychiatric condition that impairs the child's ability to
648 perform one or more life activities.



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649 Section 16. Section 409.1662, Florida Statutes, is
650 repealed.

651 Section 17. Section 409.1664, Florida Statutes, is amended
652 to read:

653 409.1664 Adoption benefits for qualifying adoptive
654 employees of state agencies, veterans, servicemembers, ~~and~~ law
655 enforcement officers, health care practitioners, and tax
656 collector employees.—

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

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

660 (b) "Health care practitioner" means a person listed in s.
661 456.001(4) who holds an active license from the Department of
662 Health and whose gross income does not exceed \$150,000 per year.

663 (c) ~~(b)~~ "Law enforcement officer" has the same meaning as
664 provided in s. 943.10(1).

665 (d) ~~(e)~~ "Qualifying adoptive employee" means a full-time or
666 part-time employee of a state agency, a charter school
667 established under s. 1002.33, or the Florida Virtual School
668 established under s. 1002.37, who is not an independent
669 contractor and who adopts a child within the child welfare
670 system pursuant to chapter 63 on or after July 1, 2015. The term
671 includes instructional personnel, as defined in s. 1012.01, who
672 are employed by the Florida School for the Deaf and the Blind,
673 and includes other-personal-services employees who have been
674 continuously employed full time or part time by a state agency
675 for at least 1 year.

676 (e) ~~(d)~~ "Servicemember" has the same meaning as in s.
677 250.01(19).



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678 (f)~~(e)~~ "State agency" means a branch, department, or agency
679 of state government for which the Chief Financial Officer
680 processes payroll requisitions, a state university or Florida
681 College System institution as defined in s. 1000.21, a school
682 district unit as defined in s. 1001.30, or a water management
683 district as defined in s. 373.019.

684 (g) "Tax collector employee" means an employee of an office
685 of county tax collector in the state.

686 (h)~~(f)~~ "Veteran" has the same meaning as in s. 1.01(14).

687 (2) A qualifying adoptive employee, veteran, law
688 enforcement officer, health care practitioner, tax collector
689 employee, or servicemember who adopts a child within the child
690 welfare system who is difficult to place as described in s.
691 409.166(2)(d)2. is eligible to receive a lump-sum monetary
692 benefit in the amount of \$25,000 ~~\$10,000~~ per such child, subject
693 to applicable taxes. ~~A law enforcement officer who adopts a~~
694 ~~child within the child welfare system who is difficult to place~~
695 ~~as described in s. 409.166(2)(d)2. is eligible to receive a~~
696 ~~lump-sum monetary benefit in the amount of \$25,000 per such~~
697 ~~child, subject to applicable taxes. A qualifying adoptive~~
698 ~~employee, veteran, law enforcement officer, health care~~
699 practitioner, tax collector employee, or servicemember who
700 adopts a child within the child welfare system who is not
701 difficult to place as described in s. 409.166(2)(d)2. is
702 eligible to receive a lump-sum monetary benefit in the amount of
703 \$10,000 ~~\$5,000~~ per such child, subject to applicable taxes. ~~A~~
704 ~~law enforcement officer who adopts a child within the child~~
705 ~~welfare system who is not difficult to place as described in s.~~
706 ~~409.166(2)(d)2. is eligible to receive a lump-sum monetary~~



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707 ~~benefit in the amount of \$10,000 per each such child, subject to~~
708 ~~applicable taxes.~~ A qualifying adoptive employee of a charter
709 school or the Florida Virtual School may retroactively apply for
710 the monetary benefit provided in this subsection if such
711 employee was employed by a charter school or the Florida Virtual
712 School when he or she adopted a child within the child welfare
713 system pursuant to chapter 63 on or after July 1, 2015. A
714 veteran or servicemember may apply for the monetary benefit
715 provided in this subsection if he or she is domiciled in this
716 state and adopts a child within the child welfare system
717 pursuant to chapter 63 on or after July 1, 2020. A law
718 enforcement officer may apply for the monetary benefit provided
719 in this subsection if he or she is domiciled in this state and
720 adopts a child within the child welfare system pursuant to
721 chapter 63 on or after July 1, 2022. A health care practitioner
722 and tax collector employee may apply for the monetary benefit
723 provided in this subsection if he or she is domiciled in this
724 state and adopts a child within the child welfare system
725 pursuant to chapter 63 on or after July 1, 2024.

726 (a) Benefits paid to a qualifying adoptive employee who is
727 a part-time employee must be prorated based on the qualifying
728 adoptive employee's full-time equivalency at the time of
729 applying for the benefits.

730 (b) Monetary benefits awarded under this subsection are
731 limited to one award per adopted child within the child welfare
732 system.

733 (c) The payment of a lump-sum monetary benefit for adopting
734 a child within the child welfare system under this section is
735 subject to a specific appropriation to the department for such



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736 purpose.

737 (3) A qualifying adoptive employee must apply to his or her
738 agency head, or to his or her school director in the case of a
739 qualifying adoptive employee of a charter school or the Florida
740 Virtual School, to obtain the monetary benefit provided in
741 subsection (2). A veteran, or servicemember, or tax collector
742 employee must apply to the department to obtain the benefit. A
743 law enforcement officer must apply to the Department of Law
744 Enforcement to obtain the benefit. A health care practitioner
745 must apply to the Department of Health to obtain the benefit.
746 Applications must be on forms approved by the department and
747 must include a certified copy of the final order of adoption
748 naming the applicant as the adoptive parent. Monetary benefits
749 shall be approved on a first-come, first-served basis based upon
750 the date that each fully completed application is received by
751 the department.

752 (4) This section does not preclude a qualifying adoptive
753 employee, veteran, servicemember, health care practitioner, tax
754 collector employee, or law enforcement officer from receiving
755 adoption assistance for which he or she may qualify under s.
756 409.166 or any other statute that provides financial incentives
757 for the adoption of children.

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

761 (6) The department may adopt rules to administer this
762 section. The rules may provide for an application process such
763 as, but not limited to, an open enrollment period during which
764 qualifying adoptive employees, veterans, servicemembers, health



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765 care practitioners, tax collector employees, or law enforcement
766 officers may apply for monetary benefits under this section.

767 (7) The Chief Financial Officer shall disburse a monetary
768 benefit to a qualifying adoptive employee upon the department's
769 submission of a payroll requisition. The Chief Financial Officer
770 shall transfer funds from the department to a state university,
771 a Florida College System institution, a school district unit, a
772 charter school, the Florida Virtual School, or a water
773 management district, as appropriate, to enable payment to the
774 qualifying adoptive employee through the payroll systems as long
775 as funds are available for such purpose.

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

779 (9) Each state agency shall develop a uniform procedure for
780 informing employees about this benefit and for assisting the
781 department in making eligibility determinations and processing
782 applications. Any procedure adopted by a state agency is valid
783 and enforceable if the procedure does not conflict with the
784 express terms of this section.

785 Section 18. Subsections (1) through (4) of section 409.167,
786 Florida Statutes, are amended to read:

787 409.167 Statewide adoption exchange; establishment;
788 responsibilities; registration requirements; rules.—

789 (1) The Department of Children and Families shall
790 establish, either directly or through purchase, a statewide
791 adoption exchange, with a photo listing component, which serves
792 ~~shall serve~~ all authorized licensed child-placing agencies in
793 the state as a means of recruiting adoptive families for



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794 children who have been legally freed for adoption and who have
795 been permanently placed with the department or a licensed child-
796 placing agency. The statewide adoption exchange must ~~shall~~
797 provide, in accordance with rules adopted by the department,
798 descriptions and photographs of such children, as well as any
799 other information deemed useful in the recruitment of adoptive
800 families for each child. The photo listing component of the
801 statewide adoption exchange must be updated monthly and may not
802 be accessible to the public, except to persons who have
803 completed or are in the process of completing an adoption home
804 study.

805 (2) (a) Each district of the department shall refer each
806 child in its care who has been legally freed for adoption to the
807 statewide adoption exchange no later than 30 days after the date
808 of acceptance by the department for permanent placement. The
809 referral must be accompanied by a photograph and description of
810 the child.

811 (b) The department shall establish criteria by which a
812 district may determine that a child need not be registered with
813 the statewide adoption exchange. Within 30 days after the date
814 of acceptance by the department for permanent placement, the
815 name of the child accepted for permanent placement must be
816 forwarded to the statewide adoption exchange by the district
817 together with reference to the specific reason why the child
818 should not be placed on the statewide adoption exchange. If the
819 child has not been placed for adoption within 3 months after the
820 date of acceptance by the department for permanent placement,
821 the district must ~~shall~~ provide the statewide adoption exchange
822 with the necessary photograph and information for registration



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823 of the child with the statewide adoption exchange and the child
824 must ~~shall~~ be placed on the statewide adoption exchange. The
825 department shall establish procedures for monitoring the status
826 of children who are not placed on the statewide adoption
827 exchange within 30 days after the date of acceptance by the
828 department for permanent placement.

829 (3) In accordance with rules established by the department,
830 the statewide adoption exchange may accept, from licensed child-
831 placing agencies, information pertaining to children meeting the
832 criteria of this section, and to prospective adoptive families,
833 for registration with the statewide adoption exchange.

834 (4) For purposes of facilitating family-matching between
835 children and prospective adoptive parents, the statewide
836 adoption exchange must ~~shall~~ provide the photo listing component
837 service to all licensed child-placing agencies and, in
838 accordance with rules adopted ~~established~~ by the department, to
839 all appropriate citizen groups and other organizations and
840 associations interested in children's services. The photo
841 listing component of the statewide adoption exchange may not be
842 accessible to the public, except to persons who have completed
843 or are in the process of completing an adoption home study.

844 Section 19. Effective July 1, 2025, paragraph (a) of
845 subsection (1) of section 409.988, Florida Statutes, is amended
846 to read:

847 409.988 Community-based care lead agency duties; general
848 provisions.—

849 (1) DUTIES.—A lead agency:

850 (a)1. Shall serve+

851 ~~a.~~ all children referred as a result of a report of abuse,



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852 neglect, or abandonment to the department's central abuse
853 hotline, including, but not limited to, children who are the
854 subject of verified reports and children who are not the subject
855 of verified reports but who are at moderate to extremely high
856 risk of abuse, neglect, or abandonment, as determined using the
857 department's risk assessment instrument, regardless of the level
858 of funding allocated to the lead agency by the state if all
859 related funding is transferred.

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

862 2. May also serve children who have not been the subject of
863 reports of abuse, neglect, or abandonment, but who are at risk
864 of abuse, neglect, or abandonment, to prevent their entry into
865 the child protection and child welfare system.

866 Section 20. Except as otherwise expressly provided in
867 this act, this act shall take effect July 1, 2024

868
869 ===== T I T L E A M E N D M E N T =====

870 And the title is amended as follows:

871 Delete everything before the enacting clause
872 and insert:

873 A bill to be entitled
874 An act relating to permanency for children; amending
875 s. 39.01, F.S.; defining the term "visitor"; amending
876 s. 39.0138, F.S.; renaming the "State Automated Child
877 Welfare Information System" as the "Comprehensive
878 Child Welfare Information System"; requiring the
879 Department of Children and Families to conduct a
880 criminal history records check of certain frequent



881 visitors to a home in which a child is placed;
882 requiring the department to conduct a name-based check
883 of criminal history records of all visitors to such
884 home and certain other persons in specified
885 circumstances; requiring certain persons to submit
886 their fingerprints to the department or other
887 specified entities; requiring the department or such
888 entities to submit such fingerprints to the Department
889 of Law Enforcement for state processing within a
890 specified timeframe; requiring the Department of Law
891 Enforcement to forward such fingerprints to the
892 Federal Bureau of Investigation within a specified
893 timeframe; requiring a child to be immediately removed
894 from a home if certain persons fail to provide their
895 fingerprints and are not otherwise exempt from a
896 criminal history records check; amending s. 39.202,
897 F.S.; authorizing certain information to be provided
898 to any person in the event of the death of a child if
899 the department concludes that the death was a result
900 of abuse, abandonment, or neglect; creating s.
901 39.5035, F.S.; providing procedures and requirements
902 relating to deceased parents of a dependent child;
903 amending s. 39.522, F.S.; authorizing certain persons
904 to remove a child from a court-ordered placement under
905 certain circumstances; requiring the Department of
906 Children and Families to file a specified motion, and
907 the court to set a hearing, within specified
908 timeframes under certain circumstances; requiring a
909 certain determination by the court to support



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910 immediate removal of a child; authorizing the court to
911 base its determination on certain evidence; requiring
912 the court to enter certain orders and conduct certain
913 hearings under certain circumstances; amending s.
914 39.6221, F.S.; revising a requisite condition for
915 placing a child in a permanent guardianship; amending
916 s. 39.6225, F.S.; revising eligibility for payments
917 under the Guardianship Assistance Program; amending s.
918 39.801, F.S.; providing that service of process is not
919 necessary under certain circumstances; amending s.
920 39.812, F.S.; authorizing the court to review the
921 Department of Children and Families' denial of an
922 application to adopt a child; requiring the department
923 to file written notification of its denial with the
924 court and provide copies to certain persons within a
925 specified timeframe; authorizing a denied applicant to
926 file a motion to review such denial within a specified
927 timeframe; requiring the court to hold a hearing
928 within a specified timeframe; providing standing to
929 certain persons; authorizing certain persons to
930 participate in the hearing under certain
931 circumstances; requiring the court to enter an order
932 within a specified timeframe; providing an exception
933 to authorize the department to remove a child from his
934 or her foster home or custodian; requiring the
935 department or its contracted child-placing agency to
936 conduct certain postadoption duties; conforming
937 provisions to changes made by the act; amending s.
938 63.032, F.S.; revising a definition; amending s.



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939 63.062, F.S.; conforming provisions to changes made by
940 the act; amending s. 63.093, F.S.; requiring the
941 Department of Children and Families to contract with
942 one or more child-placing agencies to provide adoption
943 services; authorizing such agency to subcontract with
944 other entities to provide certain duties; requiring an
945 adoptive home study to be updated every 12 months
946 after the date on which the first study was approved;
947 requiring the department to adopt certain rules;
948 requiring the department to submit an annual report to
949 the Governor and Legislature by a specified date;
950 conforming provisions to changes made by the act;
951 amending s. 63.097, F.S.; revising and prohibiting
952 certain fees; amending s. 409.1451, F.S.; revising the
953 age requirements for receiving postsecondary education
954 services and support; revising the requirements for
955 receiving aftercare services; amending s. 409.166,
956 F.S.; revising the age requirements for receiving
957 adoption assistance; repealing s. 409.1662, F.S.,
958 relating to children within the child welfare system
959 and the adoption incentive program; amending s.
960 409.1664, F.S.; providing definitions; providing
961 certain adoption benefits to health care practitioners
962 and tax collector employees; specifying methods for
963 such persons to apply for such benefits; increasing
964 the amount of monetary adoption benefits certain
965 persons are eligible to receive; conforming provisions
966 to changes made by the act; amending s. 409.167, F.S.;
967 providing requirements for the statewide adoption



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968 exchange and its photo listing component; authorizing
969 only certain persons to access such photo listing
970 component; conforming provisions to changes made by
971 the act; amending s. 409.988, F.S.; revising the
972 children a community-based care lead agency must
973 serve; providing effective dates.
974

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-01952A-24

20247034pb

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 394.464, F.S., which
4 provides an exemption from public records requirements
5 for petitions for voluntary and involuntary admission
6 for mental health treatment, court orders, related
7 records, and personal identifying information
8 regarding persons seeking mental health treatment and
9 services; abrogating the scheduled repeal of the
10 exemption; providing an effective date.

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

13
14 Section 1. Section 394.464, Florida Statutes, is amended to
15 read:

16 394.464 Court records; confidentiality.—

17 (1) All petitions for voluntary and involuntary admission
18 for mental health treatment, court orders, and related records
19 that are filed with or by a court under this part are
20 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
21 of the State Constitution. Pleadings and other documents made
22 confidential and exempt by this section may be disclosed by the
23 clerk of the court, upon request, to any of the following:

24 (a) The petitioner.

25 (b) The petitioner's attorney.

26 (c) The respondent.

27 (d) The respondent's attorney.

28 (e) The respondent's guardian or guardian advocate, if
29 applicable.

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30 (f) In the case of a minor respondent, the respondent's
31 parent, guardian, legal custodian, or guardian advocate.

32 (g) The respondent's treating health care practitioner.

33 (h) The respondent's health care surrogate or proxy.

34 (i) The Department of Children and Families, without
35 charge.

36 (j) The Department of Corrections, without charge, if the
37 respondent is committed or is to be returned to the custody of
38 the Department of Corrections from the Department of Children
39 and Families.

40 (k) A person or entity authorized to view records upon a
41 court order for good cause. In determining if there is good
42 cause for the disclosure of records, the court must weigh the
43 person or entity's need for the information against potential
44 harm to the respondent from the disclosure.

45 (2) This section does not preclude the clerk of the court
46 from submitting the information required by s. 790.065 to the
47 Department of Law Enforcement.

48 (3) The clerk of the court may not publish personal
49 identifying information on a court docket or in a publicly
50 accessible file.

51 (4) A person or entity receiving information pursuant to
52 this section shall maintain that information as confidential and
53 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
54 Constitution.

55 (5) The exemption under this section applies to all
56 documents filed with a court before, on, or after July 1, 2019.

57 ~~(6) This section is subject to the Open Government Sunset~~
58 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~

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20247034pb

59 ~~on October 2, 2024, unless reviewed and saved from repeal~~
60 ~~through reenactment by the Legislature.~~

61 Section 2. This act shall take effect October 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7034

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/Information Regarding Persons Seeking Mental Health Treatment and Services

DATE: January 15, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hall	Tuszynski		Pre-meeting

I. Summary:

The Open Government Sunset Review Act requires the Legislature to review each public record exemption and each public meeting exemption five years after reenactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Florida Mental Health Act, otherwise known as the Baker Act, provides legal procedures for voluntary and involuntary mental health examination and treatment. A person may be admitted for mental health treatment on a voluntary or involuntary basis. Current law makes all petitions for voluntary and involuntary admission for mental health treatment, court orders, and related records filed with or by a court pursuant to a Baker Act confidential and exempt from public record requirements. The information contained in these court files may only be released to certain entities and individuals.

SPB 7034 saves from repeal the public records exemption relating to all petitions for voluntary and involuntary admission for mental health treatment, court orders, and related records that are filed with or by a court pursuant to a Baker Act.

The bill takes effect October 1, 2024.

II. Present Situation:

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exemption to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Florida Mental Health Act

The Florida Mental Health Act, otherwise known as the Baker Act (Baker Act) was enacted in 1971 to revise the state's mental health commitment laws.⁵ It provides legal procedures for mental health examination and treatment. It also protects the rights of all individuals examined or treated for mental illness in Florida.⁶ Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.⁷

Voluntary Admissions

The Baker Act allows for the voluntary admission of persons for psychiatric care, but only when the individual is over the age of 18, deemed to be competent, expresses informed consent, and is suitable for treatment.⁸ Any person age 17 or under may be admitted voluntarily if a parent or legal guardian applies for admission and only after a clinical review to verify the minor's willingness to volunteer for treatment under a Baker Act.⁹ If any condition for voluntary admission is not met, then that person shall be extended the due process rights assured under the involuntary provisions of the Baker Act.¹⁰

³ Section 119.15(6)(b), F.S.

⁴ Article I, s. 24(c), FLA. CONST.

⁵ Section 394.451, F.S.

⁶ Section 394.459, F.S.

⁷ Sections 394.4625 and 394.463, F.S.

⁸ Section 394.4625(1)(a), F.S.

⁹ *Id.*

¹⁰ Section 394.4625, F.S.

Involuntary Examinations

An involuntary examination is required if there is reason to believe that the person has a mental illness and, because of his or her mental illness, the person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary, and either of the following determinations are made:¹¹

- Without care or treatment, the person is likely to suffer from neglect or refuse care for himself or herself; such neglect poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is substantial likelihood that, without care or treatment, the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

The involuntary examination may be initiated in one of three ways:¹²

- A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony. The order of the court shall be made a part of the patient's clinical record.
- A law enforcement officer must take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to an appropriate, or the nearest, receiving facility for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, and the report shall be made a part of the patient's clinical record.
- A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating that observations upon which that conclusion is based. The report and certificate shall be made a part of the patient's clinical record.

Involuntary patients must be taken to either a public or private facility that has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility.¹³ A receiving facility has up to 72 hours to examine an involuntary patient.¹⁴ During those 72 hours, the patient must be examined by a physician, a clinical psychologist, or, in certain circumstances, by a psychiatric nurse to determine if the criteria for involuntary services are met.¹⁵ Within that 72-hour examination period, one of the following must happen:¹⁶

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;

¹¹ Section 394.463(1), F.S.

¹² Section 394.463(2)(a), F.S.

¹³ Section 394.461, F.S.

¹⁴ Section 394.463(2)(g), F.S.

¹⁵ Section 394.463(2)(f), F.S.

¹⁶ *Id.*

- The patient, unless charged with a crime, must give express and informed consent to be placed and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.

The receiving facility may not release an involuntary examination patient without the documental approval of a psychiatrist, a clinical psychologist, or in certain circumstances, a psychiatric nurse.¹⁷

Involuntary Inpatient Placements

A court may order a person into involuntary inpatient treatment if it finds that a person has a mental illness and, because of that mental illness, has refused voluntary inpatient treatment, is incapable of surviving alone or with the help of willing and responsible family or friends and, without treatment, is likely to refuse to care for him or herself to the extent that such refusal threatens to cause substantial harm to their well-being, or will inflict serious bodily harm on him or herself or others in the near future based on recent behavior.¹⁸ Additionally, the court must find that all available less restrictive treatment alternatives which would offer an opportunity for improvement of their condition are inappropriate.¹⁹

Involuntary Outpatient Services

Involuntary outpatient placement, also known as assistant outpatient treatment, is a court-ordered, community-based treatment programs for individuals with severe mental illness designed to assist individuals with severe mental illness who have a history of treatment and medication noncompliance but do not require hospitalization.²⁰ A petition for involuntary outpatient services may be filed with a court by the administrator of either a receiving facility or a treatment facility.²¹ There are strict legal requirements for individuals to be ordered into involuntary outpatient placement and only circuit judges have the authority to issue such an order.²²

Public Record Exemption under Review

In 2019, the Legislature made all petitions for voluntary and involuntary admission for mental health treatment, court orders, and related records that are filed with or by a court pursuant to the

¹⁷ *Id.*

¹⁸ Section 394.467(1), F.S.

¹⁹ *Id.*

²⁰ Section 394.4655, F.S.

²¹ Section 394.4655(4), F.S.

²² Section 394.4655(2), F.S.

Baker Act confidential and exempt²³ from public record requirements.²⁴ The records may only be released to:²⁵

- The petitioner.
- The petitioner’s attorney.
- The respondent.
- The respondent’s attorney.
- The respondent’s guardian or guardian advocate, if applicable.
- In the case of a minor respondent, the respondent’s legal custodian, or guardian advocate.
- The respondent’s treating health care practitioner.
- The respondent’s health care surrogate or proxy.
- The Department of Children and Families, without charge.
- The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children and Families.
- A person or entity authorized to view records upon a court order for good cause.²⁶

The Clerk of the Court is prohibited from publishing any personal identifying information on a court docket or in a publicly accessible file. However, the Clerk of the Court is not prohibited from submitting the protected information to the Department of Law Enforcement for purposes of a criminal history record check relating to the sale of firearms.²⁷

In 2019, the public necessity statement²⁸ stated that:

The mental health of a person, including a minor, is a medical condition, which should be protected from dissemination to the public. A person’s mental health is also an immensely private matter. The public stigma associated with a mental health condition may cause persons in need of treatment to avoid seeking treatment and related services if the record of such condition is accessible to the public. Without treatment, a person’s condition may worsen, the person may harm himself or herself or others, and the person may become a financial burden on the state. The content of such records or personal identifying information should not be made public merely because they are filed with or by a court or placed on a docket. Making such petitions,

²³ There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designated a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons entities specifically designated in statute. See Op. Att’y Gen. Fla. 04- 09 (2004).

²⁴ Section 394.464, F.S.

²⁵ Section 394.464(1), F.S.

²⁶ In determining if good cause exists, the court must weigh the person or entity’s need for the information against the potential harm to the respondent of disclosure. Section 394.464(1)(k), F.S.

²⁷ Section 394.464(2), F.S.

²⁸ Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying the exemption.”

orders, records, and identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive, personal information which could damage their and their families' reputations.²⁹

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2024, unless reenacted by the Legislature.

During the 2023 interim, House and Senate staff sent a questionnaire to the Clerks of Court as part of its review under the OGSR Act. In total, staff received 42 responses from Clerks' offices.³⁰ Respondents indicated they had not had any issues interpreting or applying the exemption and that they were unaware of the existence of any litigation concerning the exemption. Clerk staff noted that the Florida Supreme Court had incorporated the public record exemption into Rule 2.420 of the Rules of General Practice and Judicial Administration.³¹ All respondents recommended the exemption be reenacted as is.

III. Effect of Proposed Changes:

Section 1 of the bill removes the scheduled repeal of the public record exemption, thereby maintaining the public record exemption for all petitions for voluntary and involuntary admission for mental health treatment, court orders, and related records that are filed with or by a court pursuant to the Baker Act.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records and public meetings exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity

²⁹ Chapter 2019-51, L.O.F.

³⁰ Open Government Sunset Review Questionnaire, Public Records Related to The Baker responses on file with the Children, Families, and Elder Affairs Committee.

³¹ See Rule 2.420(d)(1)(B)(viii), Fla. R. Gen. Prac. & Jud. Admin. (2021).

justifying the exemption. This bill continues a current public records and public meetings exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect portions of a public postsecondary educational institution's campus emergency response to protect the health and safety of students, faculty, staff, and the public at large. The bill exempts only information relating to a public postsecondary educational institution's response to or plan for responding to an act of terrorism or other public safety crisis or emergency. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantively amends s. 394.464, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-01951-24

20247036pb

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 39.202, F.S., which
4 provides a public records exemption for identifying
5 information of persons reporting child abuse,
6 abandonment, or neglect; abrogating the scheduled
7 repeal of the exemption and the reversion of specified
8 statutory text; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 39.202, Florida Statutes, is amended to
13 read:

14 39.202 Confidentiality of reports and records in cases of
15 child abuse or neglect; exception.—

16 (1) In order to protect the rights of the child and the
17 child's parents or other persons responsible for the child's
18 welfare, all records held by the department concerning reports
19 of child abandonment, abuse, or neglect, including reports made
20 to the central abuse hotline and all records generated as a
21 result of such reports, shall be confidential and exempt from
22 the provisions of s. 119.07(1) and shall not be disclosed except
23 as specifically authorized by this chapter. Such exemption from
24 s. 119.07(1) applies to information in the possession of those
25 entities granted access as set forth in this section.

26 (2) Except as provided in subsection (4), access to such
27 records, excluding the name of, or other identifying information
28 with respect to, the reporter which shall be released only as
29 provided in subsection (5), shall be granted only to the

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30 following persons, officials, and agencies:

31 (a) Employees, authorized agents, or contract providers of
32 the department, the Department of Health, the Agency for Persons
33 with Disabilities, the Agency for Health Care Administration,
34 the Department of Education, or county agencies responsible for
35 carrying out:

- 36 1. Child or adult protective investigations;
- 37 2. Ongoing child or adult protective services;
- 38 3. Early intervention and prevention services;
- 39 4. Healthy Start services;
- 40 5. Licensure or approval of adoptive homes, foster homes,
41 child care facilities, facilities licensed under chapters 393
42 and 394, family day care homes, providers who receive school
43 readiness funding under part VI of chapter 1002, or other homes
44 used to provide for the care and welfare of children;
- 45 6. Employment screening for caregivers in residential group
46 homes and facilities licensed under chapters 393, 394, and 409;
47 or
- 48 7. Services for victims of domestic violence when provided
49 by certified domestic violence centers working at the
50 department's request as case consultants or with shared clients.

51
52 Also, employees or agents of the Department of Juvenile Justice
53 responsible for the provision of services to children, pursuant
54 to chapters 984 and 985.

55 (b) Criminal justice agencies of appropriate jurisdiction.

56 (c) The state attorney of the judicial circuit in which the
57 child resides or in which the alleged abuse or neglect occurred.

58 (d) The parent or legal custodian of any child who is

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59 alleged to have been abused, abandoned, or neglected, and the
60 child, and their attorneys, including any attorney representing
61 a child in civil or criminal proceedings. This access shall be
62 made available no later than 60 days after the department
63 receives the initial report of abuse, neglect, or abandonment.
64 However, any information otherwise made confidential or exempt
65 by law shall not be released pursuant to this paragraph.

66 (e) Any person alleged in the report as having caused the
67 abuse, abandonment, or neglect of a child. This access shall be
68 made available no later than 60 days after the department
69 receives the initial report of abuse, abandonment, or neglect
70 and, when the alleged perpetrator is not a parent, shall be
71 limited to information involving the protective investigation
72 only and shall not include any information relating to
73 subsequent dependency proceedings. However, any information
74 otherwise made confidential or exempt by law shall not be
75 released pursuant to this paragraph.

76 (f) A court upon its finding that access to such records
77 may be necessary for the determination of an issue before the
78 court; however, such access shall be limited to inspection in
79 camera, unless the court determines that public disclosure of
80 the information contained therein is necessary for the
81 resolution of an issue then pending before it.

82 (g) A grand jury, by subpoena, upon its determination that
83 access to such records is necessary in the conduct of its
84 official business.

85 (h) Any appropriate official of the department, the Agency
86 for Health Care Administration, or the Agency for Persons with
87 Disabilities who is responsible for:

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88 1. Administration or supervision of the department's
89 program for the prevention, investigation, or treatment of child
90 abuse, abandonment, or neglect, or abuse, neglect, or
91 exploitation of a vulnerable adult, when carrying out his or her
92 official function;

93 2. Taking appropriate administrative action concerning an
94 employee of the department or the agency who is alleged to have
95 perpetrated child abuse, abandonment, or neglect, or abuse,
96 neglect, or exploitation of a vulnerable adult; or

97 3. Employing and continuing employment of personnel of the
98 department or the agency.

99 (i) Any person authorized by the department who is engaged
100 in the use of such records or information for bona fide
101 research, statistical, or audit purposes. Such individual or
102 entity shall enter into a privacy and security agreement with
103 the department and shall comply with all laws and rules
104 governing the use of such records and information for research
105 and statistical purposes. Information identifying the subjects
106 of such records or information shall be treated as confidential
107 by the researcher and shall not be released in any form.

108 (j) The Division of Administrative Hearings for purposes of
109 any administrative challenge.

110 (k) Any appropriate official of a Florida advocacy council
111 investigating a report of known or suspected child abuse,
112 abandonment, or neglect; the Auditor General or the Office of
113 Program Policy Analysis and Government Accountability for the
114 purpose of conducting audits or examinations pursuant to law; or
115 the guardian ad litem for the child.

116 (l) Employees or agents of an agency of another state that

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117 has comparable jurisdiction to the jurisdiction described in
118 paragraph (a).

119 (m) The Public Employees Relations Commission for the sole
120 purpose of obtaining evidence for appeals filed pursuant to s.
121 447.207. Records may be released only after deletion of all
122 information which specifically identifies persons other than the
123 employee.

124 (n) Employees or agents of the Department of Revenue
125 responsible for child support enforcement activities.

126 (o) Any person in the event of the death of a child
127 determined to be a result of abuse, abandonment, or neglect.
128 Information identifying the person reporting abuse, abandonment,
129 or neglect shall not be released. Any information otherwise made
130 confidential or exempt by law shall not be released pursuant to
131 this paragraph.

132 (p) An employee of the local school district who is
133 designated as a liaison between the school district and the
134 department pursuant to an interagency agreement required under
135 s. 39.0016 and the principal of a public school, private school,
136 or charter school where the child is a student. Information
137 contained in the records which the liaison or the principal
138 determines are necessary for a school employee to effectively
139 provide a student with educational services may be released to
140 that employee.

141 (q) An employee or agent of the Department of Education who
142 is responsible for the investigation or prosecution of
143 misconduct by a certified educator.

144 (r) Staff of a children's advocacy center that is
145 established and operated under s. 39.3035.

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146 (s) A physician licensed under chapter 458 or chapter 459,
147 a psychologist licensed under chapter 490, or a mental health
148 professional licensed under chapter 491 engaged in the care or
149 treatment of the child.

150 (t) Persons with whom the department is seeking to place
151 the child or to whom placement has been granted, including
152 foster parents for whom an approved home study has been
153 conducted, the designee of a licensed child-caring agency as
154 defined in s. 39.01(41), an approved relative or nonrelative
155 with whom a child is placed pursuant to s. 39.402, preadoptive
156 parents for whom a favorable preliminary adoptive home study has
157 been conducted, adoptive parents, or an adoption entity acting
158 on behalf of preadoptive or adoptive parents.

159 (3) The department may release to professional persons such
160 information as is necessary for the diagnosis and treatment of
161 the child or the person perpetrating the abuse or neglect.

162 (4) Notwithstanding any other provision of law, when a
163 child under investigation or supervision of the department or
164 its contracted service providers is determined to be missing,
165 the following shall apply:

166 (a) The department may release the following information to
167 the public when it believes the release of the information is
168 likely to assist efforts in locating the child or to promote the
169 safety or well-being of the child:

- 170 1. The name of the child and the child's date of birth;
- 171 2. A physical description of the child, including at a
172 minimum the height, weight, hair color, eye color, gender, and
173 any identifying physical characteristics of the child; and
- 174 3. A photograph of the child.

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175 (b) With the concurrence of the law enforcement agency
176 primarily responsible for investigating the incident, the
177 department may release any additional information it believes
178 likely to assist efforts in locating the child or to promote the
179 safety or well-being of the child.

180 (c) The law enforcement agency primarily responsible for
181 investigating the incident may release any information received
182 from the department regarding the investigation, if it believes
183 the release of the information is likely to assist efforts in
184 locating the child or to promote the safety or well-being of the
185 child.

186
187 The good faith publication or release of this information by the
188 department, a law enforcement agency, or any recipient of the
189 information as specifically authorized by this subsection shall
190 not subject the person, agency or entity releasing the
191 information to any civil or criminal penalty. This subsection
192 does not authorize the release of the name of the reporter,
193 which may be released only as provided in subsection (5).

194 (5) The department may not release the name of, or other
195 identifying information with respect to, any person reporting
196 child abuse, abandonment, or neglect to any person other than
197 employees of the department responsible for child protective
198 services, the central abuse hotline, law enforcement, the Child
199 Protection Team, or the appropriate state attorney, without the
200 written consent of the person reporting. This does not prohibit
201 the subpoenaing of a person reporting child abuse, abandonment,
202 or neglect when deemed necessary by the court, the state
203 attorney, or the department, provided the fact that such person

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204 made the report is not disclosed. Any person who reports a case
205 of child abuse or neglect may, at the time he or she makes the
206 report, request that the department notify him or her that a
207 child protective investigation occurred as a result of the
208 report. Any person specifically listed in s. 39.201(1) who makes
209 a report in his or her official capacity may also request a
210 written summary of the outcome of the investigation. The
211 department shall mail such a notice to the reporter within 10
212 days after completing the child protective investigation.

213 (6) All records and reports of the Child Protection Team of
214 the Department of Health are confidential and exempt from the
215 provisions of ss. 119.07(1) and 456.057, and shall not be
216 disclosed, except, upon request, to the state attorney, law
217 enforcement, the department, and necessary professionals, in
218 furtherance of the treatment or additional evaluative needs of
219 the child, by order of the court, or to health plan payors,
220 limited to that information used for insurance reimbursement
221 purposes.

222 (7) Custodians of records made confidential and exempt
223 under this section must grant access to such records within 7
224 business days after such records are requested by a legislative
225 committee under s. 11.143, if requested within that timeframe.

226 (8) The department shall make and keep reports and records
227 of all cases under this chapter and shall preserve the records
228 pertaining to a child and family until the child who is the
229 subject of the record is 30 years of age, and may then destroy
230 the records. Within 90 days after the child leaves the
231 department's custody, the department shall give a notice to the
232 person having legal custody of the child, or to the young adult

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233 who was in the department's custody, which specifies how the
234 records may be obtained.

235 (9) A person who knowingly or willfully makes public or
236 discloses to any unauthorized person any confidential
237 information contained in the central abuse hotline is subject to
238 the penalty provisions of s. 39.205. This notice shall be
239 prominently displayed on the first sheet of any documents
240 released pursuant to this section.

241 ~~(10) The expansion of the public records exemption under~~
242 ~~this section to include other identifying information with~~
243 ~~respect to any person reporting child abuse, abandonment, or~~
244 ~~neglect is subject to the Open Government Sunset Review Act in~~
245 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~
246 ~~2024, unless reviewed and saved from repeal through reenactment~~
247 ~~by the Legislature. If the expansion of the exemption is not~~
248 ~~saved from repeal, this section shall revert to that in~~
249 ~~existence on June 30, 2019, except that any other amendments~~
250 ~~made to this section, other than by this act, are preserved and~~
251 ~~continue to operate to the extent that such amendments are not~~
252 ~~dependent upon the portions of text that expire under this~~
253 ~~subsection.~~

254 Section 2. This act shall take effect October 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7036

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/Identifying Information of Persons Reporting Child Abuse, Abandonment, or Neglect

DATE: January 15, 2024 **REVISED:** _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Rao	Tuszynski		Pre-meeting

I. Summary:

The Open Government Sunset Review Act requires the Legislature to review each public record exemption and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports of child abuse, abandonment, or neglect 24 hours a day, seven days a week. Any person who knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child’s welfare must report such information or suspicion to the hotline. Current law provides a public record exemption for the name of any person reporting child abuse, abandonment, or neglect, as well as other identifying information of such reporter.

SPB 7036 saves from repeal the public record exemption concerning all identifying information of a person —other than a person’s name, which is already protected by law— reporting child abuse, abandonment, or neglect.

The bill takes effect October 1, 2024

II. Present Situation:

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It

¹ Section 119.15, F.S.

requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Florida Central Abuse Hotline

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, seven days a week of known or suspected child abuse, abandonment, or neglect.⁵ Reports may be made to the hotline in writing, through a call to the statewide toll-free number, or through electronic reporting.⁶

Current law requires any person to immediately report to the hotline if the person knows or suspects that a child:⁷

- Has been abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare;
- Is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care;
- Has been abused by an adult other than a parent, legal custodian, caregiver or other person responsible for the child's welfare; or
- Is the victim of sexual abuse or juvenile sexual abuse.⁸

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Article I, s. 24(c), FLA. CONST.

⁵ Section 39.101(1)(a), F.S.

⁶ Sections 39.201(1)(a) and 39.101(1)(a), F.S.

⁷ Sections 39.201(1)(a)1 F.S., and 39.201(1)(a)2., F.S.

⁸ "Juvenile sexual abuse" means any sexual behavior by a child which occurs without consent, without equality, or as a result of coercion. Section 39.01(38), F.S. For definitions of "coercion," "consent," and "equality," see s. 39.01(38), F.S.

Generally, reports from the general public to the hotline may be made anonymously;⁹ however, certain reporters must provide their names to the hotline because of their occupation.¹⁰ These occupational categories include:

- Physicians, osteopathic physicians, medical examiners, chiropractic physicians, nurses, hospital personnel engaged in the admission, examination, care, or treatment of persons or any other health care or mental health professional.
- Practitioners who rely solely on spiritual means for healing.
- School teachers or other school officials or personnel.
- Social workers, day care center workers, or other professional child care, foster care, residential, or institutional workers.
- Law enforcement officers.
- Judges.
- Animal control officers.¹¹

If a reporter provides his or her name, the name is entered into the record of the report but is confidential and exempt from public record requirements and may not be disclosed except as specifically authorized by law.¹²

DCF uses electronic equipment that automatically provides the telephone number or the Internet protocol address from which the report is received.¹³ This information becomes part of the report but is confidential and exempt from public record requirements.¹⁴

Failure to report known or suspected child abuse, abandonment, or neglect is a crime.¹⁵ A person who knowingly and willfully fails to make a report of abuse, abandonment, or neglect, or who knowingly and willfully prevents another person from making a report, is guilty of a third-degree felony.¹⁶ Any person who makes a child abuse, abandonment, or neglect report in good faith is immune from criminal or civil liability that might otherwise result from reporting.¹⁷

Child Protective Investigations

Once the hotline receives a report, if the allegations of the report meet the statutory criteria for child abuse, abandonment, or neglect, the report must be accepted as a child protective investigation.¹⁸ If the allegations meet such criteria, an investigation must be commenced either

⁹ Section 39.201(1)(b)1., F.S.

¹⁰ Section 39.201(1)(b)2., F.S.

¹¹ *Id.*

¹² Sections 39.201(1)(c) and 39.202(1), F.S.

¹³ Section 39.101(3)(b)1. and 2., F.S.

¹⁴ Section 39.101(3)(b)3., F.S.

¹⁵ Section 39.205(1), F.S.

¹⁶ A third-degree felony is punishable by up to five years in prison, or a fine of up to \$5,000. See s. 775.082(3)(e) and 775.083(1)(c), F.S.

¹⁷ Section 39.203(1)(a), F.S.

¹⁸ Section 39.201(4)(a), F.S.

immediately or within 24 hours after the report is received, depending on the nature of the allegation.¹⁹ Such investigations must be performed by DCF or its agent.²⁰

The child protective investigation assesses the safety and perceived needs of the child and family.²¹ It includes a face-to-face interview with the child, other siblings, parents, and other adults in the household, as well as an onsite assessment of the child's residence.²² Based upon the information received by the hotline, interviews with each family member, and a review of the family's history, the investigator must determine which collateral sources, including neighbors, teachers, friends, and professional sources, are likely to have relevant and reliable information about the child's situation.²³ The investigator interviews the collateral sources and, under DCF operating procedure, must protect their identities to the extent possible when discussing information shared by collateral sources with the child's family.²⁴

Confidentiality of Records

Current law provides that all records concerning child abuse, abandonment, or neglect, including hotline reports and all records generated as a result of such reports, are confidential and exempt²⁵ from public record requirements.²⁶ Access to records concerning child abuse, abandonment, or neglect —*excluding the name, or other identifying information of the reporter*— is granted to:

- Certain employees, authorized agents, or contract providers of DCF, the Department of Juvenile Justice, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Education, and county agencies responsible for carrying out specific duties related to these agencies, and agencies with comparable jurisdictions in other states.
- Criminal justice agencies and the state attorney of the judicial circuit where the child resides or the alleged abuse or neglect occurred.
- The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child and their attorneys.
- Any person alleged to have caused the abuse, abandonment, or neglect of a child. If that person is not a parent, the record will be limited to information about the protective investigation and will not include any information about the subsequent dependency proceedings.

¹⁹ Section 39.101(2), F.S.

²⁰ Section 39.301(8), F.S.

²¹ Section 39.301(7), F.S.

²² *Id.*

²³ Department of Children and Families Operating Procedure CFOP 170-5, Interviewing Collateral Contacts, (Sept. 20, 2023), <https://www.myflfamilies.com/sites/default/files/2023-09/CFOP%20170-05%20Child%20Protective%20Investigations.pdf> (last visited Jan. 9, 2023)

²⁴ *Id.*

²⁵ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See *Op. Att'y Gen. Fla. 04- 09* (2004).

²⁶ Section 39.202(1), F.S.

- A court, if access to such records is necessary for the determination of an issue before it, and a grand jury, if access is necessary for its official business.
- Any appropriate official of DCF, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for administering or supervising the agency's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect; for taking administrative action concerning agency employees who are alleged to have committed such acts; or for employing and continuing employment of agency personnel.
- Any person authorized by DCF who uses information of child abuse, abandonment, or neglect for research, statistical, or audit purposes. Information identifying the subjects of such records or information must be treated as confidential by the researcher and may not be released in any form.
- The Division of Administrative Hearings for purposes of any administrative challenge.
- An official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect.
- An official of the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law.
- The Guardian ad Litem for the child.
- The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed under s. 447.207, F.S.
- Employees or agents of the Department of Revenue responsible for child support enforcement activities.
- Any person in the event that the death of a child is the result of abuse, abandonment, or neglect.
- An employee of a local school district who is the designated liaison between the school district and DCF and the principal of a public school, private school, or charter school where the child is a student.
- An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.
- Staff of a children's advocacy center that is established and operated under s. 39.3035, F.S.
- A physician, psychologist, or mental health professional licensed in Florida and engaged in the care or treatment of the child.
- Persons with whom DCF is seeking to place the child or to whom placement has been granted, including foster parents, the designee of a licensed child-caring agency as defined in s. 39.523, an approved relative or nonrelative with whom a child is placed, preadoptive parents, adoptive parents, or an adoptive entity acting on behalf of preadoptive or adoptive parents.

A reporter may, however, provide written consent to release his or her name or other identifying information to these entities.²⁷ A reporter's name or other identifying information may be released without that person's written consent to DCF employees responsible for child protective

²⁷ Section 39.202(5), F.S.

services, the hotline, law enforcement, child protection teams,²⁸ or the appropriate state attorney.²⁹

An individual who knowingly or willfully discloses any confidential information contained in the hotline or in the records of any child abuse, abandonment, or neglect case to anyone other than an authorized person commits a second-degree misdemeanor.³⁰

Public Record Exemption under Review

In 2019, the Legislature created the public record exemption for other identifying information (as the name was already protected) with respect to any person reporting child abuse, abandonment, or neglect.³¹ Such information is confidential and exempt³² from public record requirements.³³

The 2019 public necessity statement³⁴ noted that prior to the existence of the public record exemption under review, the statute only protected the name of the reporter.³⁵ The public necessity statement asserted that:

By protecting only the name of the reporter of child abuse, abandonment, or neglect, the identity of the individual may be discerned by other identifying information, thus rendering the protection ineffective. Providing robust protections to reporters of child abuse, abandonment, or neglect improves the mandatory reporting scheme by ensuring that instances of suspected child abuse, abandonment, or neglect are reported to the Department of Children and Families. Therefore, it is necessary that individuals who are considered reporters under the current statutory scheme have their identifying information protected.³⁶

Pursuant to the OGS Act, the exemption will repeal on October 2, 2024, unless reenacted by the Legislature.³⁷ If the expansion of the exemption to include other identifying information with respect to any person reporting child abuse, abandonment, or neglect is not reenacted by the Legislature, the public record exemption will revert back to protecting only the name of such reporter.³⁸

²⁸ “Child Protection Team” means a team of professionals established by the Department of Health to receive referrals from the protective investigators and protective supervision staff of DCF and to provide specialized and supportive services to the program in processing child abuse, abandonment, or neglect cases. Child protection teams must provide consultation to other programs of DCF and other persons regarding child abuse, abandonment, or neglect cases. Section 39.01(12), F.S.

²⁹ Section 39.202(5), F.S.

³⁰ Section 39.205(6), F.S. A second-degree misdemeanor is punishable by up to 60 days imprisonment, or a fine of up to \$500. See ss. 775.082(4)(b) and 775.083(1)(e), F.S.

³¹ Chapter 2019-49, Laws of Fla., codified as s. 39.202(2) and (5), F.S.

³² *Supra* note 25.

³³ Section 39.202(1), F.S.

³⁴ Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying the exemption.”

³⁵ Chapter 2019-49, Laws of Fla.

³⁶ Chapter 2019-49, s. 2, Laws of Fla.

³⁷ Section 39.202(10), F.S.

³⁸ Chapter 2019-49, s. 9, Laws of Fla., codified as s. 39.202(10), F.S.

During the 2023 interim, House and Senate staff met with staff from DCF. DCF stated that the agency has not had any issues interpreting or applying the exemption and has not been a party to any litigation regarding the agency's interpretation of the exemption. DCF recommended the exemption be reenacted as is.

III. Effect of Proposed Changes:

Section 1 of the bill removes the scheduled repeal of the exemption, thereby maintaining the public record exemption for certain identifying information of a reporter to the hotline held by an agency.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records and public meetings exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records and public meetings exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect portions of a public postsecondary educational institution's campus emergency response to protect the health and safety of students, faculty, staff, and the public at large. The bill exempts only information relating to a public postsecondary educational institution's response to or plan for responding to an act of terrorism or other public safety crisis or emergency. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantively amends s. 39.202, Florida Statutes.

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

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

None.

B. Amendments:

None.