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|-------------------|---|---|----|-------------|-------------------------|----------------|
| Tab 1 | SB 152 by Brandes (CO-INTRODUCERS) Perry; (Similar to H 00979) Dental Therapy | | | | | |
| 883162 | T | S | | CF, Brandes | In title, delete L.2: | 02/03 12:33 PM |
| Tab 2 | SB 302 by Rader; (Identical to H 00089) Adoption Records | | | | | |
| 286348 | A | S | | CF, Rader | Delete L.20: | 02/03 12:33 PM |
| Tab 3 | SB 1062 by Harrell (CO-INTRODUCERS) Perry; (Similar to H 01083) Involuntary Examinations of Minors | | | | | |
| 673474 | A | S | | CF, Harrell | Delete L.181: | 02/03 12:34 PM |
| Tab 4 | SB 1440 by Powell; (Similar to CS/H 00945) Children's Mental Health | | | | | |
| 777132 | D | S | | CF, Powell | Delete everything after | 02/03 12:35 PM |
| Tab 5 | SB 1548 by Perry (CO-INTRODUCERS) Hutson; (Compare to H 00043) Child Welfare | | | | | |
| 229818 | D | S | WD | CF, Perry | Delete everything after | 01/31 02:39 PM |
| 154690 | D | S | | CF, Perry | Delete everything after | 02/03 12:35 PM |
| Tab 6 | SB 1624 by Perry; (Similar to H 01323) Economic Self-sufficiency | | | | | |
| 548088 | D | S | | CF, Perry | Delete everything after | 02/03 12:36 PM |
| Tab 7 | SB 1648 by Albritton; (Similar to H 00965) Support for Incapacitated Adult Children | | | | | |
| Tab 8 | SB 1748 by Hutson (CO-INTRODUCERS) Perry; Child Welfare | | | | | |
| 908544 | D | S | | CF, Hutson | Delete everything after | 02/03 12:41 PM |
| Tab 9 | SB 1886 by Brandes; Grandparent Visitation Rights | | | | | |
| 229474 | A | S | | CF, Brandes | Delete L.72 - 73: | 02/03 12:38 PM |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Book, Chair
Senator Mayfield, Vice Chair

MEETING DATE: Tuesday, February 4, 2020

TIME: 12:30—2:30 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Book, Chair; Senator Mayfield, Vice Chair; Senators Bean, Harrell, Rader, Torres, and Wright

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|---|------------------|
| 1 | SB 152 Brandes (Similar H 979) | Dental Therapy; Authorizing Medicaid to reimburse for dental services provided in a mobile dental unit that is owned by, operated by, or contracted with a health access setting or another similar setting or program; requiring the chair of the Board of Dentistry to appoint a Council on Dental Therapy effective after a specified timeframe; requiring the board to adopt certain rules relating to dental therapists; providing application requirements and examination and licensure qualifications for dental therapists; limiting the practice of dental therapy to specified settings, etc. CF 02/04/2020 AHS AP | |
| 2 | SB 302 Rader (Identical H 89) | Adoption Records; Providing that the name and identity of a birth parent, an adoptive parent, and an adoptee may be disclosed from adoption records without a court order under certain circumstances, etc. CF 02/04/2020 JU RC | |
| 3 | SB 1062 Harrell (Similar H 1083, Compare H 407, S 1426, S 7040) | Involuntary Examinations of Minors; Revising parent and guardian notification requirements that must be met before an involuntary examination of a minor; creating reporting requirements for schools relating to involuntary examinations of minors; requiring that certain plans include procedures to assist certain mental and behavioral health providers in attempts to verbally de-escalate certain crisis situations before initiating an involuntary examination, etc. CF 02/04/2020 ED RC | |

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, February 4, 2020, 12:30—2:30 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|------------------|
| 4 | SB 1440 Powell (Similar CS/H 945) | Children's Mental Health; Requiring the Department of Children and Families and the Agency for Health Care Administration to identify certain children and adolescents who use crisis stabilization services during specified fiscal years; including crisis response services provided through mobile response teams in the array of services available to children and adolescents; requiring managing entities to develop and implement plans promoting the development of a coordinated system of care for certain services; revising requirements relating to preservice training for foster parents, etc. CF 02/04/2020 AHS AP | |
| 5 | SB 1548 Perry (Compare H 43, H 111, H 679, CS/H 1105, S 88, CS/S 1324) | Child Welfare; Requiring the Florida Court Educational Council to establish certain standards for instruction of specified circuit court judges; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child; providing court procedures and requirements relating to deceased parents of a dependent child; authorizing the department to take certain actions without a court order; providing requirements and procedures for the determination of paternity when a child is dependent, etc. CF 01/28/2020 Temporarily Postponed CF 02/04/2020 AHS AP | |
| 6 | SB 1624 Perry (Similar H 1323) | Economic Self-sufficiency; Requiring the Auditor General to conduct performance audits of the Supplemental Nutrition Assistance Program, the temporary cash assistance program, the Medicaid program, the school readiness program, and the United States Department of Housing and Urban Development Section 8 housing program, every 3 years; requiring that the audits include a review of eligibility requirements and the eligibility determination process; requiring that first priority for eligibility and enrollment in the school readiness program also be given to parents who have an Intensive Service Account or an Individual Training Account, etc. CF 02/04/2020 GO AP | |

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, February 4, 2020, 12:30—2:30 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|---|
| 7 | SB 1648 Albritton (Similar H 965) | Support for Incapacitated Adult Children; Defining the term "incapacitated adult child"; specifying that parents are responsible for supporting an incapacitated adult child; requiring certain rights of the parents of an incapacitated adult child to be established in a guardianship proceeding; specifying that a child support order need not terminate on the child's 18th birthday in certain circumstances; providing an additional circumstance under which a guardian advocate must be represented by an attorney in guardianship proceedings, etc. | CF 02/04/2020 JU AP |
| 8 | SB 1748 Hutson | Child Welfare; Requiring that child support payments be deposited into specified trust funds; authorizing the Department of Children and Families to place children in a specified program without court approval; requiring certain documentation in the case plan when a child is placed in a qualified residential treatment program; revising the conditions under which a court determines permanent guardian placement for a child; providing requirements for qualified residential treatment programs; revising a requirement and an authorization for safe houses, etc. | CF 01/28/2020 Temporarily Postponed CF 02/04/2020 AHS AP |
| 9 | SB 1886 Brandes | Grandparent Visitation Rights; Authorizing a grandparent of a minor child whose parent was the victim of a murder to petition the court for court-ordered visitation with the child under certain circumstances; removing the requirement that a grandparent petitioning the court for court-ordered visitation with a minor child make a prima facie showing of parental unfitness or significant harm to the child in a preliminary hearing on such petition and instead requiring the grandparent to make a prima facie showing of other specified conditions, etc. | CF 02/04/2020 JU RC |

Other Related Meeting Documents

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 152

INTRODUCER: Senators Brandes and Perry

SUBJECT: Dental Therapy

DATE: February 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Delia | Hendon | CF | Pre-meeting |
| 2. | | | AHS | |
| 3. | | | AP | |

I. Summary:

SB 152 authorizes the Department of Health (“DOH”) to issue a dental therapist license to an applicant who possesses a degree or certificate in dental therapy from an accredited program. The bill authorizes a licensed dental therapist to perform remediable tasks under the general supervision of a dentist. The bill provides a scope of practice for dental therapists and requires the Board of Dentistry (“BOD”) to appoint and establish members of the Council of Dental Therapy.

The bill also authorizes Medicaid to reimburse for dental services provided in a mobile dental unit owned by a health access setting.

The bill will have an indeterminate fiscal impact and provides an effective date of July 1, 2020.

II. Present Situation:

Regulation of Dental Practice in Florida

The BOD regulates dental practice in Florida, including dentists, dental hygienists, and dental assistants under the Dental Practice Act.¹ A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.² A dental hygienist provides education, preventive and delegated therapeutic dental services.³

Any person wishing to practice dentistry in this state must apply to the DOH and meet specified requirements. Section 466.006, F.S., requires dentistry licensure applicants to sit for a national

¹ Section 466.004, F.S.

² Section 466.003(3), F.S.

³ Section 466.003(4)-(5), F.S.

exam, a state exam, and a practicum exam.⁴ To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association or be a student in the final year of a program at an accredited institution, and have successfully completed the National Board of Dental Examiners (NBDE) dental examination.

Dentists must maintain professional liability insurance or provide proof of professional responsibility. If the dentist obtains professional liability insurance, the coverage must be at least \$100,000 per claim, with a minimum annual aggregate of at least \$300,000.⁵ Alternatively, a dentist may maintain an unexpired, irrevocable letter of credit in the amount of \$100,000 per claim, with a minimum aggregate availability of credit of at least \$300,000.⁶ The professional liability insurance must provide coverage for the actions of any dental hygienist supervised by the dentist.⁷

Health Professional Shortage Areas

The U.S. Department of Health and Human Services' Health Resources and Services Administration (HRSA) designates Health Professional Shortage Areas (HPSAs) according to criteria developed in accordance with section 332 of the Public Health Services Act. HPSA designations are used to identify areas and population groups within the United States that are experiencing a shortage of health care provider shortages in primary care, dental health, or mental health.⁸ The threshold for a dental HPSA is a population-to-provider ratio of at least 5,000:1.⁹

Medically Underserved Area

HRSA also designates Medically Underserved Areas (MUAs) and Medically Underserved Populations (MUPs). MUAs and MUPs identify geographic areas and populations with a lack of access to primary care services.¹⁰ MUAs have a shortage of primary care health services for residents within a geographic area such as a county, a group of neighboring counties, a group of urban census tracts, or a group of county or civil divisions.¹¹ MUPs are specific sub-groups of people living in a defined geographic area with a shortage of primary care health services who may face economic, cultural, or linguistic barriers to health care.¹² MUPs include, but are not limited to, those who are homeless, low-income, Medicaid-eligible, Native American, or migrant farmworkers.¹³

⁴ A passing score is valid for 365 days after the date the official examination results are published. A passing score on an examination obtained in another jurisdiction must be completed on or after October 1, 2011.

⁵ Rule 64B5-17.011(1), F.A.C.

⁶ Rule 64B5-17.011(2), F.A.C.

⁷ Rule 64B5-17.011(4), F.A.C.

⁸ Health Resources and Services Administration, *Health Professional Shortage Areas (HPSAs)*, available at <https://bhwh.hrsa.gov/shortage-designation/hpsas> (last visited Jan. 31, 2020).

⁹ Id.

¹⁰ Health Resources and Services Administration, *Medically Underserved Areas and Populations (MUA/Ps)*, <https://bhwh.hrsa.gov/shortage-designation/muap> (last visited Jan. 31, 2020).

¹¹ Id.

¹² Id.

¹³ Id.

Access to Dental Care and Dental Workforce in Florida

Nationally, there are 5,352 dental HSPAs, 296 of which are in Florida.¹⁴ The DOH reports that in 2017 - 18 fiscal year there were approximately 55.8 licensed dentists per 100,000 people in Florida; however, this ratio varies greatly across the state.¹⁵ Most dentists are disproportionately concentrated in the more populous areas of the state. Three counties, Dixie, Glades, and Lafayette, do not have any licensed dentists, while other counties have over 150 dentists per 100,000 residents.¹⁶

Lack of access to dental care can lead to poor oral health and poor overall health.¹⁷ Research has shown a link between poor oral health and diabetes, heart and lung disease, stroke, respiratory illnesses, and adverse birth outcomes including the delivery of pre-term and low birth weight infants.¹⁸

Dental Licensure Programs for Underserved Populations in Florida

The DOH may issue a permit to a nonprofit corporation chartered to provide dental care for indigent persons. A nonprofit corporation may apply for a permit to employ a non-Florida licensed dentist who is a graduate of an accredited dental school.¹⁹ The DOH also issues limited licenses to dentists whose practice is limited to providing services to the indigent or critical need populations within the state.²⁰ The DOH will waive the application and all licensure if the limited licensee applicant submits a notarized statement from the employer that he or she will not be receiving monetary compensation for services provided.

Health Access Licenses

A health access license allows out-of-state dentists who meet certain criteria to practice in a health access setting without the supervision of a Florida licensed dentist.²¹ A health access setting is a program or institution of the Department of Children and Families, the DOH, Department of Juvenile Justice, a nonprofit health center, a Head Start center, a federally-qualified health center (FQHC) or FQHC look-alike, a school-based prevention program, or a clinic operated by an accredited dental school or accredited dental hygiene program.²²

A holder of a health access dental license must apply for renewal of the license each biennium and provide a signed statement that she or he has complied with all continuing education

¹⁴ Health Resources and Services Administration, data.HPSA.gov, *Shortage Areas*, available at <https://data.hrsa.gov/topics/health-workforce/shortage-areas> (last visited Aug. 27, 2019).

¹⁵ Florida Department of Health, Florida CHARTS, *Total Licensed Florida Dentists*, <http://www.flhealthcharts.com/charts/OtherIndicators/NonVitalIndNoGrpDataViewer.aspx?cid=0326> (last visited Jan. 31, 2020).

¹⁶ *Id.*

¹⁷ Florida Department of Health, *Florida's Burden of Oral Disease Surveillance Report*, (Aug, 2016), p. 5, available at, <http://www.floridahealth.gov/programs-and-services/community-health/dental-health/reports/documents/floridas-burden-oral-disease-surveillance-report.pdf> (last visited Jan. 31, 2020).

¹⁸ *Id.*

¹⁹ Rule 64B5-7.006, F.A.C.

²⁰ *See* Section 456.015, F.S., and Rule 64B5-7.007, F.A.C.

²¹ Section 466.0067, F.S. The dental health access license is scheduled for repeal on January 1, 2020, unless saved from repeal by reenactment by the Legislature (s. 466.00673, F.S.).

²² Section 466.003(14), F.S. Such institutions or programs must report violations of the Dental Practice Act or standards of care to the Board of Dentistry.

requirements of an active dentist. The health access dental license will be renewed if the applicant:

- Submits documentation from the employer in the health access setting that the licensee has at all times pertinent remained an employee;
- Has not been convicted or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Has paid the appropriate renewal fee;
- Has not failed the Florida examination requirements since initially receiving the health access dental license or since the last renewal; and
- Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the data bank.

A health access dental license will be revoked upon the termination of the licensee's employment from a qualifying health access setting, final agency action determining that a licensee has violated disciplinary grounds as provided in s. 466.028, F.S., or failure of the Florida dental licensure examination.

It is considered the unlicensed practice of dentistry if a licensee fails to limit his or her practice to a health access setting.²³

Dental Therapy

Dental therapists are midlevel dental providers, similar to physician assistants in medicine.²⁴ Dental therapists provide preventive and routine restorative care, such as filling cavities, placing temporary crowns, and extracting badly diseased or loose teeth.²⁵ Arizona, Connecticut, Minnesota, Maine, New Mexico, Nevada, and Vermont have authorized the practice of dental therapy, and dental therapists are authorized to practice in tribal areas of Alaska, Oregon, and Washington.²⁶

In 2015, the Commission on Dental Accreditation (CODA) established accreditation standards for dental therapy education programs.²⁷ There are no CODA-accredited dental therapy education programs. There are currently three dental therapy education programs in the United States, which are located in Minnesota and Alaska, and a fourth dental therapy education program is being developed in Vermont. The dental therapy education programs that currently exist are accredited by regional accreditation agencies or approved by state dental boards.

III. Effect of Proposed Changes:

Section 1 amends s. 409.906, F.S., to allow Medicaid to provide reimbursement for dental services provided by a mobile dental unit owned by, operated by, or having a contractual

²³ Section 466.00672(2), F.S.

²⁴ Pew Charitable Trusts, *5 Dental Therapy FAQs*, (April 21, 2016), available at <http://www.pewtrusts.org/en/research-and-analysis/q-and-a/2016/04/5-dental-therapy-faqs> (last visited Jan. 31, 2020).

²⁵ Id.

²⁶ Pew Charitable Trusts, *National Momentum Building for Midlevel Dental Providers*, <http://www.pewtrusts.org/en/research-and-analysis/analysis/2016/09/28/states-expand-the-use-of-dental-therapy> (last visited Jan. 31, 2020).

²⁷ Commission on Dental Accreditation, *Accreditation Standards for Dental Therapy Education Programs*, (eff. Feb. 6, 2015), available at <http://www.ada.org/~media/CODA/Files/dt.ashx> (last visited Jan. 31, 2020).

relationship with a health access setting or a similar setting or program that serves underserved populations that face serious barriers to accessing dental services. Examples include Early Head Start programs, homeless shelters, schools, and the Special Supplemental Nutrition Program for Women, Infants and Children.

Section 2 amends s. 466.001, F.S., to express legislative intent to ensure every dental therapist practicing in the state meets minimum requirements for safe practice, and that those dental therapists who fall below minimum competency or otherwise present a danger to the public shall be prohibited from practicing.

Section 3 amends s. 466.002, F.S., to provide that nothing in the Dental Practice Act (ch. 466, F.S.) shall apply to dental therapy students while performing regularly assigned work under the curriculum of schools, nor to instructors of dental therapy while performing regularly assigned instructional duties.

Section 4 amends s. 466.003, F.S., to add definitions for dental therapy and dental therapists, and expands the definition of ‘health access settings’ to include dental therapy programs.

Section 5 amends s. 466.004, F.S., to provide for the creation of the Council on Dental Therapy. Members of the council will be appointed by the chair of the board and consist of one board member to chair the council and three dental therapists actively engaged in the practice of dental therapy in Florida. The council must meet at least three times per year, and at the request of the board chair, a majority of the members, or the council chair. The council is tasked with rule and policy recommendations, which must be reviewed by the board. The board has authority to take final action on adopting recommendations made by the council.

Section 6 amends s. 466.006, F.S., to make dentists who are full-time faculty members of dental therapy schools eligible for what is considered “full-time practice” of dentists for purposes of state licensure.

Section 7 amends s. 466.0075, F.S., to provide that the board may require any person applying to take the dental therapy licensure exam to maintain medical liability insurance sufficient to cover any incident of harm to a patient during a clinical exam.

Section 8 amends s. 466.009, F.S., to allow applicants for a dental therapy license who fail one part of the practical or clinical exam for licensure to retake only that part in order to pass the exam, however if the applicant fails more than one part they must retake the entire exam.

Section 9 amends s. 466.011, F.S., to provide that anyone who satisfies all parts of the newly created s. 466.0225, F.S., pertaining to dental therapy, must be certified for licensure by the DOH.

Section 10 creates s. 466.0136, F.S., requiring all licensed dental therapists to complete at least 24 hours of continuing education (CE) in dental subjects approved by the board biennially. The bill specifies that CE programs must be programs that, in the opinion of the board, contribute directly to the dental education of the licensee. The bill allows individuals licensed as both a dental therapist and a dental hygienist to count one hour of CE toward the total annual CE

requirements for both professions. The bill gives the board rulemaking authority to enforce the provisions of this section, and also allows the board to excuse the requirement for those facing unusual circumstances, emergencies, or hardships.

Section 11 amends s. 466.0016, F.S., requiring licensed dental therapists to display a copy of their license in plain sight of patients at each office where they practice.

Section 12 amends s. 466.017, F.S., requiring the board to adopt rules which establish additional requirements relating to the use of general anesthesia or sedation for dental therapists who work with either. The bill also requires the board to adopt a mechanism to verify compliance with training and certification requirements. The bill requires any dental therapist who uses any form of anesthesia to obtain certification in either basic CPR or advanced cardiac life support as approved by the American Heart Association or American Red Cross, with recertification every two years. The bill provides that dental therapists working under the general supervision of a dentist may administer local anesthesia, including intraoral block anesthesia, soft tissue infiltration anesthesia, or both if they are properly certified. The bill also permits dental therapists to utilize x-ray machines if authorized by their supervising dentist to do so.

Section 13 amends s. 466.018, F.S., provides that a dentist of record shall be primarily responsible for treatment rendered by a dental therapist. The bill requires anyone other than the dentist of record, a dental hygienist, a dental therapist, or a dental assistant to note their initials in the patient record if they perform treatment on a patient.

Section 14 creates s. 466.0225, F.S., requiring any applicant for licensure as a dental therapist to take the appropriate licensure exams, verify an application for licensure by oath, and include two personal photographs with the application. The bill provides that in order to take the dental therapy exams and obtain licensure, an applicant must:

- The applicant must be at least 18 years old;
- Graduate from a CODA-accredited dental therapy school or program, or a program accredited by another entity recognized by the U.S. Department of Education;
- Successfully complete a dental therapy practical or clinical exam produced by the American Board of Dental Examiners (ADEX) within three attempts;
- Not have been disciplined by the Board with the exception of minor violations or citations;
- Not have been convicted, or pled nolo contendere to, a misdemeanor or felony related to the practice of dental therapy; and
- Successfully complete a written laws and rules exam on dental therapy.

The bill provides that an applicant who meets these requirements and successfully completes either the ADEX practical/clinical exams or exams in another state deemed comparable by the board must be licensed to practice dental therapy in Florida.

Section 15 creates s. 466.0227, F.S., providing legislative findings that licensing dental therapists would improve access to high-quality affordable oral health services, and would rapidly improve such access for low-income, uninsured, and underserved patients. To further this intent, the bill limits dental therapists to practicing in the following settings:

- A health access setting;

- A community health center;
- A military or veterans' hospital or clinic;
- A governmental or public health clinic;
- A school, Head Start program, or school-based prevention program;
- An oral health education institution;
- A hospital;
- A geographical area designated as a dental health professional shortage area by the federal government; or
- Any other clinic or practice setting if at least 50% of the patients are enrolled in Medicaid or lack dental insurance and report an annual income of less than 200% of the federal poverty level.

The bill provides that a dental therapist may provide the following services under the general supervision of a dentist:

- All services specified by CODA in its Dental Therapy Accreditation Standards;²⁸
- Evaluating radiographs;
- Placement of space maintainers;
- Pulpotomies on primary teeth;
- Dispensing and administering nonopioid analgesics, and;
- Oral evaluation of dental disease and forming of treatment plans if authorized by a supervising dentist and subject to any conditions in a collaborative agreement between the dentist and dental therapist.

The bill requires a dental therapist and supervising dentist to enter into a written collaborative agreement prior to performing any of the aforementioned services, and the agreement must include permissible practice settings, practice limitations and protocols, record maintenance procedures, emergency protocols, medication protocols, and supervision criteria. The bill requires supervising dentists to determine the number of hours a dental therapist must perform under direct or indirect supervision before practicing under general supervision. The bill provides that a supervising dentist must be licensed to practice in Florida and is responsible for all services authorized and performed by the dental therapist pursuant to a collaborative agreement. Finally, the bill allows a dental therapist to perform services prior to being seen by the supervising dentist if provided for in the collaborative agreement and if the patient is subsequently referred to a dentist for any additional services needed that exceed to the dental therapist's scope of practice.

Section 16 amends s. 466.026, F.S., to provide that the unlicensed practice of dental therapy, and offering to sell a dental therapy school or college degree to someone who was not granted such a degree, both constitute third-degree felonies. The bill also provides that using the name "dental therapist" or the initials, "D.T." or otherwise holding one's self out as an actively licensed dental therapist without proper licensure is a first-degree misdemeanor.

²⁸ See complete list of service required for CODA Dental Therapy Accreditation Standards Commission on Dental Accreditation, *Accreditation Standards for Dental Therapy Education Programs* (eff. Feb. 6, 2015), Copyright 2019, Standard 2 – Education Program, 2-12 p. 29 - 30 available at https://www.ada.org/en/~/media/CODA/Files/dental_therapy_standards (last visited Aug. 27, 2019).

Section 17 amends s. 466.028, F.S., to provide that the following acts constitute grounds for denial of a dental therapy license or discipline of an existing dental therapy license:

- Having a license to practice dental therapy disciplined by another state or practice jurisdiction;
- Being convicted or found guilty of, or pleading nolo contendere to, a crime related to the practice of dental therapy;
- Aiding or abetting the unlicensed practice of dental therapy;
- Being unable to practice dental therapy with reasonable skill and safety by reason of illness, chemical impairment, or any mental or physical condition, and;
- Fraud, deceit, or misconduct in the practice of dental therapy.

Section 18 amends s. 466.0285, F.S., to prohibit anyone other than a licensed dentist from employing dental therapists in the operation of a dental office.

Section 19 requires that by July 1, 2023, the DOH, in consultation with the board and AHCA must submit, to the President of the Senate and the Speaker of the House of Representatives, a progress report which must include:

- The progress that has been made in Florida to implement dental therapy training programs, licensing, and Medicaid reimbursement;
- Data demonstrating the effects of dental therapy in Florida on:
 - Patient access to dental services;
 - The use of primary and preventative dental services in underserved regions and populations, including Medicaid;
 - Costs to dental providers, patients, insurers and the state; and
 - The quality and safety of dental services.
- Specific recommendations for any necessary legislative, administrative, or regulatory changes relating to dental therapy; and
- Any additional information the DOH deems appropriate.

A final report is required to be submitted to the Legislature three years after the first dental therapy license is issued.

Section 20 provides an effective date of July 1, 2020.

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:

The DOH anticipates an estimated revenue for the first biennium of licensure of approximately \$2.4 million, and an estimated revenue for the second biennium of \$2 million.²⁹

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There will be an indeterminate fiscal impact on individuals who apply for licensure as dental therapists as they will need to pay application and licensure fees.

C. Government Sector Impact:

Estimated costs to the state for the first biennium of licensure are \$584,408, as shown below.³⁰

| | RECURRING | NON-RECURRING |
|----------------------------|------------------------------------|----------------------|
| SALARY | \$205,745 | |
| OPS | \$800 | \$25,260 |
| EXPENSE | \$54,646 | \$22,145 |
| CONTRACTED SERVICES | \$65,703 (Recurring Biannually) | |
| HUMAN RESOURCES | \$1,316 | \$107 |
| TOTAL | \$328,210 | \$47,512 |

VI. Technical Deficiencies:

The bill incorrectly cites the statutory reference for the definitions of health access setting and school-based prevention programs. It should read s. 466.003(14), F.S., and s. 466.003(15), F.S., respectively.

²⁹ Florida Department of Health, 2020 Agency Legislative Bill Analysis, HB 649. October 14, 2019. On file with the Senate Committee on Children, Families and Elder Affairs.

³⁰ *Id.*

VII. Related Issues:

According to the DOH, the proposed language in the newly created s. 466.0225(1), F.S., is outdated as applicants for licensure with the DOH are no longer required to submit two photographs as part of the application process.³¹

The bill fails to define “minor violations” as cited in the newly created s. 466.0225, F.S.

The bill provides that a dental therapist may provide services to a patient prior to the patient being seen by a dentist if the collaborative agreement between dentist and dental therapist so allows. The DOH has expressed uncertainty over whether this may present a conflict with s. 466.003(10), F.S., which requires a licensed dentist to examine and diagnose a patient before another licensed professional provides services.

VIII. Statutes Affected:

This bill substantially amends sections 409.906, 466.001, 466.002, 466.003, 466.004, 466.006, 466.0075, 466.009, 466.011, 466.016, 466.017, 466.018, 466.026, 466.028, and 466.0285 of the Florida Statutes.

This bill creates sections 466.0136, 466.0225, and 466.0227 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.

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

³¹ *Id.*



883162

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

In title, delete line 2

and insert:

An act relating to increasing access to health care;
amending s.

By Senator Brandes

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1 A bill to be entitled
2 An act relating to dental therapy; amending s.
3 409.906, F.S.; authorizing Medicaid to reimburse for
4 dental services provided in a mobile dental unit that
5 is owned by, operated by, or contracted with a health
6 access setting or another similar setting or program;
7 amending s. 466.001, F.S.; revising legislative
8 purpose and intent; amending s. 466.002, F.S.;
9 providing applicability; amending s. 466.003, F.S.;
10 defining the terms "dental therapist" and "dental
11 therapy"; revising the definition of the term "health
12 access setting" to include certain dental therapy
13 programs; amending s. 466.004, F.S.; requiring the
14 chair of the Board of Dentistry to appoint a Council
15 on Dental Therapy effective after a specified
16 timeframe; providing for membership, meetings, and the
17 purpose of the council; amending s. 466.006, F.S.;
18 revising the definition of the terms "full-time
19 practice" and "full-time practice of dentistry within
20 the geographic boundaries of this state within 1 year"
21 to include full-time faculty members of certain dental
22 therapy schools; amending s. 466.0075, F.S.;
23 authorizing the board to require any person who
24 applies to take the examination to practice dental
25 therapy in this state to maintain medical malpractice
26 insurance in a certain amount; amending s. 466.009,
27 F.S.; requiring the Department of Health to allow any
28 person who fails the dental therapy examination to
29 retake the examination; providing that a person who

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30 fails a practical or clinical examination to practice
31 dental therapy and who has failed one part or
32 procedure of the examination may be required to retake
33 only that part or procedure to pass the examination;
34 amending s. 466.011, F.S.; requiring the board to
35 certify applicants for licensure as a dental
36 therapist; creating s. 466.0136, F.S.; requiring the
37 board to require each licensed dental therapist to
38 complete a specified number of hours of continuing
39 education; requiring the board to adopt rules and
40 guidelines; authorizing the board to excuse licensees
41 from continuing education requirements in certain
42 circumstances; amending s. 466.016, F.S.; requiring a
43 practitioner of dental therapy to post and display her
44 or his license in each office where she or he
45 practices; amending s. 466.017, F.S.; requiring the
46 board to adopt certain rules relating to dental
47 therapists; authorizing a dental therapist under the
48 general supervision of a dentist to administer local
49 anesthesia and operate an X-ray machine, expose dental
50 X-ray films, and interpret or read such films if
51 specified requirements are met; correcting a term;
52 amending s. 466.018, F.S.; providing that a dentist
53 remains primarily responsible for the dental treatment
54 of a patient regardless of whether the treatment is
55 provided by a dental therapist; requiring the initials
56 of a dental therapist who renders treatment to a
57 patient to be placed in the record of the patient;
58 creating s. 466.0225, F.S.; providing application

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59 requirements and examination and licensure
60 qualifications for dental therapists; creating s.
61 466.0227, F.S.; providing legislative findings and
62 intent; limiting the practice of dental therapy to
63 specified settings; authorizing a dental therapist to
64 perform specified services under the general
65 supervision of a dentist under certain conditions;
66 specifying state-specific dental therapy services;
67 requiring a collaborative management agreement to be
68 signed by a supervising dentist and a dental therapist
69 and to include certain information; requiring the
70 supervising dentist to determine the number of hours
71 of practice that a dental therapist must complete
72 before performing certain authorized services;
73 authorizing a supervising dentist to restrict or limit
74 the dental therapist's practice in a collaborative
75 management agreement; providing that a supervising
76 dentist may authorize a dental therapist to provide
77 dental therapy services to a patient before the
78 dentist examines or diagnoses the patient under
79 certain conditions; requiring a supervising dentist to
80 be licensed and practicing in this state; specifying
81 that the supervising dentist is responsible for
82 certain services; amending s. 466.026, F.S.; providing
83 criminal penalties for practicing dental therapy
84 without an active license, selling or offering to sell
85 a diploma from a dental therapy school or college,
86 falsely using a specified name or initials or holding
87 herself or himself out as an actively licensed dental

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88 therapist; amending s. 466.028, F.S.; revising grounds
89 for denial of a license or disciplinary action to
90 include the practice of dental therapy; amending s.
91 466.0285, F.S.; prohibiting persons other than
92 licensed dentists from employing a dental therapist in
93 the operation of a dental office and from controlling
94 the use of any dental equipment or material in certain
95 circumstances; requiring the department, in
96 consultation with the board and the Agency for Health
97 Care Administration, to provide reports to the
98 Legislature by specified dates; requiring that certain
99 information and recommendations be included in the
100 reports; providing an effective date.

101
102 Be It Enacted by the Legislature of the State of Florida:

103
104 Section 1. Paragraph (c) of subsection (1) of section
105 409.906, Florida Statutes, is amended, and paragraph (e) is
106 added to subsection (6) of that section, to read:

107 409.906 Optional Medicaid services.—Subject to specific
108 appropriations, the agency may make payments for services which
109 are optional to the state under Title XIX of the Social Security
110 Act and are furnished by Medicaid providers to recipients who
111 are determined to be eligible on the dates on which the services
112 were provided. Any optional service that is provided shall be
113 provided only when medically necessary and in accordance with
114 state and federal law. Optional services rendered by providers
115 in mobile units to Medicaid recipients may be restricted or
116 prohibited by the agency. Nothing in this section shall be

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117 construed to prevent or limit the agency from adjusting fees,
118 reimbursement rates, lengths of stay, number of visits, or
119 number of services, or making any other adjustments necessary to
120 comply with the availability of moneys and any limitations or
121 directions provided for in the General Appropriations Act or
122 chapter 216. If necessary to safeguard the state's systems of
123 providing services to elderly and disabled persons and subject
124 to the notice and review provisions of s. 216.177, the Governor
125 may direct the Agency for Health Care Administration to amend
126 the Medicaid state plan to delete the optional Medicaid service
127 known as "Intermediate Care Facilities for the Developmentally
128 Disabled." Optional services may include:

129 (1) ADULT DENTAL SERVICES.—

130 (c) However, Medicaid will not provide reimbursement for
131 dental services provided in a mobile dental unit, except for a
132 mobile dental unit:

133 1. Owned by, operated by, or having a contractual agreement
134 with the Department of Health and complying with Medicaid's
135 county health department clinic services program specifications
136 as a county health department clinic services provider.

137 2. Owned by, operated by, or having a contractual
138 arrangement with a federally qualified health center and
139 complying with Medicaid's federally qualified health center
140 specifications as a federally qualified health center provider.

141 3. Rendering dental services to Medicaid recipients, 21
142 years of age and older, at nursing facilities.

143 4. Owned by, operated by, or having a contractual agreement
144 with a state-approved dental educational institution.

145 5. Owned by, operated by, or having a contractual agreement

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146 with a health access setting, as defined in s. 466.003(16), or a
147 similar setting or program that serves underserved or vulnerable
148 populations that face serious barriers to accessing dental
149 services, which may include, but is not limited to, Early Head
150 Start programs, homeless shelters, schools, and the Special
151 Supplemental Nutrition Program for Women, Infants, and Children.

152 (6) CHILDREN'S DENTAL SERVICES.—The agency may pay for
153 diagnostic, preventive, or corrective procedures, including
154 orthodontia in severe cases, provided to a recipient under age
155 21, by or under the supervision of a licensed dentist. The
156 agency may also reimburse a health access setting as defined in
157 s. 466.003(16) ~~s. 466.003~~ for the remediable tasks that a
158 licensed dental hygienist is authorized to perform under s.
159 466.024(2). Services provided under this program include
160 treatment of the teeth and associated structures of the oral
161 cavity, as well as treatment of disease, injury, or impairment
162 that may affect the oral or general health of the individual.
163 However, Medicaid will not provide reimbursement for dental
164 services provided in a mobile dental unit, except for a mobile
165 dental unit:

166 (e) Owned by, operated by, or having a contractual
167 agreement with a health access setting, as defined in s.
168 466.003(16), or a similar setting or program that serves
169 underserved or vulnerable populations that face serious barriers
170 to accessing dental services, which may include, but is not
171 limited to, Early Head Start programs, homeless shelters,
172 schools, and the Special Supplemental Nutrition Program for
173 Women, Infants, and Children.

174 Section 2. Section 466.001, Florida Statutes, is amended to

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175 read:

176 466.001 Legislative purpose and intent.—The legislative
177 purpose for enacting this chapter is to ensure that every
178 dentist, dental therapist, or dental hygienist practicing in
179 this state meets minimum requirements for safe practice without
180 undue clinical interference by persons not licensed under this
181 chapter. It is the legislative intent that dental services be
182 provided only in accordance with ~~the provisions of~~ this chapter
183 and not be delegated to unauthorized individuals. It is the
184 further legislative intent that dentists, dental therapists, and
185 dental hygienists who fall below minimum competency or who
186 otherwise present a danger to the public shall be prohibited
187 from practicing in this state. All provisions of this chapter
188 relating to the practice of dentistry, dental therapy, and
189 dental hygiene shall be liberally construed to carry out such
190 purpose and intent.

191 Section 3. Subsections (5) and (6) of section 466.002,
192 Florida Statutes, are amended to read:

193 466.002 Persons exempt from operation of chapter.—Nothing
194 in this chapter shall apply to the following practices, acts,
195 and operations:

196 (5) Students in Florida schools of dentistry, dental
197 therapy, and dental hygiene or dental assistant educational
198 programs, while performing regularly assigned work under the
199 curriculum of such schools.

200 (6) Instructors in Florida schools of dentistry,
201 instructors in dental programs that prepare persons holding
202 D.D.S. or D.M.D. degrees for certification by a specialty board
203 and that are accredited in the United States by January 1, 2005,

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204 in the same manner as the board recognizes accreditation for
 205 Florida schools of dentistry that are not otherwise affiliated
 206 with a Florida school of dentistry, or instructors in Florida
 207 schools of dental hygiene or dental therapy or dental assistant
 208 educational programs, while performing regularly assigned
 209 instructional duties under the curriculum of such schools or
 210 programs. A full-time dental instructor at a dental school or
 211 dental program approved by the board may be allowed to practice
 212 dentistry at the teaching facilities of such school or program,
 213 upon receiving a teaching permit issued by the board, in strict
 214 compliance with such rules as are adopted by the board
 215 pertaining to the teaching permit and with the established rules
 216 and procedures of the dental school or program as recognized in
 217 this section.

218 Section 4. Present subsections (7) through (15) of section
 219 466.003, Florida Statutes, are redesignated as subsections (9)
 220 through (17), respectively, present subsections (14) and (15)
 221 are amended, and new subsections (7) and (8) are added to that
 222 section, to read:

223 466.003 Definitions.—As used in this chapter:

224 (7) "Dental therapist" means a person licensed to practice
 225 dental therapy pursuant to s. 466.0225.

226 (8) "Dental therapy" means the rendering of services
 227 pursuant to s. 466.0227 and any related extraoral services or
 228 procedures required in the performance of such services.

229 (16)~~(14)~~ "Health access setting" means a program or an
 230 institution of the Department of Children and Families, the
 231 Department of Health, the Department of Juvenile Justice, a
 232 nonprofit community health center, a Head Start center, a

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233 federally qualified health center or look-alike as defined by
234 federal law, a school-based prevention program, a clinic
235 operated by an accredited college of dentistry, or an accredited
236 dental hygiene or dental therapy program in this state if such
237 community service program or institution immediately reports to
238 the Board of Dentistry all violations of s. 466.027, s. 466.028,
239 or other practice act or standard of care violations related to
240 the actions or inactions of a dentist, dental hygienist, dental
241 therapist, or dental assistant engaged in the delivery of dental
242 care in such setting.

243 (17)~~(15)~~ "School-based prevention program" means preventive
244 oral health services offered at a school by one of the entities
245 defined in subsection (16) ~~(14)~~ or by a nonprofit organization
246 that is exempt from federal income taxation under s. 501(a) of
247 the Internal Revenue Code, and described in s. 501(c)(3) of the
248 Internal Revenue Code.

249 Section 5. Subsection (2) of section 466.004, Florida
250 Statutes, is amended to read:

251 466.004 Board of Dentistry.—

252 (2) To advise the board, it is the intent of the
253 Legislature that councils be appointed as specified in
254 paragraphs (a)-(d) ~~(a), (b), and (c)~~. The department shall
255 provide administrative support to the councils and shall provide
256 public notice of meetings and agenda of the councils. Councils
257 shall include at least one board member who shall chair the
258 council and shall include nonboard members. All council members
259 shall be appointed by the board chair. Council members shall be
260 appointed for 4-year terms, and all members shall be eligible
261 for reimbursement of expenses in the manner of board members.

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262 (a) A Council on Dental Hygiene shall be appointed by the
263 board chair and shall include one dental hygienist member of the
264 board, who shall chair the council, one dental member of the
265 board, and three dental hygienists who are actively engaged in
266 the practice of dental hygiene in this state. In making the
267 appointments, the chair shall consider recommendations from the
268 Florida Dental Hygiene Association. The council shall meet at
269 the request of the board chair, a majority of the members of the
270 board, or the council chair; however, the council must meet at
271 least three times a year. The council is charged with the
272 responsibility of and shall meet for the purpose of developing
273 rules and policies for recommendation to the board, which the
274 board shall consider, on matters pertaining to that part of
275 dentistry consisting of educational, preventive, or therapeutic
276 dental hygiene services; dental hygiene licensure, discipline,
277 or regulation; and dental hygiene education. Rule and policy
278 recommendations of the council shall be considered by the board
279 at its next regularly scheduled meeting in the same manner in
280 which it considers rule and policy recommendations from
281 designated subcommittees of the board. Any rule or policy
282 proposed by the board pertaining to the specified part of
283 dentistry defined by this subsection shall be referred to the
284 council for a recommendation before final action by the board.
285 The board may take final action on rules pertaining to the
286 specified part of dentistry defined by this subsection without a
287 council recommendation if the council fails to submit a
288 recommendation in a timely fashion as prescribed by the board.

289 (b) A Council on Dental Assisting shall be appointed by the
290 board chair and shall include one board member who shall chair

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291 the council and three dental assistants who are actively engaged
292 in dental assisting in this state. The council shall meet at the
293 request of the board chair or a majority of the members of the
294 board. The council shall meet for the purpose of developing
295 recommendations to the board on matters pertaining to that part
296 of dentistry related to dental assisting.

297 (c) Effective 28 months after the first dental therapy
298 license is granted by the board, a Council on Dental Therapy
299 shall be appointed by the board chair and shall include one
300 board member who shall chair the council and three dental
301 therapists who are actively engaged in the practice of dental
302 therapy in this state. The council shall meet at the request of
303 the board chair, a majority of the members of the board, or the
304 council chair; however, the council must meet at least three
305 times per year. The council is charged with the responsibility
306 of, and shall meet for the purpose of, developing rules and
307 policies for recommendation to the board on matters pertaining
308 to that part of dentistry consisting of educational,
309 preventative, or therapeutic dental therapy services; dental
310 therapy licensure, discipline, or regulation; and dental therapy
311 education. Rule and policy recommendations of the council must
312 be considered by the board at its next regularly scheduled
313 meeting in the same manner in which it considers rule and policy
314 recommendations from designated subcommittees of the board. Any
315 rule or policy proposed by the board pertaining to the specified
316 part of dentistry defined by this subsection must be referred to
317 the council for a recommendation before final action by the
318 board. The board may take final action on rules pertaining to
319 the specified part of dentistry defined by this subsection

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320 without a council recommendation if the council fails to submit
321 a recommendation in a timely fashion as prescribed by the board.

322 (d)~~(e)~~ With the concurrence of the State Surgeon General,
323 the board chair may create and abolish other advisory councils
324 relating to dental subjects, including, but not limited to:
325 examinations, access to dental care, indigent care, nursing home
326 and institutional care, public health, disciplinary guidelines,
327 and other subjects as appropriate. Such councils shall be
328 appointed by the board chair and shall include at least one
329 board member who shall serve as chair.

330 Section 6. Subsection (4) and paragraph (b) of subsection
331 (6) of section 466.006, Florida Statutes, are amended to read:
332 466.006 Examination of dentists.—

333 (4) Notwithstanding any other provision of law in chapter
334 456 pertaining to the clinical dental licensure examination or
335 national examinations, to be licensed as a dentist in this
336 state, an applicant must successfully complete the following:

337 (a) A written examination on the laws and rules of the
338 state regulating the practice of dentistry;

339 (b)1. A practical or clinical examination, which shall be
340 the American Dental Licensing Examination produced by the
341 American Board of Dental Examiners, Inc., or its successor
342 entity, if any, that is administered in this state and graded by
343 dentists licensed in this state and employed by the department
344 for just such purpose, provided that the board has attained, and
345 continues to maintain thereafter, representation on the board of
346 directors of the American Board of Dental Examiners, the
347 examination development committee of the American Board of
348 Dental Examiners, and such other committees of the American

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349 Board of Dental Examiners as the board deems appropriate by rule
350 to assure that the standards established herein are maintained
351 organizationally. A passing score on the American Dental
352 Licensing Examination administered in this state and graded by
353 dentists who are licensed in this state is valid for 365 days
354 after the date the official examination results are published.

355 2.a. As an alternative to the requirements of subparagraph
356 1., an applicant may submit scores from an American Dental
357 Licensing Examination previously administered in a jurisdiction
358 other than this state after October 1, 2011, and such
359 examination results shall be recognized as valid for the purpose
360 of licensure in this state. A passing score on the American
361 Dental Licensing Examination administered out-of-state shall be
362 the same as the passing score for the American Dental Licensing
363 Examination administered in this state and graded by dentists
364 who are licensed in this state. The examination results are
365 valid for 365 days after the date the official examination
366 results are published. The applicant must have completed the
367 examination after October 1, 2011.

368 b. This subparagraph may not be given retroactive
369 application.

370 3. If the date of an applicant's passing American Dental
371 Licensing Examination scores from an examination previously
372 administered in a jurisdiction other than this state under
373 subparagraph 2. is older than 365 days, then such scores shall
374 nevertheless be recognized as valid for the purpose of licensure
375 in this state, but only if the applicant demonstrates that all
376 of the following additional standards have been met:

377 a.(I) The applicant completed the American Dental Licensing

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378 Examination after October 1, 2011.

379 (II) This sub-subparagraph may not be given retroactive
380 application;

381 b. The applicant graduated from a dental school accredited
382 by the American Dental Association Commission on Dental
383 Accreditation or its successor entity, if any, or any other
384 dental accrediting organization recognized by the United States
385 Department of Education. Provided, however, if the applicant did
386 not graduate from such a dental school, the applicant may submit
387 proof of having successfully completed a full-time supplemental
388 general dentistry program accredited by the American Dental
389 Association Commission on Dental Accreditation of at least 2
390 consecutive academic years at such accredited sponsoring
391 institution. Such program must provide didactic and clinical
392 education at the level of a D.D.S. or D.M.D. program accredited
393 by the American Dental Association Commission on Dental
394 Accreditation;

395 c. The applicant currently possesses a valid and active
396 dental license in good standing, with no restriction, which has
397 never been revoked, suspended, restricted, or otherwise
398 disciplined, from another state or territory of the United
399 States, the District of Columbia, or the Commonwealth of Puerto
400 Rico;

401 d. The applicant submits proof that he or she has never
402 been reported to the National Practitioner Data Bank, the
403 Healthcare Integrity and Protection Data Bank, or the American
404 Association of Dental Boards Clearinghouse. This sub-
405 subparagraph does not apply if the applicant successfully
406 appealed to have his or her name removed from the data banks of

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407 these agencies;

408 e.(I) In the 5 years immediately preceding the date of
409 application for licensure in this state, the applicant must
410 submit proof of having been consecutively engaged in the full-
411 time practice of dentistry in another state or territory of the
412 United States, the District of Columbia, or the Commonwealth of
413 Puerto Rico, or, if the applicant has been licensed in another
414 state or territory of the United States, the District of
415 Columbia, or the Commonwealth of Puerto Rico for less than 5
416 years, the applicant must submit proof of having been engaged in
417 the full-time practice of dentistry since the date of his or her
418 initial licensure.

419 (II) As used in this section, "full-time practice" is
420 defined as a minimum of 1,200 hours per year for each and every
421 year in the consecutive 5-year period or, where applicable, the
422 period since initial licensure, and must include any combination
423 of the following:

424 (A) Active clinical practice of dentistry providing direct
425 patient care.

426 (B) Full-time practice as a faculty member employed by a
427 dental, dental therapy, or dental hygiene school approved by the
428 board or accredited by the American Dental Association
429 Commission on Dental Accreditation.

430 (C) Full-time practice as a student at a postgraduate
431 dental education program approved by the board or accredited by
432 the American Dental Association Commission on Dental
433 Accreditation.

434 (III) The board shall develop rules to determine what type
435 of proof of full-time practice is required and to recoup the

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436 cost to the board of verifying full-time practice under this
437 section. Such proof must, at a minimum, be:

438 (A) Admissible as evidence in an administrative proceeding;

439 (B) Submitted in writing;

440 (C) Submitted by the applicant under oath with penalties of
441 perjury attached;

442 (D) Further documented by an affidavit of someone unrelated
443 to the applicant who is familiar with the applicant's practice
444 and testifies with particularity that the applicant has been
445 engaged in full-time practice; and

446 (E) Specifically found by the board to be both credible and
447 admissible.

448 (IV) An affidavit of only the applicant is not acceptable
449 proof of full-time practice unless it is further attested to by
450 someone unrelated to the applicant who has personal knowledge of
451 the applicant's practice. If the board deems it necessary to
452 assess credibility or accuracy, the board may require the
453 applicant or the applicant's witnesses to appear before the
454 board and give oral testimony under oath;

455 f. The applicant must submit documentation that he or she
456 has completed, or will complete, prior to licensure in this
457 state, continuing education equivalent to this state's
458 requirements for the last full reporting biennium;

459 g. The applicant must prove that he or she has never been
460 convicted of, or pled nolo contendere to, regardless of
461 adjudication, any felony or misdemeanor related to the practice
462 of a health care profession in any jurisdiction;

463 h. The applicant must successfully pass a written
464 examination on the laws and rules of this state regulating the

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465 practice of dentistry and must successfully pass the computer-
466 based diagnostic skills examination; and

467 i. The applicant must submit documentation that he or she
468 has successfully completed the National Board of Dental
469 Examiners dental examination.

470 (6)

471 (b)1. As used in this section, "full-time practice of
472 dentistry within the geographic boundaries of this state within
473 1 year" is defined as a minimum of 1,200 hours in the initial
474 year of licensure, which must include any combination of the
475 following:

476 a. Active clinical practice of dentistry providing direct
477 patient care within the geographic boundaries of this state.

478 b. Full-time practice as a faculty member employed by a
479 dental, dental therapy, or dental hygiene school approved by the
480 board or accredited by the American Dental Association
481 Commission on Dental Accreditation and located within the
482 geographic boundaries of this state.

483 c. Full-time practice as a student at a postgraduate dental
484 education program approved by the board or accredited by the
485 American Dental Association Commission on Dental Accreditation
486 and located within the geographic boundaries of this state.

487 2. The board shall develop rules to determine what type of
488 proof of full-time practice of dentistry within the geographic
489 boundaries of this state for 1 year is required in order to
490 maintain active licensure and shall develop rules to recoup the
491 cost to the board of verifying maintenance of such full-time
492 practice under this section. Such proof must, at a minimum:

493 a. Be admissible as evidence in an administrative

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494 proceeding;

495 b. Be submitted in writing;

496 c. Be submitted by the applicant under oath with penalties
497 of perjury attached;

498 d. Be further documented by an affidavit of someone
499 unrelated to the applicant who is familiar with the applicant's
500 practice and testifies with particularity that the applicant has
501 been engaged in full-time practice of dentistry within the
502 geographic boundaries of this state within the last 365 days;
503 and

504 e. Include such additional proof as specifically found by
505 the board to be both credible and admissible.

506 3. An affidavit of only the applicant is not acceptable
507 proof of full-time practice of dentistry within the geographic
508 boundaries of this state within 1 year, unless it is further
509 attested to by someone unrelated to the applicant who has
510 personal knowledge of the applicant's practice within the last
511 365 days. If the board deems it necessary to assess credibility
512 or accuracy, the board may require the applicant or the
513 applicant's witnesses to appear before the board and give oral
514 testimony under oath.

515 Section 7. Section 466.0075, Florida Statutes, is amended
516 to read:

517 466.0075 Applicants for examination; medical malpractice
518 insurance.—The board may require any person applying to take the
519 examination to practice dentistry in this state, the examination
520 to practice dental therapy in this state, or the examination to
521 practice dental hygiene in this state to maintain medical
522 malpractice insurance in amounts sufficient to cover any

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523 incident of harm to a patient during the clinical examination.

524 Section 8. Subsection (1) of section 466.009, Florida
525 Statutes, is amended, and subsection (4) is added to that
526 section, to read:

527 466.009 Reexamination.—

528 (1) The department shall allow ~~permit~~ any person who fails
529 an examination that ~~which~~ is required under s. 466.006, ~~or~~ s.
530 466.007, or s. 466.0225 to retake the examination. If the
531 examination to be retaken is a practical or clinical
532 examination, the applicant shall pay a reexamination fee set by
533 rule of the board in an amount not to exceed the original
534 examination fee.

535 (4) If an applicant for a license to practice dental
536 therapy fails the practical or clinical examination and has
537 failed one part or procedure of such examination, she or he may
538 be required to retake only that part or procedure to pass such
539 examination. However, if any such applicant fails more than one
540 part or procedure of any such examination, she or he must be
541 required to retake the entire examination.

542 Section 9. Section 466.011, Florida Statutes, is amended to
543 read:

544 466.011 Licensure.—The board shall certify for licensure by
545 the department any applicant who satisfies the requirements of
546 s. 466.006, s. 466.0067, ~~or~~ s. 466.007, or s. 466.0225. The
547 board may refuse to certify an applicant who has violated ~~any of~~
548 ~~the provisions of~~ s. 466.026 or s. 466.028.

549 Section 10. Section 466.0136, Florida Statutes, is created
550 to read:

551 466.0136 Continuing education; dental therapists.—In

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552 addition to any other requirements for relicensure for dental
553 therapists specified in this chapter, the board shall require
554 each licensed dental therapist to complete at least 24 hours,
555 but not more than 36 hours, biennially of continuing education
556 in dental subjects in programs approved by the board or in
557 equivalent programs of continuing education. Programs of
558 continuing education approved by the board must be programs of
559 learning that, in the opinion of the board, contribute directly
560 to the dental education of the dental therapist. An individual
561 who is licensed as both a dental therapist and a dental
562 hygienist may use 1 hour of continuing education that is
563 approved for both dental therapy and dental hygiene education to
564 satisfy both dental therapy and dental hygiene continuing
565 education requirements. The board shall adopt rules and
566 guidelines to administer and enforce this section. The dental
567 therapist shall retain in her or his records any receipts,
568 vouchers, or certificates necessary to document completion of
569 the continuing education. Compliance with the continuing
570 education requirements is mandatory for issuance of the renewal
571 certificate. The board may excuse licensees, as a group or as
572 individuals, from all or part of the continuing education
573 requirements if an unusual circumstance, emergency, or hardship
574 prevented compliance with this section.

575 Section 11. Section 466.016, Florida Statutes, is amended
576 to read:

577 466.016 License to be displayed.—Every practitioner of
578 dentistry, dental therapy, or dental hygiene within the meaning
579 of this chapter shall post and keep conspicuously displayed her
580 or his license in the office where ~~wherein~~ she or he practices,

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581 in plain sight of the practitioner's patients. Any dentist,
582 dental therapist, or dental hygienist who practices at more than
583 one location shall be required to display a copy of her or his
584 license in each office where she or he practices.

585 Section 12. Present subsections (7) and (8) of section
586 466.017, Florida Statutes, are redesignated as subsections (8)
587 and (9), respectively, paragraphs (d) and (e) of subsection (3),
588 subsection (4), and present subsections (7) and (8) of that
589 section are amended, and a new subsection (7) is added to that
590 section, to read:

591 466.017 Prescription of drugs; anesthesia.-

592 (3) The board shall adopt rules which:

593 (d) Establish further requirements relating to the use of
594 general anesthesia or sedation, including, but not limited to,
595 office equipment and the training of dental assistants, dental
596 therapists, or dental hygienists who work with dentists using
597 general anesthesia or sedation.

598 (e) Establish an administrative mechanism enabling the
599 board to verify compliance with training, education, experience,
600 equipment, or certification requirements of dentists, dental
601 therapists, dental hygienists, and dental assistants adopted
602 pursuant to this subsection. The board may charge a fee to
603 defray the cost of verifying compliance with requirements
604 adopted pursuant to this paragraph.

605 (4) A dentist, dental therapist, or dental hygienist who
606 administers or employs the use of any form of anesthesia must
607 possess a certification in either basic cardiopulmonary
608 resuscitation for health professionals or advanced cardiac life
609 support approved by the American Heart Association or the

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610 American Red Cross or an equivalent agency-sponsored course with
611 recertification every 2 years. Each dental office that ~~which~~
612 uses any form of anesthesia must have immediately available and
613 in good working order such resuscitative equipment, oxygen, and
614 other resuscitative drugs as are specified by rule of the board
615 in order to manage possible adverse reactions.

616 (7) A dental therapist under the general supervision of a
617 dentist may administer local anesthesia, including intraoral
618 block anesthesia or soft tissue infiltration anesthesia, or
619 both, if she or he has completed the course described in
620 subsection (5) and presents evidence of current certification in
621 basic or advanced cardiac life support.

622 (8)~~(7)~~ A licensed dentist, or a dental therapist who is
623 authorized by her or his supervising dentist, may operate
624 utilize an X-ray machine, expose dental X-ray films, and
625 interpret or read such films. Notwithstanding ~~The provisions of~~
626 part IV of chapter 468 to the contrary notwithstanding, a
627 licensed dentist, or a dental therapist who is authorized by her
628 or his supervising dentist, may authorize or direct a dental
629 assistant to operate such equipment and expose such films under
630 her or his direction and supervision, pursuant to rules adopted
631 by the board in accordance with s. 466.024 which ensure that the
632 ~~said~~ assistant is competent by reason of training and experience
633 to operate the X-ray said equipment in a safe and efficient
634 manner. The board may charge a fee not to exceed \$35 to defray
635 the cost of verifying compliance with requirements adopted
636 pursuant to this section.

637 (9)~~(8)~~ Notwithstanding ~~The provisions of~~ s. 465.0276
638 ~~notwithstanding~~, a dentist need not register with the board or

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639 comply with the continuing education requirements of that
640 section if the dentist confines her or his dispensing activity
641 to the dispensing of fluorides and chlorhexidine ~~chlورهexidine~~
642 rinse solutions; provided that the dentist complies with and is
643 subject to all laws and rules applicable to pharmacists and
644 pharmacies, including, but not limited to, chapters 465, 499,
645 and 893, and all applicable federal laws and regulations, when
646 dispensing such products.

647 Section 13. Subsection (1) of section 466.018, Florida
648 Statutes, is amended to read:

649 466.018 Dentist of record; patient records.—

650 (1) Each patient shall have a dentist of record. The
651 dentist of record shall remain primarily responsible for all
652 dental treatment on such patient regardless of whether the
653 treatment is rendered by the dentist or by another dentist,
654 dental therapist, dental hygienist, or dental assistant
655 rendering such treatment in conjunction with, at the direction
656 or request of, or under the supervision of such dentist of
657 record. The dentist of record shall be identified in the record
658 of the patient. If treatment is rendered by a dentist other than
659 the dentist of record or by a dental hygienist, dental
660 therapist, or dental assistant, the name or initials of such
661 person shall be placed in the record of the patient. In any
662 disciplinary proceeding brought pursuant to this chapter or
663 chapter 456, it shall be presumed as a matter of law that
664 treatment was rendered by the dentist of record unless otherwise
665 noted on the patient record pursuant to this section. The
666 dentist of record and any other treating dentist are subject to
667 discipline pursuant to this chapter or chapter 456 for treatment

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668 rendered to the patient and performed in violation of such
669 chapter. One of the purposes of this section is to ensure that
670 the responsibility for each patient is assigned to one dentist
671 in a multidentist practice of any nature and to assign primary
672 responsibility to the dentist for treatment rendered by a dental
673 hygienist, dental therapist, or dental assistant under her or
674 his supervision. This section shall not be construed to assign
675 any responsibility to a dentist of record for treatment rendered
676 pursuant to a proper referral to another dentist who does not ~~in~~
677 practice with the dentist of record or to prohibit a patient
678 from voluntarily selecting a new dentist without permission of
679 the dentist of record.

680 Section 14. Section 466.0225, Florida Statutes, is created
681 to read:

682 466.0225 Examination of dental therapists; licensing.-

683 (1) Any person desiring to be licensed as a dental
684 therapist must apply to the department to take the licensure
685 examinations and shall verify the information required on the
686 application by oath. The application must include two recent
687 photographs of the applicant.

688 (2) An applicant is entitled to take the examinations
689 required under this section and receive licensure to practice
690 dental therapy in this state if the applicant:

691 (a) Is 18 years of age or older;

692 (b) Is a graduate of a dental therapy college or school
693 accredited by the American Dental Association Commission on
694 Dental Accreditation or its successor entity, if any, or any
695 other dental therapy accrediting entity recognized by the United
696 States Department of Education. For applicants applying for a

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697 dental therapy license before January 1, 2025, the board shall
698 approve the applicant's dental therapy education program if the
699 program was administered by a college or school that operates an
700 accredited dental or dental hygiene program and the college or
701 school certifies to the board that the applicant's education
702 substantially conformed to the education standards established
703 by the American Dental Association Commission on Dental
704 Accreditation;

705 (c) Has successfully completed a dental therapy practical
706 or clinical examination produced by the American Board of Dental
707 Examiners, Inc., (ADEX) or its successor entity, if any, if the
708 board finds that the successor entity's examination meets or
709 exceeds the provisions of this section. If an applicant fails to
710 pass such an examination after three attempts, the applicant is
711 not eligible to retake the examination unless the applicant
712 completes additional education requirements as specified by the
713 board. If a dental therapy examination has not been established
714 by the ADEX, the board shall administer or approve an
715 alternative examination;

716 (d) Has not been disciplined by a board, except for
717 citation offenses or minor violations;

718 (e) Has not been convicted of or pled nolo contendere to,
719 regardless of adjudication, any felony or misdemeanor related to
720 the practice of a health care profession; and

721 (f) Has successfully completed a written examination on the
722 laws and rules of this state regulating the practice of dental
723 therapy.

724 (3) An applicant who meets the requirements of this section
725 and who has successfully completed the examinations identified

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726 in paragraph (2) (c) in a jurisdiction other than this state, or
727 who has successfully completed comparable examinations
728 administered or approved by the licensing authority in a
729 jurisdiction other than this state, shall be licensed to
730 practice dental therapy in this state if the board determines
731 that the other jurisdiction's examinations and scope of practice
732 are substantially similar to those identified in paragraph
733 (2) (c).

734 Section 15. Section 466.0227, Florida Statutes, is created
735 to read:

736 466.0227 Dental therapists; scope and area of practice.—

737 (1) The Legislature finds that authorizing licensed dental
738 therapists to perform the services specified in subsection (3)
739 would improve access to high-quality, affordable oral health
740 services for all residents in this state. The Legislature
741 intends to rapidly improve such access for low-income,
742 uninsured, and underserved patients and communities. To further
743 this intent, a dental therapist licensed under this chapter is
744 limited to practicing dental therapy in the following settings:

745 (a) A health access setting, as defined in s. 466.003(16).

746 (b) A community health center, including an off-site care
747 setting.

748 (c) A nursing facility.

749 (d) A military or veterans' hospital or clinic, including
750 an off-site care setting.

751 (e) A governmental or public health clinic, including an
752 off-site care setting.

753 (f) A school, Head Start program, or school-based
754 prevention program, as defined in s. 466.003(17).

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755 (g) An oral health education institution, including an off-
756 site care setting.

757 (h) A hospital.

758 (i) A geographic area designated as a dental health
759 professional shortage area by the state or the Federal
760 Government which is not located within a federally designated
761 metropolitan statistical area.

762 (j) Any other clinic or practice setting if at least 50
763 percent of the patients served by the dental therapist in such
764 clinic or practice setting:

765 1. Are enrolled in Medicaid or another state or local
766 governmental health care program for low-income or uninsured
767 patients; or

768 2. Do not have dental insurance and report a gross annual
769 income that is less than 200 percent of the applicable federal
770 poverty guidelines.

771 (2) Except as otherwise provided in this chapter, a dental
772 therapist may perform the dental therapy services specified in
773 subsection (3) under the general supervision of a dentist to the
774 extent authorized by the supervising dentist and provided within
775 the terms of a written collaborative management agreement signed
776 by the dental therapist and the supervising dentist which meets
777 the requirements of subsection (4).

778 (3) Dental therapy services include all of the following:

779 (a) All services, treatments, and competencies identified
780 by the American Dental Association Commission on Dental
781 Accreditation in its Dental Therapy Education Accreditation
782 Standards.

783 (b) The following state-specific services, if the dental

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784 therapist's education included curriculum content satisfying the
785 American Dental Association Commission on Dental Accreditation
786 criteria for state-specific dental therapy services:

787 1. Evaluating radiographs.

788 2. Placement of space maintainers.

789 3. Pulpotomies on primary teeth.

790 4. Dispensing and administering nonopioid analgesics
791 including nitrous oxide, anti-inflammatories, and antibiotics as
792 authorized by the supervising dentist and within the parameters
793 of the collaborative management agreement.

794 5. Oral evaluation and assessment of dental disease and
795 formulation of an individualized treatment plan if authorized by
796 a supervising dentist and subject to any conditions,
797 limitations, and protocols specified by the supervising dentist
798 in the collaborative management agreement.

799 (4) Before performing any of the services authorized in
800 subsection (3), a dental therapist must enter into a written
801 collaborative management agreement with a supervising dentist.
802 The agreement must be signed by the dental therapist and the
803 supervising dentist and must include:

804 (a) Practice settings where services may be provided by the
805 dental therapist and the populations to be served by the dental
806 therapist.

807 (b) Any limitations on the services that may be provided by
808 the dental therapist, including the level of supervision
809 required by the supervising dentist.

810 (c) Age- and procedure-specific practice protocols for the
811 dental therapist, including case selection criteria, assessment
812 guidelines, and imaging frequency.

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813 (d) A procedure for creating and maintaining dental records
814 for the patients who are treated by the dental therapist.

815 (e) A plan to manage medical emergencies in each practice
816 setting where the dental therapist provides care.

817 (f) A quality assurance plan for monitoring care provided
818 by the dental therapist, including patient care review, referral
819 followup, and a quality assurance chart review.

820 (g) Protocols for the dental therapist to administer and
821 dispense medications, including the specific conditions and
822 circumstances under which the medications are to be dispensed
823 and administered.

824 (h) Criteria relating to the provision of care by the
825 dental therapist to patients with specific medical conditions or
826 complex medication histories, including requirements for
827 consultation before the initiation of care.

828 (i) Supervision criteria of dental therapists.

829 (j) A plan for the provision of clinical resources and
830 referrals in situations that are beyond the capabilities of the
831 dental therapist.

832 (5) A supervising dentist shall determine the number of
833 hours of practice a dental therapist must complete under direct
834 or indirect supervision of the supervising dentist before the
835 dental therapist may perform any of the services authorized in
836 subsection (3) under general supervision.

837 (6) A supervising dentist may restrict or limit the dental
838 therapist's practice in a collaborative management agreement to
839 be less than the full scope of practice for dental therapists
840 which is authorized in subsection (3).

841 (7) A supervising dentist may authorize a dental therapist

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842 to provide dental therapy services to a patient before the
843 dentist examines or diagnoses the patient if the authority,
844 conditions, and protocols are established in a written
845 collaborative management agreement and if the patient is
846 subsequently referred to a dentist for any needed additional
847 services that exceed the dental therapist's scope of practice or
848 authorization under the collaborative management agreement.

849 (8) A supervising dentist must be licensed and practicing
850 in this state. The supervising dentist is responsible for all
851 services authorized and performed by the dental therapist
852 pursuant to the collaborative management agreement and for
853 providing or arranging followup services to be provided by a
854 dentist for those services that are beyond the dental
855 therapist's scope of practice and authorization under the
856 collaborative management agreement.

857 Section 16. Section 466.026, Florida Statutes, is amended
858 to read:

859 466.026 Prohibitions; penalties.—

860 (1) Each of the following acts constitutes a felony of the
861 third degree, punishable as provided in s. 775.082, s. 775.083,
862 or s. 775.084:

863 (a) Practicing dentistry, dental therapy, or dental hygiene
864 unless the person has an appropriate, active license issued by
865 the department pursuant to this chapter.

866 (b) Using or attempting to use a license issued pursuant to
867 this chapter which license has been suspended or revoked.

868 (c) Knowingly employing any person to perform duties
869 outside the scope allowed such person under this chapter or the
870 rules of the board.

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871 (d) Giving false or forged evidence to the department or
872 board for the purpose of obtaining a license.

873 (e) Selling or offering to sell a diploma conferring a
874 degree from a dental college, ~~or~~ dental hygiene school or
875 college, or dental therapy school or college, or a license
876 issued pursuant to this chapter, or procuring such diploma or
877 license with intent that it shall be used as evidence of that
878 which the document stands for, by a person other than the one
879 upon whom it was conferred or to whom it was granted.

880 (2) Each of the following acts constitutes a misdemeanor of
881 the first degree, punishable as provided in s. 775.082 or s.
882 775.083:

883 (a) Using the name or title "dentist," the letters "D.D.S."
884 or "D.M.D.", or any other words, letters, title, or descriptive
885 matter which in any way represents a person as being able to
886 diagnose, treat, prescribe, or operate for any disease, pain,
887 deformity, deficiency, injury, or physical condition of the
888 teeth or jaws or oral-maxillofacial region unless the person has
889 an active dentist's license issued by the department pursuant to
890 this chapter.

891 (b) Using the name "dental hygienist" or the initials
892 "R.D.H." or otherwise holding herself or himself out as an
893 actively licensed dental hygienist or implying to any patient or
894 consumer that she or he is an actively licensed dental hygienist
895 unless that person has an active dental hygienist's license
896 issued by the department pursuant to this chapter.

897 (c) Using the name "dental therapist" or the initials
898 "D.T." or otherwise holding herself or himself out as an
899 actively licensed dental therapist or implying to any patient or

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900 consumer that she or he is an actively licensed dental therapist
901 unless that person has an active dental therapist's license
902 issued by the department pursuant to this chapter.

903 (d)~~(e)~~ Presenting as her or his own the license of another.

904 (e)~~(d)~~ Knowingly concealing information relative to
905 violations of this chapter.

906 (f)~~(e)~~ Performing any services as a dental assistant as
907 defined herein, except in the office of a licensed dentist,
908 unless authorized by this chapter or by rule of the board.

909 Section 17. Paragraphs (b), (c), (g), (s), and (t) of
910 subsection (1) of section 466.028, Florida Statutes, are amended
911 to read:

912 466.028 Grounds for disciplinary action; action by the
913 board.—

914 (1) The following acts constitute grounds for denial of a
915 license or disciplinary action, as specified in s. 456.072(2):

916 (b) Having a license to practice dentistry, dental therapy,
917 or dental hygiene revoked, suspended, or otherwise acted
918 against, including the denial of licensure, by the licensing
919 authority of another state, territory, or country.

920 (c) Being convicted or found guilty of or entering a plea
921 of nolo contendere to, regardless of adjudication, a crime in
922 any jurisdiction which relates to the practice of dentistry,
923 dental therapy, or dental hygiene. A plea of nolo contendere
924 shall create a rebuttable presumption of guilt to the underlying
925 criminal charges.

926 (g) Aiding, assisting, procuring, or advising any
927 unlicensed person to practice dentistry, dental therapy, or
928 dental hygiene contrary to this chapter or to a rule of the

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929 department or the board.

930 (s) Being unable to practice her or his profession with
931 reasonable skill and safety to patients by reason of illness or
932 use of alcohol, drugs, narcotics, chemicals, or any other type
933 of material or as a result of any mental or physical condition.
934 In enforcing this paragraph, the department shall have, upon a
935 finding of the State Surgeon General or her or his designee that
936 probable cause exists to believe that the licensee is unable to
937 practice dentistry, dental therapy, or dental hygiene because of
938 the reasons stated in this paragraph, the authority to issue an
939 order to compel a licensee to submit to a mental or physical
940 examination by physicians designated by the department. If the
941 licensee refuses to comply with such order, the department's
942 order directing such examination may be enforced by filing a
943 petition for enforcement in the circuit court where the licensee
944 resides or does business. The licensee against whom the petition
945 is filed shall not be named or identified by initials in any
946 public court records or documents, and the proceedings shall be
947 closed to the public. The department shall be entitled to the
948 summary procedure provided in s. 51.011. A licensee affected
949 under this paragraph shall at reasonable intervals be afforded
950 an opportunity to demonstrate that she or he can resume the
951 competent practice of her or his profession with reasonable
952 skill and safety to patients.

953 (t) Fraud, deceit, or misconduct in the practice of
954 dentistry, dental therapy, or dental hygiene.

955 Section 18. Paragraphs (a) and (b) of subsection (1) of
956 section 466.0285, Florida Statutes, are amended to read:

957 466.0285 Proprietorship by nondentists.—

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958 (1) No person other than a dentist licensed pursuant to
959 this chapter, nor any entity other than a professional
960 corporation or limited liability company composed of dentists,
961 may:

962 (a) Employ a dentist, a dental therapist, or a dental
963 hygienist in the operation of a dental office.

964 (b) Control the use of any dental equipment or material
965 while such equipment or material is being used for the provision
966 of dental services, whether those services are provided by a
967 dentist, a dental therapist, a dental hygienist, or a dental
968 assistant.

969
970 Any lease agreement, rental agreement, or other arrangement
971 between a nondentist and a dentist whereby the nondentist
972 provides the dentist with dental equipment or dental materials
973 shall contain a provision whereby the dentist expressly
974 maintains complete care, custody, and control of the equipment
975 or practice.

976 Section 19. The Department of Health, in consultation with
977 the Board of Dentistry and the Agency for Health Care
978 Administration, shall submit a progress report to the President
979 of the Senate and the Speaker of the House of Representatives by
980 July 1, 2023, and a final report 3 years after the first dental
981 therapy license is issued. The reports must include all of the
982 following components:

983 (1) The progress that has been made in this state to
984 implement dental therapy training programs, licensing, and
985 Medicaid reimbursement.

986 (2) Data demonstrating the effects of dental therapy in

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987 this state on:

988 (a) Patient access to dental services;

989 (b) The use of primary and preventive dental services in
990 underserved regions and populations, including the Medicaid
991 population;

992 (c) Costs to dental providers, patients, dental insurance
993 carriers, and the state; and

994 (d) The quality and safety of dental services.

995 (3) Specific recommendations for any necessary legislative,
996 administrative, or regulatory reform relating to the practice of
997 dental therapy.

998 (4) Any other information the department deems appropriate.

999 Section 20. This act shall take effect July 1, 2020.

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 302

INTRODUCER: Senator Rader

SUBJECT: Adoption Records

DATE: February 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Preston | Hendon | CF | Pre-meeting |
| 2. | | | JU | |
| 3. | | | RC | |

I. Summary:

SB 302 makes changes to the Florida Adoption Act (Act)¹ which governs all Florida adoptions, whether private or from the child welfare system. The Act reaffirms a number of basic safeguards including providing that all records relating to custody and adoption of a child, including copies of an original birth certificate, are confidential and exempt and may not be released except by court order or authorization of all parties involved.

SB 302 authorizes each party to an adoption to authorize the release of his or her own records except those of the adoptee if he or she is under the age of 18. Adoption records may still be released upon order of the court.

The bill has no fiscal impact on government and provides an effective date of July 1, 2020.

II. Present Situation:

Birth Registration of a Live Birth

Within five days of each live birth in this state, a certificate of live birth must be filed with the local registrar² in the district where the birth took place.³ The state registrar may receive the registration of the birth certificate electronically through facsimile or other electronic transfer. A birth certificate may be amended under the following circumstances:

- Until a child's first birthday, a child's given name or surname may be amended if authorized by both parents named on the original birth certificate or by the registrant's guardian.⁴

¹ Chapter 63 of the Florida Statutes is known as the "Florida Adoption Act".

² The Florida Department of Health (DOH) must establish registration districts throughout the state and appoint a local registrar of vital statistics for each registration district.

³ Section 382.013, F.S.

⁴ Section 382.016, F.S.

- Upon receipt of a notarized voluntary acknowledgment of paternity by the mother and father acknowledging paternity of a registrant born out of wedlock.⁵
- Upon receipt of the report or certified copy of an adoption decree or an annulment-of-adoption decree.⁶
- Upon receipt of a name change order by a court of competent jurisdiction.⁷
- Upon receipt of a final judgment establishing paternity or disestablishing paternity.⁸

Certified copies of the original birth certificate or a new or amended birth certificate are confidential and exempt and may only be issued to the following specified persons:⁹

- The person named on the birth certificate (registrant), if the registrant has reached the age of majority, is a certified homeless youth, or is a minor who has had the disability of nonage legally removed;
- The parent, guardian, or other legal representative of the registrant;
- The spouse, child, grandchild, or sibling of the registrant, but only with a copy of the registrant's death certificate;
- Any person if the birth record is over 100 years old and not under seal pursuant to court order;
- Law enforcement agencies for official purposes;
- Any state or federal agency for official purposes approved by DOH; or
- Any individual authorized to receive the birth certificate by court order.

Adoption in Florida

The Florida Adoption Act (Act), ch. 63, F.S., applies to all adoptions, whether private or from the child welfare system, involving the following entities:¹⁰

- The Department of Children and Families (DCF);
- Child-placing agencies licensed by 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 qualified by DCF to place children in Florida.

In every adoption, the child's best interest should govern the court's determination in placement, and the court must make specific findings as to those best interests. The court must protect and promote the well-being of any person being adopted. Certain statutory safeguards ensure that a minor is legally eligible for adoption, the required persons consent to the adoption, or a parent-child relationship is terminated by judgment of the court.¹¹ The Act also provides the process and regulation of adoption in this state, such as, who may adopt, the rights and responsibilities of

⁵ *Id.*

⁶ Section 382.015, F.S.

⁷ Section 68.07, F.S.

⁸ Section 742.18, F.S.

⁹ Section 382.025(1), F.S.

¹⁰ Section 63.032(3), F.S.

¹¹ Section 63.022(4), F.S.

involved parties, proceedings for terminating parental rights, required notifications, licensure of adoption agencies, and confidentiality of adoption records.

Issuance of Birth Certificates in Adoption Cases

Within 30 days of final disposition of an adoption case, the court clerk must forward a certified copy of the court order to the Bureau of Vital Statistics with sufficient information to identify the original birth certificate and to create a new birth certificate. Unless the court, adoptive parents, or adult adoptee object, the Bureau must prepare and file a new birth certificate. The new certificate must have the same file number as the original birth certificate. The names and identifying information of the adoptive parents are entered on the new certificate without any reference to the parents being adoptive parents. All other information remains the same, including the date of registration and filing.¹²

Once a new birth certificate is prepared, DOH must substitute the new birth certificate for the original certificate on file. Thereafter, DOH may only issue a certified copy of the new birth certificate, unless a court order requires a certified copy of the original birth certificate. The original birth certificate and all related documents must be sealed and remain sealed, unless a court order or other law directs the unsealing.¹³

Confidentiality of Adoption Records

All documents and records related to an adoption, including the original birth certificate, are confidential.¹⁴ Prior to an adoption becoming final, the adoptive parents must be provided with non-identifying information, including the family medical history and social history of the adoptee and the adoptee's parents, when available. Upon reaching the age of majority, an adoptee may also request such non-identifying information. However, the name and identity of a birth parent, an adoptive parent, or an adoptee may not be disclosed unless:¹⁵

- The birth parent authorizes in writing the release of his or her name;
- An adoptee, age 18 or older, authorizes in writing the release of his or her name;
- An adoptive parent of an adoptee under age 18 provides written consent to disclose the adoptee's name;
- An adoptive parent authorizes in writing the release of his or her name; or
- Upon order of the court for good cause shown.

The court may, upon petition of an adult adoptee or birth parent, for good cause shown, appoint an intermediary or a licensed child-placing agency to contact a birth parent or adult adoptee, as applicable, who has not registered with the adoption registry pursuant to s. 63.165 and advise both of the availability of the intermediary or agency and that the birth parent or adult adoptee, as applicable, wishes to establish contact.¹⁶

¹² Section 382.015, F.S.

¹³ *Id.*

¹⁴ Section 63.162, F.S.

¹⁵ *Id.*

¹⁶ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 63.162, F.S., relating to hearings and records in adoption proceedings, confidential nature, to restate current law. The table below shows the effect of the bill.

| Identifying Information in Adoption Records | | |
|---|--|---------------------------|
| | Under Current Law | Under Changes in the Bill |
| Birth Parent | May not be disclosed unless a birth parent has authorized in writing the release of such information concerning himself or herself. | No change. |
| Adoptee | May not be disclosed unless an adoptee over the age of 18 has authorized in writing the release of such information concerning himself or herself. | No change. |
| Adoptive Parent | May not be disclosed unless an adoptive parent has authorized in writing the release of such information concerning himself or herself. | No change. |

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends s. 63.162 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.



286348

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete line 20

and insert:

name and the adoptee is 18 years of age or older; if the adoptee is younger than 18 years of age, the adoptive parent must also provide written consent to disclose the birth parent's name;

By Senator Rader

29-00578-20

2020302__

1 A bill to be entitled
 2 An act relating to adoption records; amending s.
 3 63.162, F.S.; providing that the name and identity of
 4 a birth parent, an adoptive parent, and an adoptee may
 5 be disclosed from adoption records without a court
 6 order under certain circumstances; providing an
 7 effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsection (4) of section 63.162, Florida
 12 Statutes, is amended to read:

13 63.162 Hearings and records in adoption proceedings;
 14 confidential nature.—

15 (4) (a) A person may ~~not~~ disclose the following from the
 16 records without a court order ~~the name and identity of a birth~~
 17 ~~parent, an adoptive parent, or an adoptee unless:~~

18 1. ~~(a)~~ The name and identity of the birth parent, if the
 19 birth parent authorizes in writing the release of his or her
 20 name;

21 2. ~~(b)~~ The name and identity of the adoptee, if the adoptee
 22 is 18 or more years of age or older and, authorizes in writing
 23 the release of his or her name; or, if the adoptee is younger
 24 ~~less~~ than 18 years of age, written consent to disclose the
 25 adoptee's name ~~is~~ obtained from an adoptive parent; or

26 3. ~~(c)~~ The name and identity of the adoptive parent, if the
 27 adoptive parent authorizes in writing the release of his or her
 28 name. ~~;~~ ~~or~~

29 (b) ~~(d)~~ A person may disclose from the records the name and

29-00578-20

2020302__

30 identity of a birth parent, an adoptive parent, or an adoptee
31 upon order of the court for good cause shown. In determining
32 whether good cause exists, the court shall give primary
33 consideration to the best interests of the adoptee, but must
34 also give due consideration to the interests of the adoptive and
35 birth parents. Factors to be considered in determining whether
36 good cause exists include, but are not limited to:

- 37 1. The reason the information is sought;
- 38 2. The existence of means available to obtain the desired
39 information without disclosing the identity of the birth
40 parents, such as by having the court, a person appointed by the
41 court, the department, or the licensed child-placing agency
42 contact the birth parents and request specific information;
- 43 3. The desires, to the extent known, of the adoptee, the
44 adoptive parents, and the birth parents;
- 45 4. The age, maturity, judgment, and expressed needs of the
46 adoptee; and
- 47 5. The recommendation of the department, licensed child-
48 placing agency, or professional that ~~which~~ prepared the
49 preliminary study and home investigation, or the department if
50 no such study was prepared, concerning the advisability of
51 disclosure.

52 Section 2. This act shall take effect July 1, 2020.

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 1062

INTRODUCER: Senator Harrell

SUBJECT: Involuntary Examinations of Minors

DATE: February 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Delia | Hendon | CF | Pre-meeting |
| 2. | | | ED | |
| 3. | | | RC | |

I. Summary:

SB 1062 requires public and charter schools to contact the parents of a minor student before the student is removed from school, school transportation, or a school-sponsored activity for an involuntary mental health examination. The bill provides that a principal or their designee may delay notification if they believe it is necessary for the health and safety of the student or others. The bill requires schools to contact a mobile response service prior to initiating a student removal and requires all school safety officers to undergo crisis intervention training. The bill mandates the collection of data by school districts and the Department of Children and Families (DCF) relating to the number and frequency of involuntary examinations of minors initiated by schools.

The bill will have a fiscal impact on public and charter schools and has an effective date of July 1, 2020.

II. Present Situation:

Baker Act

The Florida Mental Health Act, otherwise known as the Baker Act, was enacted in 1971 to revise the state's mental health commitment laws.¹ The Act includes legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It additionally protects the rights of all individuals examined or treated for mental illness in Florida.²

Involuntary Examination and Receiving Facilities

¹ Ss. 394.451-394.47892, F.S.

² S. 394.459, F.S.

Individuals in an acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.³ 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:⁴

- 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
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal 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 a 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.

Involuntary patients must be taken to either a public or a private facility that has been designated by the Department of Children and Families as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.⁵ A public receiving facility is a facility that has contracted with a managing entity to provide mental health services to all persons, regardless of their ability to pay, and is receiving state funds for such purpose.⁶ Funds appropriated for Baker Act services may only be used to pay for services to diagnostically and financially eligible persons, or those who are acutely ill, in need of mental health services, and the least able to pay.⁷

Crisis Stabilization Units (CSUs) are specialized public receiving facilities that receive state funding to provide services to individuals showing acute mental health disorders. CSUs screen, assess, and admit for stabilization individuals who voluntarily present themselves to the unit, as well as individuals who are brought to the unit on an involuntary basis.⁸ CSUs provide patients with 24-hour observation, medication prescribed by a physician or psychiatrist, and other appropriate services.⁹ The purpose of a crisis stabilization unit is to stabilize and redirect a client to the most appropriate and least restrictive community setting available, consistent with the client's needs.¹⁰ Individuals often enter the public mental health system through CSUs.¹¹ For this reason, crisis services are a part of the comprehensive, integrated, community mental health and substance abuse services established by the Legislature in the 1970s to ensure continuity of care for individuals.¹²

³ Ss. 394.4625 and 394.463, F.S.

⁴ S. 394.463(1), F.S.

⁵ S. 394.455(39), F.S. This term does not include a county jail.

⁶ S. 394.455(37), F.S.

⁷ Rule 65E-5.400(2), F.A.C.

⁸ S. 394.875(1)(a), F.S.

⁹ Id.

¹⁰ Id.

¹¹ Florida Senate, Budget Subcommittee on Health and Human Services Appropriations, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011), available at <https://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-109bha.pdf> (last visited Jan 30, 2020).

¹² Id. Sections 394.65-394.9085, F.S.

As of September 2019, there are 122 Baker Act receiving facilities in this state, including 54 public receiving facilities and 68 private receiving facilities.¹³ Of the 54 public receiving facilities, 40 are CSU's.¹⁴

Under the Baker Act, a receiving facility must examine an involuntary patient within 72 hours of arrival.¹⁵ During that 72 hours, an involuntary patient must be examined by a physician or a clinical psychologist, or by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at a facility to determine if the criteria for involuntary services are met.¹⁶ If the patient is a minor, the examination must be initiated within 12 hours.¹⁷

Within that 72-hour examination period, or if the 72 hours ends on a weekend or holiday, no later than the next business day, one of the following must happen:¹⁸

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

Mental Health Services for Students

The Florida Department of Education (DOE), through the Bureau of Exceptional Education and Student Services and the Office of Safe Schools, promotes a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Florida law requires instructional personnel to teach comprehensive health education that addresses concepts of mental and emotional health as well as substance use and abuse.¹⁹ Student Services personnel, which includes school psychologists, school social workers, and school counselors, are classified as instructional personnel responsible for advising students regarding personal and social adjustments, and provide direct and indirect services at the district and school level.²⁰

State funding for school districts' mental health services is provided primarily by legislative appropriations, the majority of which is distributed through an allocation through the Florida Education Finance Program (FEFP) to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified programs, activities or purposes.²¹ Each district school board must include the amount of categorical funds as a part of the district annual financial report to DOE, and DOE must submit a

¹³ Department of Children and Families, *Designated Baker Act Receiving Facilities*, (Sept. 9, 2019), <https://www.myflfamilies.com/service-programs/samh/crisis-services/docs/baker/Baker%20Act%20Receiving%20Faciliites.pdf> (last visited Jan. 30, 2020). Hospitals can also be designated as public receiving facilities.

¹⁴ Id.

¹⁵ S. 394.463(2)(g), F.S.

¹⁶ S. 394.463(2)(f), F.S.

¹⁷ S. 394.463(2)(g), F.S.

¹⁸ S. 394.463(2)(g), F.S.

¹⁹ S. 1003.42(2)(n), F.S.

²⁰ S. 1012.01(2)(b), F.S.

²¹ S. 1012.01(6), F.S.

report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.²²

The law allows district school boards and state agencies administering children's mental health funds to form a multiagency network to provide support for students with severe emotional disturbance.²³ The program goals for each component of the multiagency network are to:

- Enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living;
- Develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services;
- Provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs; and
- Integrate a wide range of services necessary to support students with severe emotional disturbances and their families.²⁴

DOE awards grants to district school boards for statewide planning and development of the multiagency Network for Students with Emotional or Behavioral Disabilities.²⁵ SEDNET is a network of 19 regional projects that are composed of major child-serving agencies, community-based service providers, and students and their families. Local school districts serve as fiscal agents for each local regional project.²⁶ SEDNET focuses on developing interagency collaboration and sustaining partnerships among professionals and families in the education, mental health, substance abuse, child welfare, and juvenile justice systems serving children and youth with and at risk of emotional and behavioral disabilities.²⁷

Mental Health Assistance Allocation

Established in FY 2018-2019 in SB 7026, responding to the Parkland shooting, the mental health assistance allocation within the FEFP provides funds for school-based mental health programs as annually provided in the General Appropriations Act (GAA). The allocation provides each school district at least \$100,000, with the remaining balance allocated based on each district's proportionate share of the state's total unweighted FTE student enrollment. Eligible charter schools are also entitled to a proportionate share of district funding.

At least 90 percent of a school district's allocation must be expended on:

- The provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses; and

²² Id.

²³ See s. 1006.04(1)(a), F.S.

²⁴ S. 1006.04(1)(b), F.S.

²⁵ S. 1006.04(2), F.S.

²⁶ Fiscal agents include the Brevard, Broward, Miami-Dade, Duval, Escambia, Hamilton, Highlands, Hillsborough, Lee, Leon, Marion, Orange, Palm Beach, Pinellas, Polk, Putnam, St. Lucie, Sarasota, and Washington school districts. Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, at p. 11, <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited Jan. 30, 2020).

²⁷ Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited Jan. 30, 2020).

- The coordination of such services with a student’s primary care provider and with other mental health providers involved in the student’s care.

In order to receive allocation funds, a school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval. In addition, a charter school must annually develop and submit a detailed plan outlining the local program and planned expenditures of the funds in the plan to its governing body for approval. Once the plan is approved by the governing body, it must be provided to its school district for submission to the Commissioner of Education.

Report on Involuntary Examinations of Minors

In 2017, the Legislature created a task force within DCF²⁸ to address the issue of involuntary examination of minors age 17 years or younger, specifically by:²⁹

- Analyzing data on the initiation of involuntary examinations of minors;
- Researching the root causes of and trends in such involuntary examinations;
- Identifying and evaluating options for expediting the examination process; and
- Identifying recommendations for encouraging alternatives to or eliminating inappropriate initiations of such examinations.

The task force found that specific causes of increases in involuntary examinations of children are unknown. Possible factors cited in the task force report include:³⁰

- Increase in mental health concerns:
- In 2017, 31.5% of high school students experienced periods of persistent feelings of sadness or hopelessness within the past year, an increase from 2007 (28.5%).
 - In 2017, 17.2% of high school students seriously considered attempting suicide in the past year, increasing from 14.5% in 2007.
- Social stressors such as parental substance use, poverty and economic insecurity, mass shootings, and social media and cyber bullying.
 - Lack of availability of mental health services, due to wait lists for services, limitations on coverage or approval, lack of funding for prevention and diversion, and shortage of psychiatrists and other mental health professionals.
 - Among children ages 12-17 in Florida, approximately 13.0% experienced a major depressive episode in the past year. Only about 33% of children experiencing a major depressive episode in the past year receive treatment.
- Emphasis on diversion and treatment, such as through increased Youth Mental Health First Aid, Crisis Intervention Team, and similar training on recognition of issues and appropriate referral; use of alternatives to expulsion or referral to law enforcement agencies.

As a follow up to the 2017 task force report, in 2019, the Legislature instructed DCF to prepare a report on the initiation of involuntary examinations of minors age 17 years and younger and

²⁸ Ch. 2017-151, Laws of Florida.

²⁹ Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), <https://www.myflfamilies.com/service-programs/samh/publications/> (last visited Jan. 30, 2020).

³⁰ Id.

submit it by November 1 of each odd numbered year.³¹ As part of the report (2019 report), DCF was required to:

- Analyze data on the initiation of involuntary examinations of minors;
- Identify any patterns or trends and cases in which involuntary examinations are repeatedly initiated on the same child;
- Study root causes for such patterns, trends, or repeated involuntary examinations; and
- Make recommendations for encouraging alternatives to and eliminating inappropriate initiations of such examinations.

Multiple Involuntary Examinations

The 2019 report revealed that some crisis stabilization units are not meeting the needs of children and adolescents with significant behavioral health needs, contributing to multiple exams.³²

The 2019 report found there were 205,781 involuntary examinations in FY 2017-2018, 36,078 of which were of minors.³³ From FY 2013-2014 to FY 2017-2018, statewide involuntary examinations increased 18.85% for children.³⁴ Children have a larger increase in examinations compared to young adults ages 18-24 (14.04%) and adults (12.49%).³⁵ Additionally, 22.61% of minors had multiple involuntary examinations in FY 2017-2018, ranging from 2 to 19.³⁶ DCF identified 21 minors who had more than ten involuntary examinations in FY 2017-2018, with a combined total of 285 initiations.³⁷ DCF's review of medical records found:³⁸

- Most initiations were a result of minors harming themselves and were predominately initiated by law enforcement (88%);
- Many minors were involved in the child welfare system and most experienced significant family dysfunction;
- Most had Medicaid health insurance;
- Most experienced multiple traumas such as abuse, bullying, exposure to violence, parental incarceration, and parental substance abuse and mental health issues;
- Most had behavioral disorders of childhood, such as ADHD or Oppositional Defiant Disorder, followed by mood disorders, followed by anxiety disorders;
- Most involuntary examinations were initiated at home or at a behavioral health provider; and
- Discharge planning and care coordination by the receiving facilities was not adequate enough to meet the child's needs.

Recommendations

Among the 2017 task force report recommendations were to:³⁹

³¹ Ch. 2019-134, Laws of Florida.

³² Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors, 2019* (Nov. 2019), <https://www.myflfamilies.com/service-programs/samh/publications/> (last visited Jan. 30, 2020).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Supra*, note 29.

- Amend statute to increase the number of days that the receiving facility has to submit required forms to DCF to capture additional data;
- Expedite involuntary exams by expanding the list of mental health professionals who can conduct the clinical exam to include physician assistants, psychiatric advanced registered nurse practitioners, licensed clinical social workers, licensed mental health counselors, and licensed marriage and family therapist;
- Increase funding for mobile crisis teams;
- Fund an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis;
- Expand access to outpatient crisis intervention services and treatment especially for children under 13;
- Create the “Invest in the Mental Health of our Children” grant program to provide matching funds to counties to enhance their systems of care serving these children;
- Encourage school districts to adopt a standardized suicide risk assessment tool that school-based mental health professionals would implement prior to initiation of a Baker Act examination;
- Revise statutes to include school psychologists licensed under Chapter 490 to the list of mental health professionals who are qualified to initiate a Baker Act;
- Require Youth Mental Health First Aid and/or CIT training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools;
- Require AHCA to post quarterly Medicaid health plans’ EPSDT compliance reports on its website; and
- Supporting Baker Act training and technical assistance by funding a position in DCF to train and provide technical assistance to providers, clinicians, and other professionals who are responsible for implementing the Baker Act.

Several of these recommendations have been implemented through statutory change or legislative appropriations.

The 2019 report recommended:⁴⁰

- Increasing care coordination for minors with multiple involuntary examinations;
- Utilizing the wraparound care coordination approach for children with complex behavioral health needs and multi-system involvement to ensure one point of accountability and individualized care planning;
- Utilizing existing local review teams;
- Revising administrative rules to gather more information about actions taken after the initiation of exams, require electronic submission of forms, and improve care coordination and discharge planning;
- Funding an additional FTE at DCF to provide technical assistance; and
- Ensuring that parents receive information about mobile crisis response teams and other community resources and supports upon child’s discharge.

⁴⁰ *Supra* note 32.

III. Effect of Proposed Changes:

Section 1 amends s. 381.0056, F.S., requiring school health services plans to mandate that a parent or guardian be notified before a student is removed from school or a school-sponsored activity for an involuntary examination except for when a principal or principal's designee believes that a delay in removal would jeopardize the health and safety of the student.

Section 2 amends s. 394.463, F.S., adding the initiation of involuntary examinations of students who are removed from school, school transportation, or a school-sponsored activity to the elements that must be included in data collected by DCF, and requiring DCF to submit a report on findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House by November 1 of each odd-numbered year.

Section 3 amends s. 1001.212, F.S., requiring that both the number of involuntary examinations initiated at each school or school-sponsored activity and the number of students for whom an involuntary examination was initiated be included in the data provided by the Office of Safe Schools to support the evaluation of mental health services.

Section 4 amends s. 1002.20, F.S., requiring the principal or principal's designee to notify a parent before a student is removed from school, school transportation, or a school-sponsored activity to be taken to a receiving facility for an involuntary examination. The bill allows the principal or principal's designee to delay notification, for no more than 24 hours, if the principal or designee believes that such a delay is necessary to avoid jeopardizing the health and safety of the student.

Section 5 amends s. 1002.33, F.S., requiring the charter school principal or the principal's designee to notify the parents before a student is removed from school, school transportation, or a school-sponsored activity to be taken to a receiving facility for an involuntary examination, and allowing the principal or principal's designee to delay notification, for no more than 24 hours, if the principal or designee believes that such a delay is necessary to avoid jeopardizing the health and safety of the student.

Section 6 amends s. 1006.07, F.S., requiring each district school board to adopt a policy requiring that the superintendent annually report to DOE the number of involuntary examinations initiated at a school, on school transportation, or at a school-sponsored activity.

Section 7 amends s. 1006.12, F.S., requiring that school safety officers complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention to improve skills in responding to students with emotional behavioral disability or mental illness, including de-escalation techniques.

Section 8 amends s. 1011.62, F.S., providing procedures to assist mental or behavioral health service providers, or school resource or school safety officers who have completed mental health crisis intervention training, in verbally de-escalating a crisis situation before initiating an involuntary examination. The bill specifically requires that the procedures include strategies to de-escalate a crisis situation for a student with a developmental disability.

The bill requires school districts to develop a memorandum of understanding with a local crisis response service and requires that school or law enforcement personnel contact in person or through telehealth, the mobile crisis response service, before initiating an involuntary examination. The bill requires school districts to provide all school resource officers and school safety officers training on protocols established in the memorandum of understanding.

Section 9 provides an effective date of July 1, 2020.

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:

There will be an indeterminate impact to providers of crisis intervention training for school safety officers and school resource officers.

C. Government Sector Impact:

DOE estimates that the agency may incur costs relating to data collection and analyses of involuntary examinations, including costs relating to training school and district staff on data collection required by the bill.⁴¹ The impact of these changes is indeterminate.

⁴¹ Florida Department of Education Agency Analysis of SB 1062, December 9, 2019. On file with the Senate Children, Families, and Elder Affairs Committee.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 381.0056, 394.463, 1001.212, 1002.20, 1002.33, 1006.07, 1006.12, and 1011.62 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.



673474

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete line 181
and insert:
of involuntary examinations, as defined in s. 394.455, which are

1
2
3
4
5
6
7

By Senator Harrell

25-01519-20

20201062__

1 A bill to be entitled
2 An act relating to involuntary examinations of minors;
3 amending s. 381.0056, F.S.; revising parent and
4 guardian notification requirements that must be met
5 before an involuntary examination of a minor; amending
6 s. 394.463, F.S.; revising data reporting requirements
7 for the Department of Children and Families; amending
8 s. 1001.212, F.S.; revising data reporting
9 requirements for the Office of Safe Schools; amending
10 s. 1002.20, F.S.; revising parent and guardian
11 notification requirements that must be met before
12 conducting an involuntary examination of a minor who
13 is removed from school, school transportation, or a
14 school-sponsored activity; providing an exception;
15 amending s. 1002.33, F.S.; revising parent and
16 guardian notification requirements that must be met
17 before an involuntary examination of a minor who is
18 removed from a charter school, charter school
19 transportation, or a charter school-sponsored
20 activity; providing an exception; amending s. 1006.07,
21 F.S.; creating reporting requirements for schools
22 relating to involuntary examinations of minors;
23 amending s. 1006.12, F.S.; revising training
24 requirements for school safety officers; amending s.
25 1011.62, F.S.; requiring that certain plans include
26 procedures to assist certain mental and behavioral
27 health providers in attempts to verbally de-escalate
28 certain crisis situations before initiating an
29 involuntary examination; requiring the procedures to

25-01519-20

20201062__

30 include certain strategies; creating requirements for
31 memoranda of understanding between schools and local
32 mobile crisis response services; 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 (4) of section
38 381.0056, Florida Statutes, is amended to read:

39 381.0056 School health services program.—

40 (4) (a) Each county health department shall develop, jointly
41 with the district school board and the local school health
42 advisory committee, a school health services plan. The plan must
43 include, at a minimum, provisions for all of the following:

- 44 1. Health appraisal;
- 45 2. Records review;
- 46 3. Nurse assessment;
- 47 4. Nutrition assessment;
- 48 5. A preventive dental program;
- 49 6. Vision screening;
- 50 7. Hearing screening;
- 51 8. Scoliosis screening;
- 52 9. Growth and development screening;
- 53 10. Health counseling;
- 54 11. Referral and followup of suspected or confirmed health
55 problems by the local county health department;
- 56 12. Meeting emergency health needs in each school;
- 57 13. County health department personnel to assist school
58 personnel in health education curriculum development;

25-01519-20

20201062__

59 14. Referral of students to appropriate health treatment,
60 in cooperation with the private health community whenever
61 possible;

62 15. Consultation with a student's parent or guardian
63 regarding the need for health attention by the family physician,
64 dentist, or other specialist when definitive diagnosis or
65 treatment is indicated;

66 16. Maintenance of records on incidents of health problems,
67 corrective measures taken, and such other information as may be
68 needed to plan and evaluate health programs; except, however,
69 that provisions in the plan for maintenance of health records of
70 individual students must be in accordance with s. 1002.22;

71 17. Health information which will be provided by the school
72 health nurses, when necessary, regarding the placement of
73 students in exceptional student programs and the reevaluation at
74 periodic intervals of students placed in such programs;

75 18. Notification to the local nonpublic schools of the
76 school health services program and the opportunity for
77 representatives of the local nonpublic schools to participate in
78 the development of the cooperative health services plan; and

79 19. ~~Immediate~~ Notification to a student's parent, guardian,
80 or caregiver before ~~if~~ the student is removed from school,
81 school transportation, or a school-sponsored activity to be ~~and~~
82 taken to a receiving facility for an involuntary examination
83 pursuant to s. 394.463, including and subject to the
84 requirements and exceptions established under ss. 1002.20(3) and
85 1002.33(9), as applicable.

86 Section 2. Subsection (4) of section 394.463, Florida
87 Statutes, is amended to read:

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88 394.463 Involuntary examination.-

89 (4) DATA ANALYSIS.-Using data collected under paragraph
90 (2) (a), the department shall, at a minimum, analyze data on both
91 the initiation of involuntary examinations of children and the
92 initiation of involuntary examinations of students who are
93 removed from a school, identify any patterns or trends and cases
94 in which involuntary examinations are repeatedly initiated on
95 the same child or student, study root causes for such patterns,
96 trends, or repeated involuntary examinations, and make
97 recommendations to encourage the use of ~~for encouraging~~
98 alternatives to eliminate ~~and eliminating~~ inappropriate
99 initiations of such examinations. The department shall submit a
100 report on its findings and recommendations to the Governor, the
101 President of the Senate, and the Speaker of the House of
102 Representatives by November 1 of each odd-numbered ~~odd-numbered~~
103 year.

104 Section 3. Subsection (7) of section 1001.212, Florida
105 Statutes, is amended to read:

106 1001.212 Office of Safe Schools.-There is created in the
107 Department of Education the Office of Safe Schools. The office
108 is fully accountable to the Commissioner of Education. The
109 office shall serve as a central repository for best practices,
110 training standards, and compliance oversight in all matters
111 regarding school safety and security, including prevention
112 efforts, intervention efforts, and emergency preparedness
113 planning. The office shall:

114 (7) Provide data to support the evaluation of mental health
115 services pursuant to s. 1004.44. Such data must include, for
116 each school, the number of involuntary examinations as defined

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117 in s. 394.455 which are initiated at the school, on school
118 transportation, or at a school-sponsored activity and the number
119 of children for whom an examination is initiated.

120 Section 4. Paragraph (1) of subsection (3) of section
121 1002.20, Florida Statutes, is amended to read:

122 1002.20 K-12 student and parent rights.—Parents of public
123 school students must receive accurate and timely information
124 regarding their child's academic progress and must be informed
125 of ways they can help their child to succeed in school. K-12
126 students and their parents are afforded numerous statutory
127 rights including, but not limited to, the following:

128 (3) HEALTH ISSUES.—

129 (1) *Notification of involuntary examinations.*—

130 1. Except as provided in subparagraph 2., the public school
131 principal or the principal's designee shall ~~immediately~~ notify
132 the parent of a student before the student ~~who~~ is removed from
133 school, school transportation, or a school-sponsored activity to
134 be ~~and~~ taken to a receiving facility for an involuntary
135 examination pursuant to s. 394.463.

136 2. The principal or the principal's designee may delay the
137 required notification for no more than 24 hours after the
138 student is removed if:

139 a. The principal or designee deems the delay to be in the
140 student's best interest and ~~if~~ a report has been submitted to
141 the central abuse hotline, pursuant to s. 39.201, based upon
142 knowledge or suspicion of abuse, abandonment, or neglect; or

143 b. The principal or principal's designee reasonably
144 believes that such delay is necessary to avoid jeopardizing the
145 health and safety of the student.

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146

147 Each district school board shall develop a policy and procedures
148 for notification under this paragraph.

149 Section 5. Paragraph (q) of subsection (9) of section
150 1002.33, Florida Statutes, is amended to read:

151 1002.33 Charter schools.—

152 (9) CHARTER SCHOOL REQUIREMENTS.—

153 (q) The charter school principal or the principal's
154 designee shall ~~immediately~~ notify the parent of a student before
155 the student ~~who~~ is removed from school, school transportation,
156 or a school-sponsored activity to be ~~and~~ taken to a receiving
157 facility for an involuntary examination pursuant to s. 394.463.
158 The principal or the principal's designee may delay notification
159 for no more than 24 hours after the student is removed if:

160 1. The principal or designee deems the delay to be in the
161 student's best interest and ~~if~~ a report has been submitted to
162 the central abuse hotline, pursuant to s. 39.201, based upon
163 knowledge or suspicion of abuse, abandonment, or neglect; or

164 2. The principal or principal's designee reasonably
165 believes that such delay is necessary to avoid jeopardizing the
166 health and safety of the student.

167

168 Each charter school governing board shall develop a policy and
169 procedures for notification under this paragraph.

170 Section 6. Subsection (10) is added to section 1006.07,
171 Florida Statutes, to read:

172 1006.07 District school board duties relating to student
173 discipline and school safety.—The district school board shall
174 provide for the proper accounting for all students, for the

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175 attendance and control of students at school, and for proper
176 attention to health, safety, and other matters relating to the
177 welfare of students, including:

178 (10) REPORTING OF INVOLUNTARY EXAMINATIONS.—Each district
179 school board shall adopt a policy to require the district
180 superintendent to annually report to the department the number
181 of involuntary examinations, as defined in s. 394.463, which are
182 initiated at a school, on school transportation, or at a school-
183 sponsored activity.

184 Section 7. Present paragraph (c) of subsection (2) of
185 section 1006.12, Florida Statutes, is redesignated as paragraph
186 (d), and a new paragraph (c) is added to that subsection, to
187 read:

188 1006.12 Safe-school officers at each public school.—For the
189 protection and safety of school personnel, property, students,
190 and visitors, each district school board and school district
191 superintendent shall partner with law enforcement agencies or
192 security agencies to establish or assign one or more safe-school
193 officers at each school facility within the district, including
194 charter schools. A district school board must collaborate with
195 charter school governing boards to facilitate charter school
196 access to all safe-school officer options available under this
197 section. The school district may implement any combination of
198 the options in subsections (1)-(4) to best meet the needs of the
199 school district and charter schools.

200 (2) SCHOOL SAFETY OFFICER.—A school district may commission
201 one or more school safety officers for the protection and safety
202 of school personnel, property, and students within the school
203 district. The district school superintendent may recommend, and

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204 the district school board may appoint, one or more school safety
205 officers.

206 (c) School safety officers must complete mental health
207 crisis intervention training using a curriculum developed by a
208 national organization with expertise in mental health crisis
209 intervention. The training shall improve officers' knowledge and
210 skills as first responders to incidents involving students with
211 emotional disturbance or mental illness, including de-escalation
212 skills to ensure student and officer safety.

213

214 If a district school board, through its adopted policies,
215 procedures, or actions, denies a charter school access to any
216 safe-school officer options pursuant to this section, the school
217 district must assign a school resource officer or school safety
218 officer to the charter school. Under such circumstances, the
219 charter school's share of the costs of the school resource
220 officer or school safety officer may not exceed the safe school
221 allocation funds provided to the charter school pursuant to s.
222 1011.62(15) and shall be retained by the school district.

223 Section 8. Paragraph (b) of subsection (16) of section
224 1011.62, Florida Statutes, is amended to read:

225 1011.62 Funds for operation of schools.—If the annual
226 allocation from the Florida Education Finance Program to each
227 district for operation of schools is not determined in the
228 annual appropriations act or the substantive bill implementing
229 the annual appropriations act, it shall be determined as
230 follows:

231 (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health
232 assistance allocation is created to provide funding to assist

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233 school districts in establishing or expanding school-based
234 mental health care; train educators and other school staff in
235 detecting and responding to mental health issues; and connect
236 children, youth, and families who may experience behavioral
237 health issues with appropriate services. These funds shall be
238 allocated annually in the General Appropriations Act or other
239 law to each eligible school district. Each school district shall
240 receive a minimum of \$100,000, with the remaining balance
241 allocated based on each school district's proportionate share of
242 the state's total unweighted full-time equivalent student
243 enrollment. Charter schools that submit a plan separate from the
244 school district are entitled to a proportionate share of
245 district funding. The allocated funds may not supplant funds
246 that are provided for this purpose from other operating funds
247 and may not be used to increase salaries or provide bonuses.
248 School districts are encouraged to maximize third-party health
249 insurance benefits and Medicaid claiming for services, where
250 appropriate.

251 (b) The plans required under paragraph (a) must be focused
252 on a multitiered system of supports to deliver evidence-based
253 mental health care assessment, diagnosis, intervention,
254 treatment, and recovery services to students with one or more
255 mental health or co-occurring substance abuse diagnoses and to
256 students at high risk of such diagnoses. The provision of these
257 services must be coordinated with a student's primary mental
258 health care provider and with other mental health providers
259 involved in the student's care. At a minimum, the plans must
260 include the following elements:

261 1. Direct employment of school-based mental health services

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262 providers to expand and enhance school-based student services
263 and to reduce the ratio of students to staff in order to better
264 align with nationally recommended ratio models. These providers
265 include, but are not limited to, certified school counselors,
266 school psychologists, school social workers, and other licensed
267 mental health professionals. The plan also must identify
268 strategies to increase the amount of time that school-based
269 student services personnel spend providing direct services to
270 students, which may include the review and revision of district
271 staffing resource allocations based on school or student mental
272 health assistance needs.

273 2. Contracts or interagency agreements with one or more
274 local community behavioral health providers or providers of
275 Community Action Team services to provide a behavioral health
276 staff presence and services at district schools. Services may
277 include, but are not limited to, mental health screenings and
278 assessments, individual counseling, family counseling, group
279 counseling, psychiatric or psychological services, trauma-
280 informed care, mobile crisis services, and behavior
281 modification. These behavioral health services may be provided
282 on or off the school campus and may be supplemented by
283 telehealth.

284 3. Policies and procedures, including contracts with
285 service providers, which will ensure that students who are
286 referred to a school-based or community-based mental health
287 service provider for mental health screening for the
288 identification of mental health concerns and ensure that the
289 assessment of students at risk for mental health disorders
290 occurs within 15 days of referral. School-based mental health

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291 services must be initiated within 15 days after identification
292 and assessment, and support by community-based mental health
293 service providers for students who are referred for community-
294 based mental health services must be initiated within 30 days
295 after the school or district makes a referral.

296 4. Strategies or programs to reduce the likelihood of at-
297 risk students developing social, emotional, or behavioral health
298 problems, depression, anxiety disorders, suicidal tendencies, or
299 substance use disorders.

300 5. Strategies to improve the early identification of
301 social, emotional, or behavioral problems or substance use
302 disorders, to improve the provision of early intervention
303 services, and to assist students in dealing with trauma and
304 violence.

305 6. Procedures to assist a mental health services provider
306 or a behavioral health provider as described in subparagraph 1.
307 or subparagraph 2., respectively, or a school resource officer
308 or school safety officer who has completed mental health crisis
309 intervention training in attempting to verbally de-escalate a
310 student's crisis situation before initiating an involuntary
311 examination pursuant to s. 394.463. Such procedures must include
312 strategies to de-escalate a crisis situation for a student with
313 a developmental disability as that term is defined in s.
314 393.063.

315 7. A memorandum of understanding with a local mobile crisis
316 response service. Policies of the school district and the terms
317 of the memorandum of understanding must require that, in a
318 student crisis situation, school or law enforcement personnel
319 must contact the local mobile crisis response service before

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320 initiating an involuntary examination pursuant to s. 394.463.
321 Such contact may be in person or by using telehealth as defined
322 in s. 456.47. School districts shall provide all school resource
323 officers and school safety officers with training on protocols
324 established under the memorandum of understanding developed
325 pursuant to this subparagraph.

326 Section 9. This act shall take effect July 1, 2020.

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 1440

INTRODUCER: Senator Powell

SUBJECT: Children's Mental Health

DATE: February 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Delia | Hendon | CF | Pre-meeting |
| 2. | | | AHS | |
| 3. | | | AP | |

I. Summary:

SB 1440 requires the Department of Children and Families (DCF) and the Agency for Health Care Administration (AHCA) to identify individuals under age 18 who are the highest users of crisis stabilization services, collaboratively take action to meet the behavioral health needs of such children and submit a joint quarterly report during Fiscal Years 2020-2022 to the Legislature.

The bill also requires DCF to contract with managing entities for mobile response teams throughout the state to provide additional services minors. The bill requires the Department of Juvenile Justice (DJJ) to participate in the planning process for promoting a coordinated system of care to provide mental health services to minors.

The bill requires DCF and AHCA to assess the quality of care provided in crisis stabilization units to children and adolescents who are high utilizers of such services and submit a joint report to the Governor and Legislature.

The bill will have a fiscal impact on the state and has an effective date of July 1, 2020.

II. Present Situation:

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

Behavioral Health Managing Entities

In 2001, the Legislature authorized DCF to implement behavioral health managing entities as the management structure for the delivery of local mental health and substance abuse services.¹ The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.² Full implementation of the statewide managing entity system occurred in April 2013; all geographic regions are now served by a managing entity.³

DCF contracts with seven MEs - Big Bend Community Based Care, Lutheran Services Florida, Central Florida Cares Health System, Central Florida Behavioral Health Network, Inc., Southeast Florida Behavioral Health, Broward Behavioral Health Network, Inc., and South Florida Behavioral Health Network, Inc., that in turn contract with local service providers⁴ for the delivery of mental health and substance abuse services:⁵

Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address the mental health needs of individuals in the state. The Baker Act allows for voluntary and, under certain circumstances, involuntary, examinations of individuals suspected of having a mental illness and presenting a threat of harm to themselves or others. The Baker Act also establishes procedures for courts, law enforcement, and certain health care practitioners to initiate such examinations and then act in response to the findings.

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.⁶ 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:⁷

- 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
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal 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 a 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.

¹ Ch. 2001-191, Laws of Fla.

² Ch. 2008-243, Laws of Fla.

³ *The Department of Children and Families Performance and Accountability System for Behavioral Health Managing Entities*, Office of Program Policy Analysis and Government Accountability, July 18, 2014.

⁴ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

⁵ Department of Children and Families, *Managing Entities*, <https://www.myflfamilies.com/service-programs/samh/managing-entities/> (last visited Jan. 30, 2020).

⁶ SS. 394.4625 and 394.463, F.S.

⁷ S. 394.463(1), F.S.

Involuntary Admissions

Involuntary patients must be taken to either a public or a private facility that has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.⁸

Within the 72-hour examination period, or if the 72 hours end on a weekend or holiday, no later than the next business day, one of the following must occur:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to a placement as a voluntary and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.⁹

Receiving facilities must give prompt notice¹⁰ of the whereabouts of a patient who is being involuntarily held for examination to the patient's guardian,¹¹ guardian advocate,¹² health care surrogate or proxy, attorney, and representative.¹³ If the patient is a minor, the receiving facility must give prompt notice to the minor's parent, guardian, caregiver, or guardian advocate. Notice for an adult may be provided within 24 hours of arrival; however, notice for a minor must be provided immediately after the minor's arrival at the facility. The facility may delay the notification for a minor for up to 24 hours if it has submitted a report to the central abuse hotline. The receiving facility must attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until it receives confirmation that the notice has been received. Attempts must be repeated at least once every hour during the first 12 hours after the minor's arrival and then once every 24 hours thereafter until confirmation is received, the minor is released, or a petition for involuntary services is filed with the court.¹⁴

Task Force Report on Involuntary Examination of Minors

During the 2017 Legislative session, the Legislature passed HB 1121, which the Governor signed as ch. 2017-151, Laws of Florida. One of its provisions created a task force within DCF to address the issue of involuntary examination of minors 17 years old and younger.

⁸ S. 394.455(39), F.S. This term does not include a county jail.

⁹ S. 394.463(2)(g), F.S.

¹⁰ Notice may be provided in person or by telephone; however, in the case of a minor, notice may also be provided by other electronic means. S. 394.455(2), F.S.

¹¹ "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated. Section 394.455(17), F.S.

¹² "Guardian advocate" means a person appointed by a court to make decisions regarding mental health treatment on behalf of a patient who has been found incompetent to consent to treatment. Section 394.455(18), F.S.

¹³ S. 394.4599(2)(b), F.S.

¹⁴ S. 394.4599(c), F.S.

The task force was composed of stakeholders from the education, mental health, law enforcement, and legal fields. The task force was required to submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2017; the task force submitted its report on November 15, 2017.¹⁵

Data Analysis

Based on an analysis of available data regarding involuntary examinations of minors, the task force found that:¹⁶

- Involuntary examinations for children occur in varying degrees across counties.
- There is an increasing trend statewide and in certain counties to initiate involuntary examinations of minors.
- The seasonal pattern shows that involuntary examinations are more common when school is in session.
- Some children have multiple involuntary examinations, although most children who have an involuntary examination have only one.
- Decreases in juvenile arrests correlate with increases of involuntary examinations of children, although it is important to note that the analyses did not show a causal link and there has been a long pattern of decreases in juvenile crime over more than a decade.
- While recent increases in involuntary examinations in certain counties are deserving of focus, a more important focus needs to be on counties that have high rates of involuntary examination. Counties with high rates are, for the most part, not the same counties with the recent increases.
- The most common involuntary examination for children is initiated by law enforcement based on evidence of harm to self.
- The majority of involuntary examinations initiated for children by mental health professionals are initiated by physicians, followed by licensed mental health counselors, and clinical social workers, with many fewer initiated by psychologists, psychiatric nurses, marriage and family therapists, and physicians' assistants.

Recommendations

The task force made six recommendations for encouraging alternatives to and eliminating inappropriate initiations of involuntary examinations of minors under the Baker Act:¹⁷

- Fund an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis.
- Expand access to outpatient crisis intervention services and treatment.
- Create within DCF the “Invest in the Mental Health of our Children” grant program to provide matching funds to counties that can be used to plan, implement, or expand initiatives that increase public safety, avert increased mental health spending, and improve the accessibility and effectiveness of prevention and intervention services for children who have a diagnosed mental illness or co-occurring mental health and substance use disorder.

¹⁵ Department of Children and Families, Office of Substance Abuse and Mental Health, Task Force Report on Involuntary Examination of Minors, (Nov. 15, 2017), available at: <http://www.dcf.state.fl.us/service-programs/samh/publications/> (last visited January 30, 2020).

¹⁶ Id.

¹⁷ Id.

- Encourage school districts, through legislative intent language, to adopt a standardized suicide assessment tool that school-based mental health professionals would implement prior to initiation of a Baker Act examination.¹⁸
- Revise s. 394.463, F.S., to include school psychologists licensed under ch. 490, F.S. to the list of mental health professionals who are qualified to initiate a Baker Act.
- Require Youth Mental Health First Aid or Crisis Intervention Team (CIT) training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools.¹⁹

Additionally, the task force recommended amending s. 394.463, F.S., to increase the number of days, from the next working day to five working days, that the receiving facility has to submit forms to DCF required by s. 394.463, F.S. The task force states that this change would allow DCF to capture data on whether the minor was admitted, released, or a petition filed with the court.²⁰

DCF subsequently released an updated version of the report in 2019.²¹ The 2019 report revealed that some crisis stabilization units are not meeting the needs of children and adolescents with significant behavioral health needs, contributing to multiple exams.

The 2019 report found there were 205,781 involuntary examinations in FY 2017-2018, 36,078 of which were of minors. From FY 2013-2014 to FY 2017-2018, statewide involuntary examinations increased 18.85% for children. Children have a larger increase in examinations compared to young adults ages 18-24 (14.04%) and adults (12.49%). Additionally, 22.61% of minors had multiple involuntary examinations in FY 2017-2018, ranging from 2 to 19. DCF identified 21 minors who had more than ten involuntary examinations in FY 2017-2018, with a combined total of 285 initiations. DCF's review of medical records found:

- Most initiations were a result of minors harming themselves and were predominately initiated by law enforcement (88%);
- Many minors were involved in the child welfare system and most experienced significant family dysfunction;
- Most had Medicaid health insurance;
- Most experienced multiple traumas such as abuse, bullying, exposure to violence, parental incarceration, and parental substance abuse and mental health issues;
- Most had behavioral disorders of childhood, such as ADHD or Oppositional Defiant Disorder, followed by mood disorders, followed by anxiety disorders;
- Most involuntary examinations were initiated at home or at a behavioral health provider; and

¹⁸ The Task Force found that data supports the conclusion that implementation of risk assessment protocols significantly reduced the number of children and youth who received Baker Act initiations in school districts across the state.

¹⁹ CIT training is an effective law enforcement response program designed for first responders who handle crisis situations involving individuals with mental illness or co-occurring disorders. It emphasizes a partnership between law enforcement, the mental health and substance abuse treatment system, mental health advocacy groups, and consumers of mental health services and their families. Additionally, this training offers evidence-informed techniques designed to calm the individual in crisis down, reduces reliance on the Baker Act as a means of handling the crisis, and informs individuals of local resources that are available to people in need of mental health services and supports.

²⁰ Id.

²¹ Florida Department of Children and Families, Task Force Report on Involuntary Examination of Minors, 2019, (Nov. 2019), <https://www.myflfamilies.com/service-programs/samh/publications/> (last visited Jan. 31, 2020).

- Discharge planning and care coordination by the receiving facilities was not adequate enough to meet the child's needs.

The 2019 report recommended:

- Increasing care coordination for minors with multiple involuntary examinations;
- Utilizing the wraparound care coordination approach for children with complex behavioral health needs and multi-system involvement to ensure one point of accountability and individualized care planning;
- Utilizing existing local review teams;
- Revising administrative rules to gather more information about actions taken after the initiation of exams, require electronic submission of forms, and improve care coordination and discharge planning;
- Funding an additional FTE at DCF to provide technical assistance; and
- Ensuring that parents receive information about mobile crisis response teams and other community resources and supports upon child's discharge.

Mobile Response Teams

Mobile response teams (MRTs) provide readily available crisis care in a community-based setting and increase opportunities to stabilize individuals in the least restrictive setting to avoid the need for jail or hospital/emergency department utilization.²² Early intervention services are critical to reducing involuntary examinations in minors and there are areas across the state where options short of involuntary examination via the Baker Act are limited or nonexistent. Response teams are available to individuals 25 years of age and under, regardless of their ability to pay, and must be ready to respond to any mental health emergency.²³ Telehealth can be used to provide direct services to individuals via video-conferencing systems, mobile phones, and remote monitoring. It can also be used to provide assessments and follow-up consultation as well as initial triage to determine if an in-person visit is needed to respond to the crisis call.²⁴

SB 7026 (2018) funded additional mobile response teams to serve areas of the state that were not being served by such teams at a total of \$18.3 million. There are 40 MRTs serving all 67 counties in Florida, targeting services to individuals under the age of 25. Recent MRT monthly reports showed an 80% statewide average of diverting individuals from involuntary examination.²⁵

DCF established a framework to guide procurement of MRTs. This framework suggests that the procurement:

- Be conducted with the collaboration of local Sheriff's Offices and public schools in the procurement planning, development, evaluation, and selection process;

²² Department of Children and Families, *Mobile Response Teams Framework*, (August 29, 2018), p. 4, <https://www.myflfamilies.com/service-programs/samh/publications/docs/Mobile%20Response%20Framework.pdf> (last visited Jan. 30, 2020).

²³ Id.

²⁴ Id.

²⁵ Id.

- Be designed to ensure reasonable access to services among all counties in the Managing Entity's service region, taking into consideration the geographic location of existing mobile crisis teams;
- Require services be available 24 hours per day, seven days per week with on-site response time to the location of referred crises within 60 minutes of the request for services;
- Require the Network Service Provider to establish formalized written agreements to establish response protocols with local law enforcement agencies and local school districts or superintendents;
- Require access to a board-certified or board-eligible Psychiatrist or Psychiatric Nurse Practitioner; and
- Provide for an array of crisis response services that are responsive to the individual and family needs, including screening, standardized assessments, early identification, or linkage to community services as necessary to address the immediate crisis event.

III. Effect of Proposed Changes:

Section 1 amends s. 394.493, F.S., requiring DCF and AHCA to identify children that are high utilizers of crisis stabilization services beginning in fiscal year 2020-2021 through 2021-2022. The bill requires both agencies to use this information to meet the behavioral health needs of these children within existing resources. The bill also requires DCF and AHCA to jointly submit quarterly reports to the Legislature listing the actions taken by both agencies.

Section 2 amends s. 394.495 F.S., requiring DCF to contract with the MEs for crisis response services provided through MRTs throughout the state to provide immediate, onsite behavioral health services to children and young adults through age 25. The bill provides that mobile response services must be available to children and young adults:

- With an emotional disturbance;
- Experiencing an acute mental health or emotional crisis;
- Experiencing escalating emotional or behavioral [health] symptoms that effect their ability to function within their community; or
- Children served by the child welfare system experiencing placement instability.

The bill requires mobile response services to respond to new requests for services within 60 minutes in the location where the crisis is occurring. Services must be responsive to the needs of the child, young adult, and their family. Services must be evidence-based, enabling the individuals served to independently and effectively deescalate, reducing the possibility for future crises. MRT services must include screening, standardized assessment, and referral to community services and engage children, young adults, and their families as active participants in the process when possible. The bill also requires that MRT providers develop a care plan, provide care coordination by facilitating referrals to community-based services, establish a process for obtaining informed consent, promote information sharing and the use of innovative technology, coordinate with the ME and other service providers and interested parties including schools, Multiagency Network for Students with Emotional/Behavioral Disabilities (SEDNET), the child welfare system, and DJJ.

When procuring MRT providers under the bill, MEs must:

- Collaborate with local law enforcement agencies and public schools in the planning, development, evaluation and selection processes;
- Require that services must be available 24 hours a day, seven days a week, with onsite response time to the location of the crisis within 60 minutes;
- Require the MRT provider to establish protocols with law enforcement agencies, community-based care lead agencies (CBCs), the child welfare system, DJJ, and school districts pursuant to s. 1004.44, F.S.;
- Require access to a board certified or board eligible psychiatrist or psychiatric nurse practitioner; and
- Require MRTs to develop referral processes for individuals served to an array of crisis response services that address individual and family needs, including screening, standardized assessments, early identification, and community services to address the immediate crisis.

Section 3 creates s. 394.4955, F.S., requiring each ME to develop a plan that promotes the development and effective implementation of a coordinated system of care to integrate services provided and funded through the state child serving systems to facilitate access to needed mental health services. The development of the plan must include a planning process led by the ME and must include DCF, individuals served and their families, behavioral health providers, law enforcement agencies, school districts or superintendents, SEDNET, representatives from the child welfare system, DJJ, early learning coalitions, AHCA, the Agency for Persons with Disabilities, Medicaid managed medical assistance plans, and other community partners. The bill requires that during the planning process, the ME and the collaborating organizations consider the geographical distribution of the population, needs, and resources, and create separate plans for each individual county or multi-county area to maximize collaboration and communication at the local level.

To the extent permitted by available resources, the local coordinated system of care must include the services listed in s. 394.495, F.S. The bill also requires each local plan to be integrated with the local designated receiving system plan developed under s. 394.4573, F.S., and shall document each coordinated system of care through written memoranda of understanding or other binding arrangements. The ME and collaborating organizations must also create integrated service delivery approaches within current resources that facilitate parents and caregivers obtaining services and supports by making referrals to specialized treatment providers, if necessary, with follow-up to ensure services are received as part of the plan. MEs must complete plans by July 1, 2021, for submission to DCF. The ME and collaborating organizations are required to implement the coordinated system of care as specified in the plan by July 1, 2022, and must review and update, as necessary, the plans every three years thereafter. When implementing the coordinated system of care. MEs must also identify gaps in the services arrays that are listed in s. 394.495, F.S., for each plan and include any relevant information in their needs assessment required by 394.9082, F.S.

Section 4 amends s. 394.9082, F.S., requiring DCF to consider adolescents who require assistance in transitioning to services provided by the adult system of care when defining the priority populations that will benefit receiving care coordination. The bill requires MEs to include a list and descriptions of gaps in the array of services for children and adolescents identified pursuant to s. 394.4955, F.S., and recommendations for addressing these gaps. The bill also requires MEs to promote the use of available crisis intervention services by requiring

contracted service providers to provide MRT contact information to parents and caregivers of children, adolescents, and young adults between ages 18 and 25, who receive safety-net behavioral health services.

Section 5 amends s. 409.175, F.S., requiring preservice training for foster parents to include information about the local MRT, including contact information, as a means for addressing any behavioral health crisis or to prevent placement disruption.

Section 6 amends s. 409.988, F.S., requiring that CBCs ensure that all individuals providing care for dependent children receive contact information for the local MRTs.

Section 7 amends s. 985.601, F.S., requiring DJJ to participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955, F.S.

Section 8 amends s. 1003.02, F.S., requiring district school boards to participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955, F.S.

Section 9 amends s. 1004.44, F.S., requiring the FMHI at the University of South Florida to develop a model response protocol for schools to utilize MRTs by August 1, 2020. The FMHI must consult with school districts that effectively work with MRTs, school districts that use MRTs less often, law enforcement agencies, DCF, MEs, and MRT providers.

Section 10 amends s. 1006.04, F.S., requiring SEDNET to participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955, F.S.

Section 11 amends s. 1011.62, F.S., to require school districts to enter into a Memorandum of Understanding (MOU) with MEs to facilitate referrals of students to community-based services and coordinate care for student services by school-based and community-based providers. The MOU must include a protocol to share information, coordinate care, and increase access to appropriate services.

The bill requires that school district policies, procedures, and contracts with service providers require that parents of students be provided with information about behavioral health services available through the school or local providers including MRT services. The school may provide this information through web-based directories or local guides if they are easy to understand and navigate by individuals who are unfamiliar with the behavioral health system. The bill also requires that school district policies, procedures, and contracts with service providers require the use MRT services to the extent that they are available. Each school district is required to establish policies and procedures to implement the model response protocol developed under s. 1004.44, F.S.

The bill also requires school districts to refer students or others living in the household of the student to behavioral health services available through other delivery systems or payers.

Section 12 requires DCF and AHCA to assess the quality of care provided in crisis stabilization units to children and adolescents who are high utilizers of services. The bill requires DCF and AHCA to review current laws regarding licensure and designation and compare standards to other states and relevant national standards to make recommendations for improvements. This assessment shall address efforts by facilities to gather and assess information regarding the child or adolescent, to create comprehensive discharge plans to effectively address the needs of the child to help avoid or reduce the need for future crisis stabilization services.

The bill requires DCF and AHCA to jointly submit a report of the findings and recommendations to the Governor, the Senate President, and the Speaker of the House of Representatives by November 15, 2020.

Section 13 provides an effective date of July 1, 2020.

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:

Private sector providers of behavioral health services for minors will need to generate new forms and hire additional staff to meet the increased need for services. The impact of these changes are indeterminate.

C. Government Sector Impact:

DCF estimates that one additional FTE will be required to accommodate the coordination of care for children that are high utilizers of crisis stabilization services, at a total cost for fiscal year 2020-2021 of \$85,281 with an annualized cost of \$80,833 in subsequent years.²⁶

The additional responsibilities of MRTs under the bill will create a significant fiscal impact. Requiring services to be provided within 60 minutes of a request in the location where a request originates will be difficult to provide given the strained existing capacity of MRTs and the fact that MRTs often provide services remotely (via telehealth or other means of electronic communication). Additionally, there will be a significant fiscal impact to MRTs if the teams are responsible for on-going care. Currently, MRTs are responsible for the hand off and transition to on-going services; it is the responsibility of the agency who provides on-going services to ensure the active participation of parents and children and continued treatment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.493, 394.495, 394.9082, 409.175, 409.988, 985.601, 1003.02, 1004.44, 1006.04, and 1011.62 of the Florida Statutes.

This bill creates section 394.4955 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.

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

²⁶ Department of Children and Families Agency Analysis of HB 945, December 19, 2019. On file with the Senate Children, Families, and Elder Affairs Committee.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) is added to section 394.493,
Florida Statutes, to read:

394.493 Target populations for child and adolescent mental
health services funded through the department.—

(4) Beginning with fiscal year 2020-2021 through fiscal
year 2021-2022, the department and the Agency for Health Care



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11 Administration shall identify children and adolescents who are
12 the highest utilizers of crisis stabilization services. The
13 department and agency shall collaboratively take appropriate
14 action within available resources to meet the behavioral health
15 needs of such children and adolescents more effectively, and
16 shall jointly submit to the Legislature a quarterly report
17 listing the actions taken by both agencies to better serve such
18 children and adolescents.

19 Section 2. Paragraph (q) is added to subsection (4) of
20 section 394.495, Florida Statutes, and subsection (7) is added
21 to that section, to read:

22 394.495 Child and adolescent mental health system of care;
23 programs and services.-

24 (4) The array of services may include, but is not limited
25 to:

26 (q) Crisis response services provided through mobile
27 response teams.

28 (7) (a) The department shall contract with managing entities
29 for mobile response teams throughout the state to provide
30 immediate, onsite behavioral health crisis services to children,
31 adolescents, and young adults ages 18 to 25, inclusive, who:

- 32 1. Have an emotional disturbance;
- 33 2. Are experiencing an acute mental or emotional crisis;
- 34 3. Are experiencing escalating emotional or behavioral
35 reactions and symptoms that impact their ability to function
36 typically within the family, living situation, or community
37 environment; or

- 38 4. Are served by the child welfare system and are
39 experiencing or are at high risk of placement instability.



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- 40 (b) A mobile response team shall, at a minimum:
- 41 1. Respond to new requests for services within 60 minutes
42 after such requests are made.
- 43 2. Respond to a crisis in the location where the crisis is
44 occurring.
- 45 3. Provide behavioral health crisis-oriented services that
46 are responsive to the needs of the child, adolescent, or young
47 adult and his or her family.
- 48 4. Provide evidence-based practices to children,
49 adolescents, young adults, and families to enable them to
50 independently and effectively deescalate and respond to
51 behavioral challenges that they are facing and to reduce the
52 potential for future crises.
- 53 5. Provide screening, standardized assessments, early
54 identification, and referrals to community services.
- 55 6. Engage the child, adolescent, or young adult and his or
56 her family as active participants in every phase of the
57 treatment process whenever possible.
- 58 7. Develop a care plan for the child, adolescent, or young
59 adult.
- 60 8. Provide care coordination by facilitating the transition
61 to ongoing services.
- 62 9. Ensure there is a process in place for informed consent
63 and confidentiality compliance measures.
- 64 10. Promote information sharing and the use of innovative
65 technology.
- 66 11. Coordinate with the managing entity within the service
67 location and other key entities providing services and supports
68 to the child, adolescent, or young adult and his or her family,



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69 including, but not limited to, the child, adolescent, or young
70 adult's school, the local educational multiagency network for
71 severely emotionally disturbed students under s. 1006.04, the
72 child welfare system, and the juvenile justice system.

73 (c) When procuring mobile response teams, the managing
74 entity must, at a minimum:

75 1. Collaborate with local sheriff's offices and public
76 schools in the planning, development, evaluation, and selection
77 processes.

78 2. Require that services be made available 24 hours per
79 day, 7 days per week, with onsite response time to the location
80 of the referred crisis within 60 minutes after the request for
81 services is made.

82 3. Require the provider to establish response protocols
83 with local law enforcement agencies, local community-based care
84 lead agencies as defined in s. 409.986(3), the child welfare
85 system, and the Department of Juvenile Justice. The response
86 protocol with a school district shall be consistent with the
87 model response protocol developed under s. 1004.44.

88 4. Require access to a board-certified or board-eligible
89 psychiatrist or psychiatric nurse practitioner.

90 5. Require mobile response teams to refer children,
91 adolescents, or young adults and their families to an array of
92 crisis response services that address individual and family
93 needs, including screening, standardized assessments, early
94 identification, and community services as necessary to address
95 the immediate crisis event.

96 Section 3. Section 394.4955, Florida Statutes, is created
97 to read:



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98 394.4955 Coordinated system of care; child and adolescent
99 mental health treatment and support.-

100 (1) Pursuant to s. 394.9082(5)(d), each managing entity
101 shall develop a plan that promotes the development and effective
102 implementation of a coordinated system of care which integrates
103 services provided through providers funded by the state's child-
104 serving systems and facilitates access by children and
105 adolescents, as resources permit, to needed mental health
106 treatment and services at any point of entry regardless of the
107 time of year, intensity, or complexity of the need, and other
108 systems with which such children and adolescents are involved,
109 as well as treatment and services available through other
110 systems for which they would qualify.

111 (2) (a) The managing entity shall lead a planning process
112 that includes, but is not limited to, children and adolescents
113 with behavioral health needs and their families; behavioral
114 health service providers; law enforcement agencies; school
115 districts or superintendents; the multiagency network for
116 students with emotional or behavioral disabilities; the
117 department; and representatives of the child welfare and
118 juvenile justice systems, early learning coalitions, the Agency
119 for Health Care Administration, Medicaid managed medical
120 assistance plans, the Agency for Persons with Disabilities, the
121 Department of Juvenile Justice, and other community partners. An
122 organization receiving state funding must participate in the
123 planning process if requested by the managing entity.

124 (b) The managing entity and collaborating organizations
125 shall take into consideration the geographical distribution of
126 the population, needs, and resources, and create separate plans



127 on an individual county or multi-county basis, as needed, to
128 maximize collaboration and communication at the local level.

129 (c) To the extent permitted by available resources, the
130 coordinated system of care shall include the array of services
131 listed in s. 394.495.

132 (d) Each plan shall integrate with the local plan developed
133 under s. 394.4573.

134 (3) By July 1, 2021, the managing entity shall complete the
135 plans developed under this section and submit them to the
136 department. By July 1, 2022, the entities involved in the
137 planning process shall implement the coordinated system of care
138 specified in each plan. The managing entity and collaborating
139 organizations shall review and update the plans, as necessary,
140 at least every 3 years thereafter.

141 (4) The managing entity and collaborating organizations
142 shall create integrated service delivery approaches within
143 current resources that facilitate parents and caregivers
144 obtaining services and support by making referrals to
145 specialized treatment providers, if necessary, with follow up to
146 ensure services are received.

147 (5) The managing entity and collaborating organizations
148 shall document each coordinated system of care for children and
149 adolescents through written memoranda of understanding or other
150 binding arrangements.

151 (6) The managing entity shall identify gaps in the arrays
152 of services for children and adolescents listed in s. 394.495
153 available under each plan and include relevant information in
154 its annual needs assessment required by s. 394.9082.

155 Section 4. Paragraph (c) of subsection (3) and paragraphs



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156 (b) and (d) of subsection (5) of section 394.9082, Florida
157 Statutes, are amended, and paragraph (t) is added to subsection
158 (5) of that section, to read:

159 394.9082 Behavioral health managing entities.—

160 (3) DEPARTMENT DUTIES.—The department shall:

161 (c) Define the priority populations that will benefit from
162 receiving care coordination. In defining such populations, the
163 department shall take into account the availability of resources
164 and consider:

165 1. The number and duration of involuntary admissions within
166 a specified time.

167 2. The degree of involvement with the criminal justice
168 system and the risk to public safety posed by the individual.

169 3. Whether the individual has recently resided in or is
170 currently awaiting admission to or discharge from a treatment
171 facility as defined in s. 394.455.

172 4. The degree of utilization of behavioral health services.

173 5. Whether the individual is a parent or caregiver who is
174 involved with the child welfare system.

175 6. Whether the individual is an adolescent, as defined in
176 s. 394.492, who requires assistance in transitioning to services
177 provided in the adult system of care.

178 (5) MANAGING ENTITY DUTIES.—A managing entity shall:

179 (b) Conduct a community behavioral health care needs
180 assessment every 3 years in the geographic area served by the
181 managing entity which identifies needs by subregion. The process
182 for conducting the needs assessment shall include an opportunity
183 for public participation. The assessment shall include, at a
184 minimum, the information the department needs for its annual



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185 report to the Governor and Legislature pursuant to s. 394.4573.
186 The assessment shall also include a list and descriptions of any
187 gaps in the arrays of services for children or adolescents
188 identified pursuant to s. 394.4955 and recommendations for
189 addressing such gaps. The managing entity shall provide the
190 needs assessment to the department.

191 (d) Promote the development and effective implementation of
192 a coordinated system of care pursuant to ss. 394.4573 and
193 394.495 ~~s. 394.4573~~.

194 (t) Promote the use of available crisis intervention
195 services by requiring contracted providers to provide contact
196 information for mobile response teams established under s.
197 394.495 to parents and caregivers of children, adolescents, and
198 young adults between ages 18 and 25, inclusive, who receive
199 safety-net behavioral health services.

200 Section 5. Paragraph (b) of subsection (14) of section
201 409.175, Florida Statutes, is amended to read:

202 409.175 Licensure of family foster homes, residential
203 child-caring agencies, and child-placing agencies; public
204 records exemption.—

205 (14)

206 (b) As a condition of licensure, foster parents shall
207 successfully complete preservice training. The preservice
208 training shall be uniform statewide and shall include, but not
209 be limited to, such areas as:

- 210 1. Orientation regarding agency purpose, objectives,
211 resources, policies, and services;
- 212 2. Role of the foster parent as a treatment team member;
- 213 3. Transition of a child into and out of foster care,



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214 including issues of separation, loss, and attachment;
215 4. Management of difficult child behavior that can be
216 intensified by placement, by prior abuse or neglect, and by
217 prior placement disruptions;
218 5. Prevention of placement disruptions;
219 6. Care of children at various developmental levels,
220 including appropriate discipline; ~~and~~
221 7. Effects of foster parenting on the family of the foster
222 parent; and
223 8. Information about and contact information for the local
224 mobile response team as a means for addressing a behavioral
225 health crisis or preventing placement disruption.
226 Section 6. Paragraph (c) of subsection (2) of section
227 409.967, Florida Statutes, is amended to read:
228 409.967 Managed care plan accountability.—
229 (2) The agency shall establish such contract requirements
230 as are necessary for the operation of the statewide managed care
231 program. In addition to any other provisions the agency may deem
232 necessary, the contract must require:
233 (c) Access.—
234 1. The agency shall establish specific standards for the
235 number, type, and regional distribution of providers in managed
236 care plan networks to ensure access to care for both adults and
237 children. Each plan must maintain a regionwide network of
238 providers in sufficient numbers to meet the access standards for
239 specific medical services for all recipients enrolled in the
240 plan. The exclusive use of mail-order pharmacies may not be
241 sufficient to meet network access standards. Consistent with the
242 standards established by the agency, provider networks may



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243 include providers located outside the region. A plan may
244 contract with a new hospital facility before the date the
245 hospital becomes operational if the hospital has commenced
246 construction, will be licensed and operational by January 1,
247 2013, and a final order has issued in any civil or
248 administrative challenge. Each plan shall establish and maintain
249 an accurate and complete electronic database of contracted
250 providers, including information about licensure or
251 registration, locations and hours of operation, specialty
252 credentials and other certifications, specific performance
253 indicators, and such other information as the agency deems
254 necessary. The database must be available online to both the
255 agency and the public and have the capability to compare the
256 availability of providers to network adequacy standards and to
257 accept and display feedback from each provider's patients. Each
258 plan shall submit quarterly reports to the agency identifying
259 the number of enrollees assigned to each primary care provider.
260 The agency shall conduct, or contract for, systematic and
261 continuous testing of the provider network databases maintained
262 by each plan to confirm accuracy, confirm that behavioral health
263 providers are accepting enrollees, and confirm that enrollees
264 have access to behavioral health services.

265 2. Each managed care plan must publish any prescribed drug
266 formulary or preferred drug list on the plan's website in a
267 manner that is accessible to and searchable by enrollees and
268 providers. The plan must update the list within 24 hours after
269 making a change. Each plan must ensure that the prior
270 authorization process for prescribed drugs is readily accessible
271 to health care providers, including posting appropriate contact



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272 information on its website and providing timely responses to
273 providers. For Medicaid recipients diagnosed with hemophilia who
274 have been prescribed anti-hemophilic-factor replacement
275 products, the agency shall provide for those products and
276 hemophilia overlay services through the agency's hemophilia
277 disease management program.

278 3. Managed care plans, and their fiscal agents or
279 intermediaries, must accept prior authorization requests for any
280 service electronically.

281 4. Managed care plans serving children in the care and
282 custody of the Department of Children and Families must maintain
283 complete medical, dental, and behavioral health encounter
284 information and participate in making such information available
285 to the department or the applicable contracted community-based
286 care lead agency for use in providing comprehensive and
287 coordinated case management. The agency and the department shall
288 establish an interagency agreement to provide guidance for the
289 format, confidentiality, recipient, scope, and method of
290 information to be made available and the deadlines for
291 submission of the data. The scope of information available to
292 the department shall be the data that managed care plans are
293 required to submit to the agency. The agency shall determine the
294 plan's compliance with standards for access to medical, dental,
295 and behavioral health services; the use of medications; and
296 followup on all medically necessary services recommended as a
297 result of early and periodic screening, diagnosis, and
298 treatment.

299 Section 7. Paragraph (f) of subsection (1) of section
300 409.988, Florida Statutes, is amended to read:



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301 409.988 Lead agency duties; general provisions.-

302 (1) DUTIES.-A lead agency:

303 (f) Shall ensure that all individuals providing care for
304 dependent children receive:

305 1. Appropriate training and meet the minimum employment
306 standards established by the department.

307 2. Contact information for the local mobile response team
308 established under s. 394.495.

309 Section 8. Subsection (4) of section 985.601, Florida
310 Statutes, is amended to read:

311 985.601 Administering the juvenile justice continuum.-

312 (4) The department shall maintain continuing cooperation
313 with the Department of Education, the Department of Children and
314 Families, the Department of Economic Opportunity, and the
315 Department of Corrections for the purpose of participating in
316 agreements with respect to dropout prevention and the reduction
317 of suspensions, expulsions, and truancy; increased access to and
318 participation in high school equivalency diploma, vocational,
319 and alternative education programs; and employment training and
320 placement assistance. The cooperative agreements between the
321 departments shall include an interdepartmental plan to cooperate
322 in accomplishing the reduction of inappropriate transfers of
323 children into the adult criminal justice and correctional
324 systems. As part of its continuing cooperation, the department
325 shall participate in the planning process for promoting a
326 coordinated system of care for children and adolescents pursuant
327 to s. 394.4955.

328 Section 9. Subsection (5) is added to section 1003.02,
329 Florida Statutes, to read:



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330 1003.02 District school board operation and control of
331 public K-12 education within the school district.—As provided in
332 part II of chapter 1001, district school boards are
333 constitutionally and statutorily charged with the operation and
334 control of public K-12 education within their school district.
335 The district school boards must establish, organize, and operate
336 their public K-12 schools and educational programs, employees,
337 and facilities. Their responsibilities include staff
338 development, public K-12 school student education including
339 education for exceptional students and students in juvenile
340 justice programs, special programs, adult education programs,
341 and career education programs. Additionally, district school
342 boards must:

343 (5) Participate in the planning process for promoting a
344 coordinated system of care for children and adolescents pursuant
345 to s. 394.4955.

346 Section 10. Present subsection (4) of section 1004.44,
347 Florida Statutes, is redesignated as subsection (5), and a new
348 subsection (4) is added to that section, to read:

349 1004.44 Louis de la Parte Florida Mental Health Institute.—
350 There is established the Louis de la Parte Florida Mental Health
351 Institute within the University of South Florida.

352 (4) By August 1, 2020, the institute shall develop a model
353 response protocol for schools to use mobile response teams
354 established under s. 394.495. In developing the protocol, the
355 institute shall, at a minimum, consult with school districts
356 that effectively use such teams, school districts that use such
357 teams less often, local law enforcement agencies, the Department
358 of Children and Families, managing entities as defined in s.



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359 394.9082(2), and mobile response team providers.

360 Section 11. Paragraph (c) of subsection (1) of section
361 1006.04, Florida Statutes, is amended to read:

362 1006.04 Educational multiagency services for students with
363 severe emotional disturbance.—

364 (1)

365 (c) The multiagency network shall:

366 1. Support and represent the needs of students in each
367 school district in joint planning with fiscal agents of
368 children's mental health funds, including the expansion of
369 school-based mental health services, transition services, and
370 integrated education and treatment programs.

371 2. Improve coordination of services for children with or at
372 risk of emotional or behavioral disabilities and their families
373 by assisting multi-agency collaborative initiatives to identify
374 critical issues and barriers of mutual concern and develop local
375 response systems that increase home and school connections and
376 family engagement.

377 3. Increase parent and youth involvement and development
378 with local systems of care.

379 4. Facilitate student and family access to effective
380 services and programs for students with and at risk of emotional
381 or behavioral disabilities that include necessary educational,
382 residential, and mental health treatment services, enabling
383 these students to learn appropriate behaviors, reduce
384 dependency, and fully participate in all aspects of school and
385 community living.

386 5. Participate in the planning process for promoting a
387 coordinated system of care for children and adolescents pursuant



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388 to s. 394.4955.

389 Section 12. Paragraph (b) of subsection (16) of section
390 1011.62, Florida Statutes, is amended to read:

391 1011.62 Funds for operation of schools.—If the annual
392 allocation from the Florida Education Finance Program to each
393 district for operation of schools is not determined in the
394 annual appropriations act or the substantive bill implementing
395 the annual appropriations act, it shall be determined as
396 follows:

397 (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health
398 assistance allocation is created to provide funding to assist
399 school districts in establishing or expanding school-based
400 mental health care; train educators and other school staff in
401 detecting and responding to mental health issues; and connect
402 children, youth, and families who may experience behavioral
403 health issues with appropriate services. These funds shall be
404 allocated annually in the General Appropriations Act or other
405 law to each eligible school district. Each school district shall
406 receive a minimum of \$100,000, with the remaining balance
407 allocated based on each school district's proportionate share of
408 the state's total unweighted full-time equivalent student
409 enrollment. Charter schools that submit a plan separate from the
410 school district are entitled to a proportionate share of
411 district funding. The allocated funds may not supplant funds
412 that are provided for this purpose from other operating funds
413 and may not be used to increase salaries or provide bonuses.
414 School districts are encouraged to maximize third-party health
415 insurance benefits and Medicaid claiming for services, where
416 appropriate.



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417 (b) The plans required under paragraph (a) must be focused
418 on a multitiered system of supports to deliver evidence-based
419 mental health care assessment, diagnosis, intervention,
420 treatment, and recovery services to students with one or more
421 mental health or co-occurring substance abuse diagnoses and to
422 students at high risk of such diagnoses. The provision of these
423 services must be coordinated with a student's primary mental
424 health care provider and with other mental health providers
425 involved in the student's care. At a minimum, the plans must
426 include the following elements:

427 1. Direct employment of school-based mental health services
428 providers to expand and enhance school-based student services
429 and to reduce the ratio of students to staff in order to better
430 align with nationally recommended ratio models. These providers
431 include, but are not limited to, certified school counselors,
432 school psychologists, school social workers, and other licensed
433 mental health professionals. The plan also must identify
434 strategies to increase the amount of time that school-based
435 student services personnel spend providing direct services to
436 students, which may include the review and revision of district
437 staffing resource allocations based on school or student mental
438 health assistance needs.

439 2. An interagency agreement or memorandum of understanding
440 with the managing entity, as defined in s. 394.9082(2), that
441 facilitates referrals of students to community-based services
442 and coordinates care for students served by school-based and
443 community-based providers. Such agreement or memorandum of
444 understanding must address the sharing of records and
445 information as authorized under s. 1006.07(7)(d) to coordinate



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446 care and increase access to appropriate services.

447 3.2. Contracts or interagency agreements with one or more
448 local community behavioral health providers or providers of
449 Community Action Team services to provide a behavioral health
450 staff presence and services at district schools. Services may
451 include, but are not limited to, mental health screenings and
452 assessments, individual counseling, family counseling, group
453 counseling, psychiatric or psychological services, trauma-
454 informed care, mobile crisis services, and behavior
455 modification. These behavioral health services may be provided
456 on or off the school campus and may be supplemented by
457 telehealth.

458 4.3. Policies and procedures, including contracts with
459 service providers, which will ensure that:

460 a. Parents of students are provided information about
461 behavioral health services available through the students'
462 school or local community-based behavioral health services
463 providers, including, but not limited to, the mobile response
464 team as established in s. 394.495 serving their area. A school
465 may meet this requirement by providing information about and
466 Internet addresses for web-based directories or guides of local
467 behavioral health services as long as such directories or guides
468 are easily navigated and understood by individuals unfamiliar
469 with behavioral health delivery systems or services and include
470 specific contact information for local behavioral health
471 providers.

472 b. School districts use the services of the mobile response
473 teams to the extent that such services are available. Each
474 school district shall establish policies and procedures to carry



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475 out the model response protocol developed under s. 1004.44.

476 c. Students who are referred to a school-based or
477 community-based mental health service provider for mental health
478 screening for the identification of mental health concerns and
479 ensure that the assessment of students at risk for mental health
480 disorders occurs within 15 days of referral. School-based mental
481 health services must be initiated within 15 days after
482 identification and assessment, and support by community-based
483 mental health service providers for students who are referred
484 for community-based mental health services must be initiated
485 within 30 days after the school or district makes a referral.

486 d. Referrals to behavioral health services available
487 through other delivery systems or payors for which a student or
488 individuals living in the household of a student receiving
489 services under this subsection may qualify, if such services
490 appear to be needed or enhancements in those individuals'
491 behavioral health would contribute to the improved well-being of
492 the student.

493 ~~5.4.~~ Strategies to reduce the likelihood of at-
494 risk students developing social, emotional, or behavioral health
495 problems, depression, anxiety disorders, suicidal tendencies, or
496 substance use disorders.

497 ~~6.5.~~ Strategies to improve the early identification of
498 social, emotional, or behavioral problems or substance use
499 disorders, to improve the provision of early intervention
500 services, and to assist students in dealing with trauma and
501 violence.

502 Section 13. The Department of Children and Families and the
503 Agency for Health Care Administration shall assess the quality



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504 of care provided in crisis stabilization units to children and
505 adolescents who are high utilizers of crisis stabilization
506 services. The department and agency shall review current
507 standards of care for such settings applicable to licensure
508 under chapters 394 and 408, Florida Statutes, and designation
509 under s. 394.461, Florida Statutes; compare the standards to
510 other states' standards and relevant national standards; and
511 make recommendations for improvements to such standards. The
512 assessment and recommendations shall address, at a minimum,
513 efforts by each facility to gather and assess information
514 regarding each child or adolescent, to coordinate with other
515 providers treating the child or adolescent, and to create
516 discharge plans that comprehensively and effectively address the
517 needs of the child or adolescent to avoid or reduce his or her
518 future use of crisis stabilization services. The department and
519 agency shall jointly submit a report of their findings and
520 recommendations to the Governor, the President of the Senate,
521 and the Speaker of the House of Representatives by November 15,
522 2020.

523 Section 14. This act shall take effect July 1, 2020.

524
525 ===== T I T L E A M E N D M E N T =====

526 And the title is amended as follows:

527 Delete everything before the enacting clause
528 and insert:

529 A bill to be entitled
530 An act relating to children's mental health; amending
531 s. 394.493, F.S.; requiring the Department of Children
532 and Families and the Agency for Health Care



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533 Administration to identify certain children and
534 adolescents who use crisis stabilization services
535 during specified fiscal years; requiring the
536 department and agency to collaboratively meet the
537 behavioral health needs of such children and
538 adolescents and submit a quarterly report to the
539 Legislature; amending s. 394.495, F.S.; including
540 crisis response services provided through mobile
541 response teams in the array of services available to
542 children and adolescents; requiring the department to
543 contract with managing entities for mobile response
544 teams to provide certain services to certain children,
545 adolescents, and young adults; providing requirements
546 for such mobile response teams; providing requirements
547 for managing entities when procuring mobile response
548 teams; creating s. 394.4955, F.S.; requiring managing
549 entities to develop a plan promoting the development
550 of a coordinated system of care for certain services;
551 providing requirements for the planning process;
552 requiring each managing entity to submit such plan by
553 a specified date; requiring the entities involved in
554 the planning process to implement such plan by a
555 specified date; requiring that such plan be reviewed
556 and updated periodically; amending s. 394.9082, F.S.;
557 revising the duties of the department relating to
558 priority populations that will benefit from care
559 coordination; requiring that a managing entity's
560 behavioral health care needs assessment include
561 certain information regarding gaps in certain



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562 services; requiring a managing entity to promote the
563 use of available crisis intervention services;
564 amending s. 409.175, F.S.; revising requirements
565 relating to preservice training for foster parents;
566 amending s. 409.967, F.S.; requiring the agency to
567 conduct, or contract for, the testing of provider
568 network databases maintained by Medicaid managed care
569 plans for specified purposes; amending s. 409.988,
570 F.S.; revising the duties of a lead agency relating to
571 individuals providing care for dependent children;
572 amending s. 985.601, F.S.; requiring the Department of
573 Juvenile Justice to participate in the planning
574 process for promoting a coordinated system of care for
575 children and adolescents; amending s. 1003.02, F.S.;
576 requiring each district school board to participate in
577 the planning process for promoting a coordinated
578 system of care; amending s. 1004.44, F.S.; requiring
579 the Louis de la Parte Florida Mental Health Institute
580 to develop, in consultation with other entities, a
581 model response protocol for schools; amending s.
582 1006.04, F.S.; requiring the educational multiagency
583 network to participate in the planning process for
584 promoting a coordinated system of care; amending s.
585 1011.62, F.S.; revising the elements of a plan
586 required for school district funding under the mental
587 health assistance allocation; requiring the Department
588 of Children and Families and the Agency for Health
589 Care Administration to assess the quality of care
590 provided in crisis stabilization units to certain



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591 children and adolescents; requiring the department and
592 agency to review current standards of care for certain
593 settings and make recommendations; requiring the
594 department and agency to jointly submit a report to
595 the Governor and the Legislature by a specified date;
596 providing an effective date.

By Senator Powell

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1 A bill to be entitled
2 An act relating to children's mental health; amending
3 s. 394.493, F.S.; requiring the Department of Children
4 and Families and the Agency for Health Care
5 Administration to identify certain children and
6 adolescents who use crisis stabilization services
7 during specified fiscal years; requiring the
8 department and agency to collaboratively meet the
9 behavioral health needs of such children and
10 adolescents and submit a quarterly report to the
11 Legislature; amending s. 394.495, F.S.; including
12 crisis response services provided through mobile
13 response teams in the array of services available to
14 children and adolescents; requiring the department to
15 contract with managing entities for mobile response
16 teams to provide certain services to certain children,
17 adolescents, and young adults; providing requirements
18 for such mobile response teams; providing requirements
19 for managing entities when procuring mobile response
20 teams; creating s. 394.4955, F.S.; requiring managing
21 entities to develop and implement plans promoting the
22 development of a coordinated system of care for
23 certain services; providing requirements for the
24 planning process; requiring each managing entity to
25 submit and implement such plan by a specified date;
26 requiring that such plan be reviewed and updated
27 periodically; providing requirements for managing
28 entities and collaborating organizations relating to
29 such plan; amending s. 394.9082, F.S.; revising the

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30 duties of the department relating to priority
31 populations that will benefit from care coordination;
32 requiring that a managing entity's behavioral health
33 care needs assessment include certain information
34 regarding gaps in certain services; requiring a
35 managing entity to promote the use of available crisis
36 intervention services; amending s. 409.175, F.S.;
37 revising requirements relating to preservice training
38 for foster parents; amending s. 409.988, F.S.;
39 revising the duties of a lead agency relating to
40 individuals providing care for dependent children;
41 amending s. 985.601, F.S.; requiring the Department of
42 Juvenile Justice to participate in the planning
43 process for promoting a coordinated system of care for
44 children and adolescents; amending s. 1003.02, F.S.;
45 requiring each district school board to participate in
46 the planning process for promoting a coordinated
47 system of care for children and adolescents; amending
48 s. 1004.44, F.S.; requiring the Louis de la Parte
49 Florida Mental Health Institute to develop, in
50 consultation with other entities, a model response
51 protocol for schools; amending s. 1006.04, F.S.;
52 requiring the educational multiagency network to
53 participate in the planning process for promoting a
54 coordinated system of care for children and
55 adolescents; amending s. 1011.62, F.S.; revising the
56 elements of a plan required for school district
57 funding under the mental health assistance allocation;
58 requiring the Department of Children and Families and

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59 the Agency for Health Care Administration to assess
60 the quality of care provided in crisis stabilization
61 units to certain children and adolescents; requiring
62 the department and agency to review current standards
63 of care for certain settings and make recommendations;
64 requiring the department and agency to jointly submit
65 a report to the Governor and the Legislature by a
66 specified date; providing an effective date.

67
68 Be It Enacted by the Legislature of the State of Florida:

69
70 Section 1. Subsection (4) is added to section 394.493,
71 Florida Statutes, to read:

72 394.493 Target populations for child and adolescent mental
73 health services funded through the department.-

74 (4) Beginning with fiscal year 2020-2021 through fiscal
75 year 2021-2022, the department and the Agency for Health Care
76 Administration shall identify children and adolescents who are
77 the highest utilizers of crisis stabilization services. The
78 department and agency shall collaboratively take appropriate
79 action within available resources to meet the behavioral health
80 needs of such children and adolescents more effectively, and
81 shall jointly submit to the Legislature a quarterly report
82 listing the actions taken by both agencies to better serve such
83 children and adolescents.

84 Section 2. Paragraph (q) of subsection (4) and subsection
85 (7) are added to section 394.495, Florida Statutes, to read:

86 394.495 Child and adolescent mental health system of care;
87 programs and services.-

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88 (4) The array of services may include, but is not limited
89 to:

90 (q) Crisis response services provided through mobile
91 response teams.

92 (7) (a) The department shall contract with managing entities
93 for mobile response teams throughout the state to provide
94 immediate, onsite behavioral health crisis services to children,
95 adolescents, and young adults ages 18 to 25, inclusive, who:

96 1. Have an emotional disturbance;

97 2. Are experiencing an acute mental or emotional crisis;

98 3. Are experiencing escalating emotional or behavioral
99 reactions and symptoms that impact their ability to function
100 typically within the family, living situation, or community
101 environment; or

102 4. Are served by the child welfare system and are
103 experiencing or are at high risk of placement instability.

104 (b) A mobile response team shall, at a minimum:

105 1. Respond to new requests for services within 60 minutes
106 after such requests are made.

107 2. Respond to a crisis in the location where the crisis is
108 occurring.

109 3. Provide behavioral health crisis-oriented services that
110 are responsive to the needs of the child, adolescent, or young
111 adult and his or her family.

112 4. Provide evidence-based practices to children,
113 adolescents, young adults, and families to enable them to
114 independently and effectively deescalate and respond to
115 behavioral challenges that they are facing and to reduce the
116 potential for future crises.

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117 5. Provide screening, standardized assessments, early
118 identification, and referrals to community services.

119 6. Engage the child, adolescent, or young adult and his or
120 her family as active participants in every phase of the
121 treatment process whenever possible.

122 7. Develop a care plan for the child, adolescent, or young
123 adult.

124 8. Provide care coordination by facilitating the transition
125 to ongoing services.

126 9. Ensure there is a process in place for informed consent
127 and confidentiality compliance measures.

128 10. Promote information sharing and the use of innovative
129 technology.

130 11. Coordinate with the managing entity within the service
131 location and other key entities providing services and supports
132 to the child, adolescent, or young adult and his or her family,
133 including, but not limited to, the child, adolescent, or young
134 adult's school, the local educational multiagency network for
135 severely emotionally disturbed students under s. 1006.04, the
136 child welfare system, and the juvenile justice system.

137 (c) When procuring mobile response teams, the managing
138 entity must, at a minimum:

139 1. Collaborate with local sheriff's offices and public
140 schools in the planning, development, evaluation, and selection
141 processes.

142 2. Require that services be made available 24 hours per
143 day, 7 days per week, with onsite response time to the location
144 of the referred crisis within 60 minutes after the request for
145 services is made.

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146 3. Require the provider to establish response protocols
147 with local law enforcement agencies, local community-based care
148 lead agencies as defined in s. 409.986(3), the child welfare
149 system, and the Department of Juvenile Justice. The response
150 protocol with a school district shall be consistent with the
151 model response protocol developed under s. 1004.44.

152 4. Require access to a board-certified or board-eligible
153 psychiatrist or psychiatric nurse practitioner.

154 5. Require mobile response teams to refer children,
155 adolescents, or young adults and their families to an array of
156 crisis response services that address individual and family
157 needs, including screening, standardized assessments, early
158 identification, and community services as necessary to address
159 the immediate crisis event.

160 Section 3. Section 394.4955, Florida Statutes, is created
161 to read:

162 394.4955 Coordinated system of care; child and adolescent
163 mental health treatment and support.-

164 (1) Pursuant to s. 394.9082(5)(d), each managing entity
165 shall develop a plan that promotes the development and effective
166 implementation of a coordinated system of care which integrates
167 services provided through providers funded by the state's child-
168 serving systems and facilitates access by children and
169 adolescents, as resources permit, to needed mental health
170 treatment and services at any point of entry regardless of the
171 time of year, intensity, or complexity of the need, and other
172 systems with which such children and adolescents are involved,
173 as well as treatment and services available through other
174 systems for which they would qualify.

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175 (2) (a) The managing entity shall lead a planning process
176 that includes, but is not limited to, children and adolescents
177 with behavioral health needs and their families; behavioral
178 health service providers; law enforcement agencies; school
179 districts or superintendents; the multiagency network for
180 students with emotional or behavioral disabilities; the
181 department; and representatives of the child welfare and
182 juvenile justice systems, early learning coalitions, the Agency
183 for Health Care Administration, Medicaid managed medical
184 assistance plans, the Agency for Persons with Disabilities, the
185 Department of Juvenile Justice, and other community partners. An
186 organization receiving state funding must participate in the
187 planning process if requested by the managing entity.

188 (b) The managing entity and collaborating organizations
189 shall take into consideration the geographical distribution of
190 the population, needs, and resources, and create separate plans
191 on an individual county or multi-county basis, as needed, to
192 maximize collaboration and communication at the local level.

193 (c) To the extent permitted by available resources, the
194 coordinated system of care shall include the array of services
195 listed in s. 394.495.

196 (d) Each plan shall integrate with the local plan developed
197 under s. 394.4573.

198 (3) By July 1, 2021, the managing entity shall complete the
199 plans developed under this section and submit them to the
200 department. By July 1, 2022, the entities involved in the
201 planning process shall implement the coordinated system of care
202 specified in each plan. The managing entity and collaborating
203 organizations shall review and update the plans, as necessary,

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204 at least every 3 years thereafter.

205 (4) The managing entity and collaborating organizations
206 shall create integrated service delivery approaches within
207 current resources that facilitate parents and caregivers
208 obtaining services and support by making referrals to
209 specialized treatment providers, if necessary, with follow-up to
210 ensure services are received.

211 (5) The managing entity and collaborating organizations
212 shall document each coordinated system of care for children and
213 adolescents through written memoranda of understanding or other
214 binding arrangements.

215 (6) The managing entity shall identify gaps in the arrays
216 of services for children and adolescents listed in s. 394.495
217 available under each plan and include relevant information in
218 its annual needs assessment required by s. 394.9082.

219 Section 4. Paragraph (c) of subsection (3) and paragraphs
220 (b) and (d) of subsection (5) of section 394.9082, Florida
221 Statutes, are amended, and paragraph (t) is added to subsection
222 (5) of that section, to read:

223 394.9082 Behavioral health managing entities.—

224 (3) DEPARTMENT DUTIES.—The department shall:

225 (c) Define the priority populations that will benefit from
226 receiving care coordination. In defining such populations, the
227 department shall take into account the availability of resources
228 and consider:

229 1. The number and duration of involuntary admissions within
230 a specified time.

231 2. The degree of involvement with the criminal justice
232 system and the risk to public safety posed by the individual.

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233 3. Whether the individual has recently resided in or is
234 currently awaiting admission to or discharge from a treatment
235 facility as defined in s. 394.455.

236 4. The degree of utilization of behavioral health services.

237 5. Whether the individual is a parent or caregiver who is
238 involved with the child welfare system.

239 6. Whether the individual is an adolescent, as defined in
240 s. 394.492, who requires assistance in transitioning to services
241 provided in the adult system of care.

242 (5) MANAGING ENTITY DUTIES.—A managing entity shall:

243 (b) Conduct a community behavioral health care needs
244 assessment every 3 years in the geographic area served by the
245 managing entity which identifies needs by subregion. The process
246 for conducting the needs assessment shall include an opportunity
247 for public participation. The assessment shall include, at a
248 minimum, the information the department needs for its annual
249 report to the Governor and Legislature pursuant to s. 394.4573.
250 The assessment shall also include a list and descriptions of any
251 gaps in the arrays of services for children or adolescents
252 identified pursuant to s. 394.4955 and recommendations for
253 addressing such gaps. The managing entity shall provide the
254 needs assessment to the department.

255 (d) Promote the development and effective implementation of
256 a coordinated system of care pursuant to ss. 394.4573 and
257 394.495 ~~s. 394.4573.~~

258 (t) Promote the use of available crisis intervention
259 services by requiring contracted providers to provide contact
260 information for mobile response teams established under s.
261 394.495 to parents and caregivers of children, adolescents, and

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262 young adults between ages 18 and 25, inclusive, who receive
263 safety-net behavioral health services.

264 Section 5. Paragraph (b) of subsection (14) of section
265 409.175, Florida Statutes, is amended to read:

266 409.175 Licensure of family foster homes, residential
267 child-caring agencies, and child-placing agencies; public
268 records exemption.—

269 (14)

270 (b) As a condition of licensure, foster parents shall
271 successfully complete preservice training. The preservice
272 training shall be uniform statewide and shall include, but not
273 be limited to, such areas as:

- 274 1. Orientation regarding agency purpose, objectives,
275 resources, policies, and services;
- 276 2. Role of the foster parent as a treatment team member;
- 277 3. Transition of a child into and out of foster care,
278 including issues of separation, loss, and attachment;
- 279 4. Management of difficult child behavior that can be
280 intensified by placement, by prior abuse or neglect, and by
281 prior placement disruptions;
- 282 5. Prevention of placement disruptions;
- 283 6. Care of children at various developmental levels,
284 including appropriate discipline; ~~and~~
- 285 7. Effects of foster parenting on the family of the foster
286 parent; and
- 287 8. Information about and contact information for the local
288 mobile response team as a means for addressing a behavioral
289 health crisis or preventing placement disruption.

290 Section 6. Paragraph (f) of subsection (1) of section

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291 409.988, Florida Statutes, is amended to read:

292 409.988 Lead agency duties; general provisions.—

293 (1) DUTIES.—A lead agency:

294 (f) Shall ensure that all individuals providing care for
295 dependent children receive:

296 1. Appropriate training and meet the minimum employment
297 standards established by the department.

298 2. Contact information for the local mobile response team
299 established under s. 394.495.

300 Section 7. Subsection (4) of section 985.601, Florida
301 Statutes, is amended to read:

302 985.601 Administering the juvenile justice continuum.—

303 (4) The department shall maintain continuing cooperation
304 with the Department of Education, the Department of Children and
305 Families, the Department of Economic Opportunity, and the
306 Department of Corrections for the purpose of participating in
307 agreements with respect to dropout prevention and the reduction
308 of suspensions, expulsions, and truancy; increased access to and
309 participation in high school equivalency diploma, vocational,
310 and alternative education programs; and employment training and
311 placement assistance. The cooperative agreements between the
312 departments shall include an interdepartmental plan to cooperate
313 in accomplishing the reduction of inappropriate transfers of
314 children into the adult criminal justice and correctional
315 systems. As part of its continuing cooperation, the department
316 shall participate in the planning process for promoting a
317 coordinated system of care for children and adolescents pursuant
318 to s. 394.4955.

319 Section 8. Subsection (5) is added to section 1003.02,

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320 Florida Statutes, to read:

321 1003.02 District school board operation and control of
322 public K-12 education within the school district.—As provided in
323 part II of chapter 1001, district school boards are
324 constitutionally and statutorily charged with the operation and
325 control of public K-12 education within their school district.
326 The district school boards must establish, organize, and operate
327 their public K-12 schools and educational programs, employees,
328 and facilities. Their responsibilities include staff
329 development, public K-12 school student education including
330 education for exceptional students and students in juvenile
331 justice programs, special programs, adult education programs,
332 and career education programs. Additionally, district school
333 boards must:

334 (5) Participate in the planning process for promoting a
335 coordinated system of care for children and adolescents pursuant
336 to s. 394.4955.

337 Section 9. Subsection (4) of section 1004.44, Florida
338 Statutes, is redesignated as subsection (5), and a new
339 subsection (4) is added to that section, to read:

340 1004.44 Louis de la Parte Florida Mental Health Institute.—
341 There is established the Louis de la Parte Florida Mental Health
342 Institute within the University of South Florida.

343 (4) By August 1, 2020, the institute shall develop a model
344 response protocol for schools to use mobile response teams
345 established under s. 394.495. In developing the protocol, the
346 institute shall, at a minimum, consult with school districts
347 that effectively use such teams, school districts that use such
348 teams less often, local law enforcement agencies, the Department

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349 of Children and Families, managing entities as defined in s.
350 394.9082(2), and mobile response team providers.

351 Section 10. Paragraph (c) of subsection (1) of section
352 1006.04, Florida Statutes, is amended to read:

353 1006.04 Educational multiagency services for students with
354 severe emotional disturbance.—

355 (1)

356 (c) The multiagency network shall:

357 1. Support and represent the needs of students in each
358 school district in joint planning with fiscal agents of
359 children's mental health funds, including the expansion of
360 school-based mental health services, transition services, and
361 integrated education and treatment programs.

362 2. Improve coordination of services for children with or at
363 risk of emotional or behavioral disabilities and their families
364 by assisting multi-agency collaborative initiatives to identify
365 critical issues and barriers of mutual concern and develop local
366 response systems that increase home and school connections and
367 family engagement.

368 3. Increase parent and youth involvement and development
369 with local systems of care.

370 4. Facilitate student and family access to effective
371 services and programs for students with and at risk of emotional
372 or behavioral disabilities that include necessary educational,
373 residential, and mental health treatment services, enabling
374 these students to learn appropriate behaviors, reduce
375 dependency, and fully participate in all aspects of school and
376 community living.

377 5. Participate in the planning process for promoting a

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378 coordinated system of care for children and adolescents pursuant
379 to s. 394.4955.

380 Section 11. Paragraph (b) of subsection (16) of section
381 1011.62, Florida Statutes, is amended to read:

382 1011.62 Funds for operation of schools.—If the annual
383 allocation from the Florida Education Finance Program to each
384 district for operation of schools is not determined in the
385 annual appropriations act or the substantive bill implementing
386 the annual appropriations act, it shall be determined as
387 follows:

388 (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health
389 assistance allocation is created to provide funding to assist
390 school districts in establishing or expanding school-based
391 mental health care; train educators and other school staff in
392 detecting and responding to mental health issues; and connect
393 children, youth, and families who may experience behavioral
394 health issues with appropriate services. These funds shall be
395 allocated annually in the General Appropriations Act or other
396 law to each eligible school district. Each school district shall
397 receive a minimum of \$100,000, with the remaining balance
398 allocated based on each school district's proportionate share of
399 the state's total unweighted full-time equivalent student
400 enrollment. Charter schools that submit a plan separate from the
401 school district are entitled to a proportionate share of
402 district funding. The allocated funds may not supplant funds
403 that are provided for this purpose from other operating funds
404 and may not be used to increase salaries or provide bonuses.
405 School districts are encouraged to maximize third-party health
406 insurance benefits and Medicaid claiming for services, where

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407 appropriate.

408 (b) The plans required under paragraph (a) must be focused
409 on a multitiered system of supports to deliver evidence-based
410 mental health care assessment, diagnosis, intervention,
411 treatment, and recovery services to students with one or more
412 mental health or co-occurring substance abuse diagnoses and to
413 students at high risk of such diagnoses. The provision of these
414 services must be coordinated with a student's primary mental
415 health care provider and with other mental health providers
416 involved in the student's care. At a minimum, the plans must
417 include the following elements:

418 1. Direct employment of school-based mental health services
419 providers to expand and enhance school-based student services
420 and to reduce the ratio of students to staff in order to better
421 align with nationally recommended ratio models. These providers
422 include, but are not limited to, certified school counselors,
423 school psychologists, school social workers, and other licensed
424 mental health professionals. The plan also must identify
425 strategies to increase the amount of time that school-based
426 student services personnel spend providing direct services to
427 students, which may include the review and revision of district
428 staffing resource allocations based on school or student mental
429 health assistance needs.

430 2. An interagency agreement or memorandum of understanding
431 with the managing entity, as defined in s. 394.9082(2), that
432 facilitates referrals of students to community-based services
433 and coordinates care for students served by school-based and
434 community-based providers. Such agreement or memorandum of
435 understanding must address the sharing of records and

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436 information as authorized under s. 1006.07(7)(d) to coordinate
437 care and increase access to appropriate services.

438 ~~3.2.~~ Contracts or interagency agreements with one or more
439 local community behavioral health providers or providers of
440 Community Action Team services to provide a behavioral health
441 staff presence and services at district schools. Services may
442 include, but are not limited to, mental health screenings and
443 assessments, individual counseling, family counseling, group
444 counseling, psychiatric or psychological services, trauma-
445 informed care, mobile crisis services, and behavior
446 modification. These behavioral health services may be provided
447 on or off the school campus and may be supplemented by
448 telehealth.

449 ~~4.3.~~ Policies and procedures, including contracts with
450 service providers, which will ensure that:

451 a. Parents of students are provided information about
452 behavioral health services available through the students'
453 school or local community-based behavioral health services
454 providers, including, but not limited to, the mobile response
455 team as established in s. 394.495 serving their area. A school
456 may meet this requirement by providing information about and
457 Internet addresses for web-based directories or guides of local
458 behavioral health services as long as such directories or guides
459 are easily navigated and understood by individuals unfamiliar
460 with behavioral health delivery systems or services and include
461 specific contact information for local behavioral health
462 providers.

463 b. School districts use the services of the mobile response
464 teams to the extent that such services are available. Each

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465 school district shall establish policies and procedures to carry
466 out the model response protocol developed under s. 1004.44.

467 c. Students who are referred to a school-based or
468 community-based mental health service provider for mental health
469 screening for the identification of mental health concerns and
470 ensure that the assessment of students at risk for mental health
471 disorders occurs within 15 days of referral. School-based mental
472 health services must be initiated within 15 days after
473 identification and assessment, and support by community-based
474 mental health service providers for students who are referred
475 for community-based mental health services must be initiated
476 within 30 days after the school or district makes a referral.

477 d. Referrals to behavioral health services available
478 through other delivery systems or payors for which a student or
479 individuals living in the household of a student receiving
480 services under this subsection may qualify, if such services
481 appear to be needed or enhancements in those individuals'
482 behavioral health would contribute to the improved well-being of
483 the student.

484 ~~5.4.~~ Strategies or programs to reduce the likelihood of at-
485 risk students developing social, emotional, or behavioral health
486 problems, depression, anxiety disorders, suicidal tendencies, or
487 substance use disorders.

488 ~~6.5.~~ Strategies to improve the early identification of
489 social, emotional, or behavioral problems or substance use
490 disorders, to improve the provision of early intervention
491 services, and to assist students in dealing with trauma and
492 violence.

493 Section 12. The Department of Children and Families and the

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494 Agency for Health Care Administration shall assess the quality
495 of care provided in crisis stabilization units to children and
496 adolescents who are high utilizers of crisis stabilization
497 services. The department and agency shall review current
498 standards of care for such settings applicable to licensure
499 under chapters 394 and 408, Florida Statutes, and designation
500 under s. 394.461, Florida Statutes; compare the standards to
501 other states' standards and relevant national standards; and
502 make recommendations for improvements to such standards. The
503 assessment and recommendations shall address, at a minimum,
504 efforts by each facility to gather and assess information
505 regarding each child or adolescent, to coordinate with other
506 providers treating the child or adolescent, and to create
507 discharge plans that comprehensively and effectively address the
508 needs of the child or adolescent to avoid or reduce his or her
509 future use of crisis stabilization services. The department and
510 agency shall jointly submit a report of their findings and
511 recommendations to the Governor, the President of the Senate,
512 and the Speaker of the House of Representatives by November 15,
513 2020.

514 Section 13. This act shall take effect July 1, 2020.

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 1548

INTRODUCER: Senator Perry

SUBJECT: Child Welfare

DATE: January 27, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Preston | Hendon | CF | Pre-meeting |
| 2. | | | AHS | |
| 3. | | | AP | |

I. Summary:

SB 1548 makes a number of changes to current law applicable to children in out-of-home care. Specifically, the bill:

- Creates an emergency modification of placement process that uses a probable cause standard to ensure child safety when a child is either abandoned by or must be immediately removed from a relative, nonrelative, or licensed foster home followed by a review process that uses the current standard of child's best interest established by a preponderance of the evidence.
- Resolves a conflict in Chapter 39 concerning the timeframe for filing and serving a case plan.
- Clarifies the process for terminating court jurisdiction and department supervision in a dependency court action by relocating provisions concerning supervision and jurisdiction that are located throughout Chapter 39, F.S., into a newly created s. 39.630, F.S.
- Clarifies the paternity establishment and disestablishment process by modifying provisions concerning paternity that are located throughout Chapter 39.
- Creates a new s. 39.8025, F.S., to provide a lawful process to immediately protect children whose parents are deceased by committing them to the custody of the department and making them eligible for adoption.
- Clarifies that the department is not required to provide reasonable efforts to preserve and reunify the family if a court has found that the parent is registered as a sexual predator.
- Provides standing for an unsuccessful applicant to adopt a child who is permanently committed to the department to have the opportunity to prove that the department has unreasonably withheld its consent to the applicant. These amendments eliminate the need for an administrative appeal process for unsuccessful applicants and eliminates multiple competing adoption petitions by the approved and unsuccessful applicants.
- Requires a petition to adopt a child who is permanently committed to the department to demonstrate that the department has consented to the adoption or that the dependency court has entered an order waiving the department's consent.

- Provides that a dependent child's placement with a prospective adoptive parent after a Chapter 39 intervention in a dependency proceeding can only occur after the placement is subject to a preliminary home study to establish the suitability of the home.
- Creates a new s. 742.0211, F.S., to address paternity proceedings concerning dependent children.

In addition the bill does the following:

- Requires the Florida Court Educational Council to establish certain standards, consistent with the purposes of Chapter 39, F.S., for instruction of circuit court judges in dependency cases.
- Eliminates the requirement for the department to submit an annual report to the Governor and Legislature on false reporting of abuse allegations made to the Florida Abuse Hotline, as well as the Independent Living Services Report and the Independent Living Services Advisory Council's Report.
- Provides the department authority to adopt rules for the establishment of processes and procedures for qualified evaluators and implement Medicaid behavioral health utilization management programs for statewide in-patient psychiatric (SIPP) facilities with a contracted vendor.
- Provides authority for the department to appoint all Qualified Evaluators who conduct suitability assessments for children in out-of-home care.

The bill is expected to have a positive fiscal impact on the state and has an effective date of October 1, 2020.

II. Present Situation:

Judicial Education

The Florida Court Education Council was established in 1978 and charged with providing oversight of the development and maintenance of a comprehensive educational program for Florida judges and certain court support personnel. The Council's responsibilities include making budgetary, programmatic, and policy recommendations to the Supreme Court regarding continuing education for Florida judges and certain court professionals.

All judges new to the bench are required to complete the Florida Judicial College program during their first year of judicial service following selection to the bench. Taught by faculty chosen from among the state's most experienced trial and appellate court judges, the College's curriculum includes:

- A comprehensive orientation program in January, including an in-depth trial skills workshop, a mock trial experience and other classes.
- Intensive substantive law courses in March, incorporating education for both new trial judges and those who are switching divisions.
- A separate program designed especially for new appellate judges.
- A mentor program providing new trial court judges regular one-to-one guidance from experienced judges.¹

¹ The Florida Courts, *Information for New Judges*, available at: <https://www.flcourts.org/Resources-Services/Judiciary-Education/Information-for-New-Judges> (Last visited December 26, 2019).

All Florida county, circuit, and appellate judges and Florida supreme court justices are required to comply with the following judicial education requirements:

- Each judge and justice shall complete a minimum of 30 credit hours of approved judicial education programs every 3 years.
- Each judge or justice must complete 4 hours of training in the area of judicial ethics. Approved courses in fairness and diversity also can be used to fulfill the judicial ethics requirement.
- In addition to the 30-hour requirement, every judge new to a level of trial court must complete the Florida Judicial College program in that judge's first year of judicial service following selection to that level of court.
- Every new appellate court judge or justice must, within 2 years following selection to that level of court, complete an approved appellate-judge program. Every new appellate judge who has never been a trial judge or who has never attended Phase I of the Florida Judicial College as a magistrate must also attend Phase I of the Florida Judicial College in that judge's first year of judicial service following the judge's appointment.²

To help judges satisfy this educational requirement, Florida Judiciary Education currently presents a variety of educational programs for new judges, experienced judges, and some court staff. About 900 hours of instruction are offered each year through live presentations and distance learning formats. This education helps judges and staff to enhance their legal knowledge, administrative skills and ethical standards.

In addition, extensive information is available to judges handling dependency cases in the Dependency Benchbook. The benchbook is a compilation of promising and science-informed practices as well as a legal resource guide. It is a comprehensive tool for judges, providing information regarding legal and non-legal considerations in dependency cases. Topics covered include the importance of a secure attachment with a primary caregiver, the advantages of stable placements and the effects of trauma on child development.³

Paternity

The failure to establish a father for a child as early in the case as possible leads to delay in permanency when the father appears months after disposition because a new case plan must be established. This often extends the goal date by at least six months. The failure to establish the father of the child early also limits the scope of available relative placements for the child, which is contrary to the legislative intent in s. 39.4015(1), F.S., acknowledging that research has shown that relative placements lead to better results for children. If an individual is a “parent” in a dependency action, the individual is entitled to due process and notice before any judicial action may be taken.

² Fla. R. Jud. Admin. 2.320 As amended through August 29, 2019, available at: <https://casetext.com/rule/florida-court-rules/florida-rules-of-judicial-administration/part-iii-judicial-officers/rule-2320-continuing-judicial-education> (Last visited December 26, 2019).

³ The Florida Courts, *Dependency Benchbook*, available at <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Dependency/Dependency-Benchbook> (Last visited December 27, 2019).

Chapter 39 defines “parent” to mean a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). The term “parent” also means legal father who defined as a man who is married to the mother at the time of conception or birth of their child unless paternity has been otherwise determined by the court. If the mother was not married to a man at the time of birth or conception of the child, the term means a man named on the birth certificate of the child pursuant to s. 382.013(2), F.S., a man determined by a court order to be the father of the child, or a man determined to be the father of the child by the Department of Revenue as provided in s. 409.256, F.S. If a child has been legally adopted, the term “parent” means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless specified conditions are met.

When the identity and location of the legal father is unknown, ss. 39.402(8)(c)(4), 39.503(1), 39.803(1), F.S., require the court to inquire under oath of those present at the shelter, dependency, or termination of parental rights hearing whether they have any of the following information:

- Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.
- Whether the mother was cohabiting with a male at the probable time of conception of the child.
- Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.
- Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.
- Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child or in which the child has resided or resides.
- Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2), F.S.
- Whether a man has been determined by a court order to be the father of the child.
- Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256, F.S.

There currently is no requirement in those statutes that the court must enter an order establishing paternity when a legal father has been identified. Without the entry of an order establishing paternity, the legal father is under no obligation to begin services or provide child support. Also, if the child is or were to be placed with the legal father’s relatives, that placement is treated as a nonrelative placement until the order establishing paternity is entered.

Current law requires the department and the court to take action including providing notice of hearings where the court’s inquiry identifies any person as a parent or a prospective parent and conducting a diligent search if that person’s location is unknown. Conducting a diligent search for a prospective parent where there is a legal father can result in unnecessary delay because, even if the prospective parent were to be located, there is no assurance that individual will seek to disestablish the legal father’s rights or that he could meet the standing threshold of manifesting a substantial and continuing concern for the welfare of his child in order to be permitted to pursue a paternity action. The court could achieve disposition pursuant to s. 39.521,

F.S., earlier if a diligent search was not required to be conducted to locate a prospective father where there is a legally-established father.

If there is no legal father, then a diligent search for a prospective parent is appropriate to establish paternity and potentially increase the pool of relative placements for the child. Section 39.503(8), F.S., establishes that if the inquiry and diligent search performed at the dependency stage identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent, who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or before the adjudicatory hearing in any termination of parental rights proceeding for the child, shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood.

Current law contains additional provisions related to determination of parentage in chapter 742. Section 742.011, F.S., permits any woman who is pregnant or has a child, any man who has reason to believe that he is the father of a child, or any child may bring proceedings in the circuit court, in chancery, to determine the paternity of the child when paternity has not been established by law or otherwise. Section 742.021, F.S., provides for the filing of a complaint charging paternity in the circuit court where the plaintiff resides or where the defendant resides. Section 742.031, F.S., contemplates that the court will conduct a hearing on the complaint and that, if the court finds that the alleged father is the father of the child, it shall so order. Section 742.18, F.S., provides for a process under which a male may disestablish paternity or terminate a child support obligation when the male is not the biological father of the child.

Current law does not provide any guidance on the standards a court should use in a Chapter 39 proceeding to disestablish a legal father's rights when a Chapter 742 action has been filed concerning a dependent child. Instead, courts get their guidance on resolving a Chapter 742 disestablishment claim from case law. In Simmonds v. Perkins, 247 So. 3d 397 (Fla. 2018), the Florida Supreme Court established the test to determine whether a biological father has standing to bring a paternity action when a child is born of an intact marriage. The Court found that if a biological father manifests a substantial and continuing concern for the welfare of his child, he will not be precluded from bringing a paternity action even if the mother was married at the time of conception or birth. Thereafter, the biological father must show there is a clear and compelling reason based primarily on the child's best interests to overcome the presumption of legitimacy. Dep't of Health & Rehab. Servs. v. Privette, 617 So. 2d 305, 308 (Fla. 1993).

Case Closure

Current law does not have a case closure statute that provides when a court can terminate the department's supervision or the court's jurisdiction. Instead, the only statute in Chapter 39, F.S., to describe when these events can occur is s. 39.521, F.S., which addresses disposition. Section 39.521(1)(c)3., F.S., provides that protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child

and include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency has been established for the child.

While many statutes in Chapter 39 concern a child remaining in or returning to the home or being placed in some other permanency placement, those statutes are silent on how and when supervision and jurisdiction should be terminated.

Permanent Commitment of Orphaned Children

Presently, the department can adjudicate a child dependent if both parents are deceased, but there is no legal mechanism to permanently commit the child to the department for subsequent adoption.

The court in F.L.M. v. Department of Children and Families, 912 So. 2d 1264 (Fla. 4th DCA 2005), held that when the parents or guardians have died, they have not abandoned the child because the definition of abandonment contemplates the failure to provide a minor child with support and supervision while being able and the parents who died are no longer able to do so. Instead, the court held that an orphaned child without a legal custodian can be properly adjudicated dependent based upon then s. 39.01(14)(e), F.S., which is currently numbered as s. 39.01(15)(e), F.S., in that the child has no parent or legal custodian capable of providing supervision and care. As such, the department relies upon s. 39.01(15)(e), F.S., to adjudicate orphaned children dependent.

Section 39.811(2), F.S., permits a court to commit a child to the custody of the department for the purpose of adoption if the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence. Section 39.806(1), F.S., outlines the available grounds for termination of parental rights. Those grounds include: a written surrender voluntarily executed by the parent, abandonment, failure by the parent to substantially comply with a case plan, and egregious conduct on the part of the parent, among other grounds. All of the grounds available under s. 39.806(1), F.S., require that the parent engage in some kind of behavior that puts a child at risk. Because a deceased parent can no longer engage in any behavior, the department cannot seek the termination of a deceased parent's rights. Moreover, even if there was a legal ground to seek the termination of a deceased parent's rights, there may be benefits that the child is receiving such as social security benefits or an inheritance as a result of the parent's death that the department would not want to halt by seeking a termination of the deceased parent's rights. Because the department cannot seek termination of parental rights when both parents are deceased, courts are permanently committing children to the department's custody without meeting the requirements of s. 39.811(2), F.S. The dependency system is in need of a statute that permits an orphaned child to be permanently committed to the department for subsequent adoption without terminating the deceased parent's rights so as to allow the child to continue to receive death benefits.

Reasonable Efforts for Registered Sexual Predators

Currently, s. 39.806(1)(n), F.S., provides that a ground for termination of parental rights may be established when the parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21, F.S.

Section 39.806(2), F.S., provides that the department is not required to provide reasonable efforts to preserve and reunify families if a court of competent jurisdiction has determined that any of the events described in ss. 39.806(1)(b)-(d) or (1)(f)-(m), F.S., have occurred. These grounds are referred to as the expedited termination of parental rights grounds because the department does not need to obtain an adjudication of dependency and offer the parents a case plan for reunification before seeking termination of the parents' rights. These grounds include where the parent has committed egregious conduct, aggravated child abuse, and aggravated sexual battery. Because s. 39.806(1)(n), F.S., is not listed in s. 39.806(2), F.S., the department must provide a parent who is a convicted and registered sexual predator a case plan for reunification prior to seeking termination of that parent's rights pursuant to this particular ground for termination.

Department's Selection of Adoptive Placement

Currently, the department's ability to place a child in its custody for adoption and the court's review of the placement is controlled by s. 39.812, F.S. The statute provides the department may place a child in a home and the department's consent alone shall be sufficient. The dependency court retains jurisdiction over any child placed in the custody of the department until the child is adopted pursuant to ss. 39.811(9), 39.812(4), and 39.813, F.S. After custody of a child for subsequent adoption has been given to the department, 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, s. 39.811(9), F.S., provides that for good cause shown by the Guardian ad Litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Where a child is available for adoption, the department through its contractors will receive applications to adopt the child. Some applicants are not selected because their adoption home study is denied. When there are two or more families with approved home studies, the department's rules route these conflicting applications through the adoption applicant review committee (AARC) for resolution. The decision of the AARC is then reviewed and the department issues its consent to one applicant while communicating its denial to the other applicants through certified letter. These letters are considered final agency action. Unsuccessful applicants have a "point of entry" to seek review of department action through the administrative hearing process under Chapter 120, F.S. These hearings are heard by designated hearing officers within the department. The assignment of adoption disputes to the Chapter 120, F.S., process did not originate with nor was it inspired by legislative directive. Instead, this process arose due to the opinion in Department of Children & Family Services v. I.B. and D.B., 891 So. 2d 1168 (Fla. 1st DCA 2005). However, this process is inconsistent with the Legislature's clear intent of permanency and resolution of all disputes through the Chapter 39, F.S., process.

Florida law also permits individuals, who the department has not approved to adopt a child, to initiate a new Chapter 63, F.S., legal action by filing a petition for adoption. Upon filing the

petition, the petitioner must demonstrate pursuant to s. 63.062(7), F.S., that the department unreasonably withheld its consent to be permitted to adopt the child. 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 department's consent to the adoption should be waived because it was unreasonably withheld, multiple parties may file a petition to adopt the same child. Indeed, there can be at least three legal proceedings simultaneously addressing the adoption of the child:

- The Chapter 39, F.S., dependency proceeding.
- The Chapter 63, F.S., adoption proceeding filed by the family who has the department's consent.
- The Chapter 63, F.S., adoption proceeding filed by the applicant who asserts the department unreasonably withheld its consent.

Multiple competing adoption petitions require additional court hearings to resolve the conflict and leads to a delay of the child's adoption. These court proceedings often occur concurrently with the administrative hearing process, which can lead to disparate results.

Relative Home Studies in Chapter 63 Intervention Proceedings

For children in the custody of the department, s. 63.082(6)(a), F.S., provides that if a parent executes a consent for placement of a minor with an adoption entity or qualified adoptive parents, but parental rights have not yet been terminated, the adoption consent is valid, binding, and enforceable by the court. After the parent executes the consent, s. 63.082(6)(b), F.S., permits the adoption entity to intervene in the dependency case as a party in interest and requires the adoption entity to provide the court with a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. Section 63.082(6)(b), F.S., further provides that the home study provided by the adoption entity shall be sufficient unless the court has concerns regarding the qualifications of the home study provider or concerns that the home study may not be adequate to determine the best interests of the child.

Although s. 63.082(6), F.S., provides no exception for the completion of a preliminary home study before the court may transfer custody of the child to the prospective adoptive parents, parties have been able to intervene and accomplish a modification of placement without presenting the court with a home study by relying upon s. 63.092(3), F.S. This section provides that a preliminary home study in a nondependency proceeding is not required when the petitioner for adoption is a stepparent or a relative. Section 63.032(16), F.S., defines a "relative" to mean a person related by blood to the person being adopted within the third degree of consanguinity. As a result of this interpretation of the law, a "relative" who did not pass a department home study because of safety concerns in the home or disqualifying background offenses is permitted to intervene in a dependency action to obtain placement of the child. In one recent case, the relative failed 5 different department home studies, yet the trial court held that she did not need to complete a home study to intervene in the proceeding pursuant to s. 63.082(6), F.S. The department has no ability to ensure the safety of the child in these instances because the adoption entity upon the modification of placement takes over supervision of the child pursuant to s. 63.082(6)(f), F.S.

Licensing Requirements – Institutional Investigations

There are situations where a person is named in some capacity in a report and that, after an investigation of institutional abuse, neglect, or abandonment is closed, the person is not identified as a caregiver responsible for the alleged abuse, neglect, or abandonment. Chapter 39 currently provides that the information contained in the report may not be used in any way to adversely affect the interests of that person. However, Chapter 39 also provides that if a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

Section 39.302(7)(a), F.S., establishes the fact that a person named in some capacity in a report may not be used in any way to adversely affect the interests of that person after an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report. However, if a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

Qualified Evaluator

Currently, the Agency for Health Care Administration (AHCA) has statutory authority to adopt rules for the registration of qualified evaluators, to establish procedures for selecting the evaluators to conduct the reviews, and to establish a reasonable cost-efficient fee schedule for qualified evaluators. AHCA is required to contract with a vendor (in this case the department) who would then be responsible for maintaining the QEN. In 2016, the Legislature moved the positions and funding to the department for it to exercise its responsibility of maintaining the QEN, but s. 39.407, F.S., still references AHCA as having authority over the QEN.

Child Care

To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child. To that end, the Child Care Regulation Program is responsible for regulating programs that provide services that meet the statutory definition of "child care." This is accomplished through the inspection of licensed child care programs to ensure the consistent statewide application of child care standards established in statute and rule, and the registration of child care providers not subject to inspection. The department regulates licensed child care facilities, licensed family day care homes, licensed large family child care homes, and licensed mildly ill facilities in 62 of the 67 counties in Florida.

"Child care" is defined as "the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care." If a child care program meets this statutory definition of "child care," it is subject to regulation by the department/local licensing agencies, unless

specifically excluded or exempted from regulation by statute. Every program determined to be subject to licensing must meet the applicable licensing standards established by ss. 402.301-402.319, F. S., and rules.

- The current definition in s. 402.302, F.S., allows the family day care operation to occur in any occupied residence, thus allowing for operators to utilize additional residences to operate the family day care home.
- Current language in s. 402.305, F.S., allows for child care personnel to complete “training” in cardiopulmonary resuscitation. Training in this statute has always been interpreted and implemented as certification. Certification ensures that child care personnel have actually demonstrated an ability to implement cardiopulmonary resuscitation training. This section of statute is the primary issue at stake in a pending challenge on the rule development process.
- Currently, providers are not required to notify the department when they begin offering transportation services.
- Child care providers are required to provide parents with information at different times throughout the year as required in ss. 402.305, 402.313, and 403.3131, F.S. The dates for provision of different kinds of information is staggered.

III. Effect of Proposed Changes:

Section 1 amends s. 25.385, F.S., relating to standards for instruction of circuit and county court judges in handling domestic violence cases, to require the Florida Court Educational Council to establish standards for instruction of circuit court judges who have responsibility for dependency cases. The standards for instruction must be consistent with and reinforce the purposes of Chapter 39, F.S., particularly the purpose of ensuring that a permanent placement is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year. The instruction must be provided on a periodic and timely basis and by specified entities.

Section 2 amends s. 39.01, F.S., relating to definitions to amend the definition of the term “parent” to remove an alleged or prospective parent from the definition unless parental status is applied for the purpose of determining whether the child has been abandoned.

Section 3 amends s. 39.205, F.S., relating to penalties for false reporting of child abuse, abandonment and neglect, to remove the requirement of an annual report to the Legislature on the number of reports referred.

Section 4 amends s. 39.302, F.S., relating to protective investigations of institutional investigations, to require the department to review any and all reports within a 5-year period, if a person is a licensee of the department and is named in any capacity within the report.

Section 5 amends s. 39.402, F.S., relating to shelter placement, to require the court to enter an order establishing the paternity of the child if the inquiry under s. 39.402(8)(c)4., F.S., identifies a person as a legal father, as defined in s. 39.01, F.S. It also provides that once an order establishing paternity has been entered, the court shall not take any further action to disestablish this paternity in the absence of an action filed pursuant to Chapter 742, F.S. The statute explains that if an action is filed pursuant to Chapter 742 for a dependent child, the action must comply with newly created s. 742.0211, F.S.

Section 6 amends s. 39.407, F.S., relating to medical, psychiatric, and psychological examinations, to make a technical change to agree with the law that was changed in 2016 to move responsibility for the appointment of Qualified Evaluators to the department from AHCA.

Section 7 amends s. 39.503, F.S., relating to identity or location of an unknown parent, to address instances in which there is a legal father. Specifically, this section:

- Provides if an inquiry identifies any person as a parent or a prospective parent and that person's location is known, the court shall require notice of the hearing to be provided to that person, except that notice shall not be required to be provided to a prospective parent if there is an identified legal father, as defined in s. 39.01(40), F.S., for the child.
- Provides that if the inquiry identifies a person as a legal father, as defined in s. 39.01, F.S., the court shall enter an order establishing the paternity of the child. This subsection further provides that once an order establishing paternity has been entered, the court shall not take any further action to disestablish this paternity in the absence of an action filed pursuant to Chapter 742, F.S.
- Provides that the petitioner is relieved from further search in addition to being relieved of further notice when an inquiry does not identify a parent or a prospective parent.
- Provides that a diligent search shall not be required to be conducted for a prospective parent if there is an identified legal father, as defined in s. 39.01(40), F.S., for the child.
- Provides that if the inquiry and diligent search identifies and locates a parent, the individual shall be considered a parent for all purposes under this chapter and the court shall require notice of all hearings to be provided to that person.
- Provides that if the inquiry and diligent search identifies and locates a prospective parent and there is no legal father, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. Also provides that no person shall have standing to file a sworn affidavit of parenthood or otherwise establish parenthood except through adoption after entry of a judgment terminating the parental rights of the legal father of the child. If the known parent contests the recognition of the prospective parent as a parent, the court having jurisdiction over the dependency matter shall conduct paternity proceedings under Chapter 742, F.S.
- Provides if the diligent search under the subsection fails to identify and locate a parent or a prospective parent who was identified during the inquiry, the court shall so find and may proceed without further notice and the petitioner is relieved of further search.

Section 8 creates s. 39.5035, F.S., relating to deceased parents, to provide a process for the permanent commitment of a child to the department for the purpose of adoption when both parents are deceased. Specifically, this section:

- Provides that, where both parents of a child are deceased and the child does not have a legal custodian through a probate or guardianship proceeding, an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true, may initiate a proceeding seeking an adjudication of dependency and permanent commitment of the child to the custody of the department.
- Provides that, when a child has been placed in shelter status by order of the court and not yet adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition must be filed within a reasonable

time after the date the child was referred to protective investigation or after the petitioner becomes aware of the facts supporting the petition.

- Provides that, when a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court shall set the case before the court for an adjudicatory hearing to be held as soon as possible, but no later than 30 days after the petition is filed.
- Provides notice of the date, time, and place of the adjudicatory hearing for the petition for adjudication and permanent commitment or the petition for permanent commitment and requires a copy of the petition be served upon specified individuals
- Provides that adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition for adjudication and permanent commitment or a petition for permanent commitment, the court shall consider whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased, and that the child does not have a legal custodian through a probate or guardianship proceeding. The presentation of a certified copy of the death certificate for each parent shall constitute evidence of the parents' deaths and no further evidence is required to establish that element.
- Provides when the adjudicatory hearing is on a petition for adjudication and permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court shall enter a written order.
- Provides when the adjudicatory hearing is on a petition for permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court shall enter a written order.

Section 9 amends s. 39.521, F.S., relating to disposition hearings, to eliminate the description of how long protective supervision can continue and under what circumstances the court can terminate protective supervision. Instead, protective supervision will now be fully addressed in newly created s. 39.63, F.S.

Section 10 amends s. 39.522, F.S., relating to postdisposition change of custody, to create an emergency modification of placement that will enable the department and the judiciary to take immediate action to protect children at risk of abuse, abandonment, or neglect who have already been subject to disposition. Specifically, the section:

- Clarifies that the statute applies to a modification of placement if a child must be removed from the parent's custody while the department is supervising the placement of the child after the child is returned to the parent.
- Provides that at any time, an authorized agent of the department or a law enforcement officer may remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if the circumstances meet the criteria of probable cause. It also provides requirements and sets timelines for motions and petitions to be filed, considerations for the court before issuing an order, requirements for a home study if a placement is changed, and cause for the court to conduct an evidentiary hearing. The standard for changing custody of the child shall be whether a preponderance of the evidence establishes that a change is in the best interest of the child. When applying this standard, the court shall consider the continuity of the child's placement in the same out-of-home residence as a factor when determining the best interests of the child.

Section 11 amends s. 39.6011, F.S., relating to case plan development, to require the department to file the case plan with the court and serve a copy on the parties:

- Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care. All such case plans must be approved by the court.
- Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted pursuant to this paragraph, or if the court does not approve the case plan at the disposition hearing. The case plan acceptance hearing must occur within 30 days after the disposition hearing to review and approve the case plan.

Section 12 creates s. 39.63, F.S., relating to case closure, to provide that unless the circumstances relating to young adults in extended foster care apply, the court must close the judicial case for all proceedings under this chapter by terminating protective supervision and its jurisdiction as provided in this section. Specifically, the section provides the circumstances under which the court shall close the judicial case by terminating protective supervision and its jurisdiction in a Chapter 39, F.S., proceeding. This statute clarifies for the court and the parties the requirements that must be met to ensure child safety before jurisdiction and supervision is terminated at any stage of the case.

Section 13 amends s. 39.801, F.S., relating to procedures and jurisdiction related to termination of parental right procedures, to clarify that personal service of a termination of parental rights petition is required only on a prospective parent who has been both identified and located.

Section 14 amends s. 39.803, F.S., relating to identity or location of a parent unknown after filing a termination of parental rights petition, to conform to changes that were made to s. 39.503, F.S. This section further clarifies that the court needs to conduct an inquiry to determine the identity or location of a parent where an inquiry has not previously been performed under s. 39.503, F.S.

Section 15 amends s. 39.806, F.S., relating to grounds for termination of parental rights, to provide that reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in ss. 39.806(1)(b)-(d) and (1)(f)-(n), F.S., have occurred. Consequently, the department will no longer need to make reasonable efforts if a parent has been convicted of an offense that requires the parent to register as a sexual predator.

Section 16 amends s. 39.811, F.S., relating to powers of disposition and orders of disposition, to provide the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted after termination of parental rights or permanent commitment pursuant to newly created s. 39.8025, F.S. It also provides that the department's decision to deny an application to adopt a specific child who is under the court's jurisdiction is reviewable only through the process established in s. 39.812(4), F.S., and is not subject to the provisions of Chapter 120, F.S.

Section 17 amends s. 38.812, F.S., relating to postdisposition relief and petition for adoption, to

provide that the department may place a child in the department's custody with an agency as defined in s. 63.032, F.S., with a child-caring agency registered under s. 409.176, F.S., or in a family home for prospective subsequent adoption without the need for a court order unless as otherwise provided in this section. It also authorizes the department, without the need for a court order, to allow prospective adoptive parents to visit with the child to determine whether adoptive placement would be appropriate. It also provides procedures if the department has denied an individual's application to adopt a child.

Section 18 amends s. 63.062, F.S., relating to persons required to consent to adoption, to provide that when a minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or the court order finding the department unreasonably withheld its consent must be attached to the petition to adopt.

Section 19 amends s. 63.082, F.S., relating to execution of consent to adopt, to provide that a preliminary home study is required for all prospective parents regardless of whether that individual is a stepparent or a relative, and that the exemption in s. 63.092(3), F.S., does not apply when a minor child is under the supervision of the department or otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, a dependency petition, or a petition for termination of parental rights pursuant to Chapter 39, F.S.

Section 20 amends s.402.302, relating to definitions, to specify that family day care home operations must occur in the operator's primary residence and that the capacity is limited to children present in the home during operations.

Section 21 amends s. 402.305, F.S., relating to licensing standards, to clarify that at least one child care facility staff person must receive a certification for completion of a cardiopulmonary resuscitation course.

Sections 402.305(9)(b) and (c), F.S., are amended to align the dates for providers on when information is to be shared with parents or guardians.

Section 402.305(10), F.S., is amended to specify that, prior to providing transportation services, a child care facility, family day care home or large family child care home is required to notify the department for approval to begin the service to ensure that all standards have been verified as compliant. Currently, providers are not required to notify the department when they begin offering transportation services. The amendment further specifies that family or large family child care homes are not responsible for children being transported by a parent or guardian.

Section 22 amends s. 402.313, F.S., relating to family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

Section 23 amends s. 402.331, F.S., relating to large family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

Section 24 amends s. 409.1451, F.S., relating to the Road-to-Independence Program, to eliminate the requirement to submit an annual report.

Section 25 creates s. 742.0211, F.S., relating to proceedings applicable to dependent children, to establish a process for paternity proceedings concerning a dependent child. Specifically, it:

- Provides that, in addition to satisfying the other requirements of this chapter, any paternity proceeding filed under Chapter 742 concerning a dependent child must comply with the requirements of this section.
- Provides that, notwithstanding s. 742.021(1), F.S., a paternity proceeding filed under Chapter 742 concerning a dependent child may be filed in the circuit court of the county that is exercising jurisdiction over the Chapter 39 proceeding even if the plaintiff or the defendant do not reside in the county.
- Provides that the court having jurisdiction over the dependency matter may conduct proceedings under this chapter either as part of the Chapter 39 proceeding or as a separate action under Chapter 742.
- Provides that no person shall have standing to file a paternity complaint under this chapter regarding a dependent child after entry in the Chapter 39 proceeding of a judgment terminating the parental rights of the legal father, as defined in s. 39.01(40), F.S., for the dependent child.
- Addresses paternity proceedings concerning a dependent child who already has an established legal father under Chapter 39, F.S.
- Mandates that the court shall enter a written order on the paternity complaint within 30 days after conclusion of the hearing held pursuant to s. 742.031, F.S.
- Provides that if the court enters an order finding the alleged father is the father of the dependent child, that individual will be considered a parent as defined in s. 39.01(56), F.S., for all purposes of the Chapter 39 proceeding.

Section 26 provides an effective date of October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Pinellas, Hillsborough, and Sarasota counties would be required to adopt standards that address the minimum standards in the changes to Chapter 402, F.S.

The department has reported that there is a potential cost savings of \$1.1 million if the changes in sections 16, 17, and 18 of the bill are implemented.⁴

VI. Technical Deficiencies:

Lines 1266 and 1299 in the bill change “shall be,” to “is” or “are.” Both lines should either retain current law or be changed to “must be.”

VII. Related Issues:

It is unclear how the changes proposed in section 39.503, regarding the department’s current obligation to search for prospective parents will be reconciled with other provisions in the statute (for example section 39.502) and parents’ constitutional rights.

Additionally, the provisions regarding determinations of paternity under Chapter 742 appear to establish new standards and legal burdens for determinations of paternity. Questions have arisen as to whether the procedure proposed can be implemented from a practical perspective given the standards established and the timeframes imposed.

VIII. Statutes Affected:

This bill substantially amends ss. 25.385, 39.01, 39.205, 39.302, 39.402, 39.407, 39.503, 39.521, 39.522, 39.6011, 39.801, 39.803, 39.806, 39.811, 39.812, 63.062, 63.082, 402.302, 402.305, 402.313, 402.3131, and 409.1451 of the Florida Statutes.

This bill creates ss. 39.5035, 39.63, and 742.0211 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.

⁴ The Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1548, November 25, 2019.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 01/31/2020 | . | |
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| | . | |
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The Committee on Children, Families, and Elder Affairs (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 25.385, Florida Statutes, is amended to
read:

25.385 Standards for instruction of circuit and county
court judges ~~in handling domestic violence cases.~~

(1) The Florida Court Educational Council shall establish
standards for instruction of circuit and county court judges who



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11 have responsibility for domestic violence cases, and the council
12 shall provide such instruction on a periodic and timely basis.

13 ~~(2)~~ As used in this section:

14 (a) The term "domestic violence" has the meaning set forth
15 in s. 741.28.

16 (b) "Family or household member" has the meaning set forth
17 in s. 741.28.

18 (2) The Florida Court Educational Council shall establish
19 standards for instruction of circuit court judges who have
20 responsibility for dependency cases. The standards for
21 instruction must be consistent with and reinforce the purposes
22 of chapter 39, with emphasis on ensuring that a permanent
23 placement is achieved as soon as possible and that a child
24 should not remain in foster care for longer than 1 year. This
25 instruction must be provided on a periodic and timely basis and
26 may be provided by or in consultation with current or retired
27 judges, the Department of Children and Families, or the
28 Statewide Guardian Ad Litem Office established in s. 39.8296.

29 Section 2. Subsection (7) of section 39.205, Florida
30 Statutes, is amended to read:

31 39.205 Penalties relating to reporting of child abuse,
32 abandonment, or neglect.—

33 (7) The department shall establish procedures for
34 determining whether a false report of child abuse, abandonment,
35 or neglect has been made and for submitting all identifying
36 information relating to such a report to the appropriate law
37 enforcement agency and ~~shall report annually to the Legislature~~
38 ~~the number of reports referred.~~

39 Section 3. Subsection (7) of section 39.302, Florida



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40 Statutes, is amended to read:

41 39.302 Protective investigations of institutional child
42 abuse, abandonment, or neglect.—

43 (7) When an investigation of institutional abuse, neglect,
44 or abandonment is closed and a person is not identified as a
45 caregiver responsible for the abuse, neglect, or abandonment
46 alleged in the report, the fact that the person is named in some
47 capacity in the report may not be used in any way to adversely
48 affect the interests of that person. This prohibition applies to
49 any use of the information in employment screening, licensing,
50 child placement, adoption, or any other decisions by a private
51 adoption agency or a state agency or its contracted providers.

52 (a) However, if such a person is a licensee of the
53 department and is named in any capacity in a report ~~three or~~
54 ~~more reports~~ within a 5-year period, the department must ~~may~~
55 review the report ~~those reports~~ and determine whether the
56 information contained in the report ~~reports~~ is relevant for
57 purposes of determining whether the person's license should be
58 renewed or revoked. If the information is relevant to the
59 decision to renew or revoke the license, the department may rely
60 on the information contained in the report in making that
61 decision.

62 (b) Likewise, if a person is employed as a caregiver in a
63 residential group home licensed pursuant to s. 409.175 and is
64 named in any capacity in a report ~~three or more reports~~ within a
65 5-year period, the department must ~~may~~ review the report ~~all~~
66 ~~reports~~ for the purposes of the employment screening as defined
67 in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(e)~~.

68 Section 4. Subsection (6) of section 39.407, Florida



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69 Statutes, is amended to read:

70 39.407 Medical, psychiatric, and psychological examination
71 and treatment of child; physical, mental, or substance abuse
72 examination of person with or requesting child custody.—

73 (6) Children who are in the legal custody of the department
74 may be placed by the department, without prior approval of the
75 court, in a residential treatment center licensed under s.
76 394.875 or a hospital licensed under chapter 395 for residential
77 mental health treatment only as provided in ~~pursuant to~~ this
78 section or may be placed by the court in accordance with an
79 order of involuntary examination or involuntary placement
80 entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children
81 placed in a residential treatment program under this subsection
82 must have a guardian ad litem appointed.

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

84 1. "Residential treatment" means placement for observation,
85 diagnosis, or treatment of an emotional disturbance in a
86 residential treatment center licensed under s. 394.875 or a
87 hospital licensed under chapter 395.

88 2. "Least restrictive alternative" means the treatment and
89 conditions of treatment that, separately and in combination, are
90 no more intrusive or restrictive of freedom than reasonably
91 necessary to achieve a substantial therapeutic benefit or to
92 protect the child or adolescent or others from physical injury.

93 3. "Suitable for residential treatment" or "suitability"
94 means a determination concerning a child or adolescent with an
95 emotional disturbance as defined in s. 394.492(5) or a serious
96 emotional disturbance as defined in s. 394.492(6) that each of
97 the following criteria is met:



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98 a. The child requires residential treatment.

99 b. The child is in need of a residential treatment program
100 and is expected to benefit from mental health treatment.

101 c. An appropriate, less restrictive alternative to
102 residential treatment is unavailable.

103 (b) Whenever the department believes that a child in its
104 legal custody is emotionally disturbed and may need residential
105 treatment, an examination and suitability assessment must be
106 conducted by a qualified evaluator who is appointed by the
107 department ~~Agency for Health Care Administration~~. This
108 suitability assessment must be completed before the placement of
109 the child in a residential treatment center for emotionally
110 disturbed children and adolescents or a hospital. The qualified
111 evaluator must be a psychiatrist or a psychologist licensed in
112 Florida who has at least 3 years of experience in the diagnosis
113 and treatment of serious emotional disturbances in children and
114 adolescents and who has no actual or perceived conflict of
115 interest with any inpatient facility or residential treatment
116 center or program.

117 (c) Before a child is admitted under this subsection, the
118 child shall be assessed for suitability for residential
119 treatment by a qualified evaluator who has conducted a personal
120 examination and assessment of the child and has made written
121 findings that:

122 1. The child appears to have an emotional disturbance
123 serious enough to require residential treatment and is
124 reasonably likely to benefit from the treatment.

125 2. The child has been provided with a clinically
126 appropriate explanation of the nature and purpose of the



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127 treatment.

128 3. All available modalities of treatment less restrictive
129 than residential treatment have been considered, and a less
130 restrictive alternative that would offer comparable benefits to
131 the child is unavailable.

132
133 A copy of the written findings of the evaluation and suitability
134 assessment must be provided to the department, to the guardian
135 ad litem, and, if the child is a member of a Medicaid managed
136 care plan, to the plan that is financially responsible for the
137 child's care in residential treatment, all of whom must be
138 provided with the opportunity to discuss the findings with the
139 evaluator.

140 (d) Immediately upon placing a child in a residential
141 treatment program under this section, the department must notify
142 the guardian ad litem and the court having jurisdiction over the
143 child and must provide the guardian ad litem and the court with
144 a copy of the assessment by the qualified evaluator.

145 (e) Within 10 days after the admission of a child to a
146 residential treatment program, the director of the residential
147 treatment program or the director's designee must ensure that an
148 individualized plan of treatment has been prepared by the
149 program and has been explained to the child, to the department,
150 and to the guardian ad litem, and submitted to the department.
151 The child must be involved in the preparation of the plan to the
152 maximum feasible extent consistent with his or her ability to
153 understand and participate, and the guardian ad litem and the
154 child's foster parents must be involved to the maximum extent
155 consistent with the child's treatment needs. The plan must



156 include a preliminary plan for residential treatment and
157 aftercare upon completion of residential treatment. The plan
158 must include specific behavioral and emotional goals against
159 which the success of the residential treatment may be measured.
160 A copy of the plan must be provided to the child, to the
161 guardian ad litem, and to the department.

162 (f) Within 30 days after admission, the residential
163 treatment program must review the appropriateness and
164 suitability of the child's placement in the program. The
165 residential treatment program must determine whether the child
166 is receiving benefit toward the treatment goals and whether the
167 child could be treated in a less restrictive treatment program.
168 The residential treatment program shall prepare a written report
169 of its findings and submit the report to the guardian ad litem
170 and to the department. The department must submit the report to
171 the court. The report must include a discharge plan for the
172 child. The residential treatment program must continue to
173 evaluate the child's treatment progress every 30 days thereafter
174 and must include its findings in a written report submitted to
175 the department. The department may not reimburse a facility
176 until the facility has submitted every written report that is
177 due.

178 (g)1. The department must submit, at the beginning of each
179 month, to the court having jurisdiction over the child, a
180 written report regarding the child's progress toward achieving
181 the goals specified in the individualized plan of treatment.

182 2. The court must conduct a hearing to review the status of
183 the child's residential treatment plan no later than 60 days
184 after the child's admission to the residential treatment



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185 program. An independent review of the child's progress toward
186 achieving the goals and objectives of the treatment plan must be
187 completed by a qualified evaluator and submitted to the court
188 before its 60-day review.

189 3. For any child in residential treatment at the time a
190 judicial review is held pursuant to s. 39.701, the child's
191 continued placement in residential treatment must be a subject
192 of the judicial review.

193 4. If at any time the court determines that the child is
194 not suitable for continued residential treatment, the court
195 shall order the department to place the child in the least
196 restrictive setting that is best suited to meet his or her
197 needs.

198 (h) After the initial 60-day review, the court must conduct
199 a review of the child's residential treatment plan every 90
200 days.

201 (i) The department must adopt rules for implementing
202 timeframes for the completion of suitability assessments by
203 qualified evaluators and a procedure that includes timeframes
204 for completing the 60-day independent review by the qualified
205 evaluators of the child's progress toward achieving the goals
206 and objectives of the treatment plan which review must be
207 submitted to the court. The Agency for Health Care
208 Administration must adopt rules for the registration of
209 qualified evaluators, the procedure for selecting the evaluators
210 to conduct the reviews required under this section, and a
211 reasonable, cost-efficient fee schedule for qualified
212 evaluators.

213 Section 5. Section 39.5035, Florida Statutes, is created to



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214 read:

215 39.5035 Deceased parents; special procedures.-

216 (1) (a) 1. If both parents of a child are deceased and a
217 legal custodian has not been appointed for the child through a
218 probate or guardianship proceeding, then an attorney for the
219 department or any other person, who has knowledge of the facts
220 whether alleged or is informed of the alleged facts and believes
221 them to be true, may initiate a proceeding by filing a petition
222 for adjudication and permanent commitment.

223 2. If a child has been placed in shelter status by order of
224 the court but has not yet been adjudicated, a petition for
225 adjudication and permanent commitment must be filed within 21
226 days after the shelter hearing. In all other cases, the petition
227 must be filed within a reasonable time after the date the child
228 was referred to protective investigation or after the petitioner
229 first becomes aware of the facts that support the petition for
230 adjudication and permanent commitment.

231 (b) If both parents or the last living parent dies after a
232 child has already been adjudicated dependent, an attorney for
233 the department or any other person who has knowledge of the
234 facts alleged or is informed of the alleged facts and believes
235 them to be true may file a petition for permanent commitment.

236 (2) The petition:

237 (a) Must be in writing, identify the alleged deceased
238 parents, and provide facts that establish that both parents of
239 the child are deceased and that a legal custodian has not been
240 appointed for the child through a probate or guardianship
241 proceeding.

242 (b) Must be signed by the petitioner under oath stating the



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243 petitioner's good faith in filing the petition.

244 (3) When a petition for adjudication and permanent
245 commitment or a petition for permanent commitment has been
246 filed, the clerk of court shall set the case before the court
247 for an adjudicatory hearing. The adjudicatory hearing must be
248 held as soon as practicable after the petition is filed, but no
249 later than 30 days after the filing date.

250 (4) Notice of the date, time, and place of the adjudicatory
251 hearing and a copy of the petition must be served on the
252 following persons:

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

254 (b) A living relative of each parent of the child, unless a
255 living relative cannot be found after a diligent search and
256 inquiry.

257 (c) The guardian ad litem for the child or the
258 representative of the guardian ad litem program, if the program
259 has been appointed.

260 (5) Adjudicatory hearings shall be conducted by the judge
261 without a jury, applying the rules of evidence in use in civil
262 cases and adjourning the hearings from time to time as
263 necessary. At the hearing, the judge must determine whether the
264 petitioner has established by clear and convincing evidence that
265 both parents of the child are deceased and that a legal
266 custodian has not been appointed for the child through a probate
267 or guardianship proceeding. A certified copy of the death
268 certificate for each parent is sufficient evidence of proof of
269 the parents' deaths.

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



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272 (a) If the court finds that the petitioner has met the
273 clear and convincing standard, the court shall enter a written
274 order adjudicating the child dependent and permanently
275 committing the child to the custody of the department for the
276 purpose of adoption. A disposition hearing shall be scheduled no
277 later than 30 days after the entry of the order, in which the
278 department shall provide a case plan that identifies the
279 permanency goal for the child to the court. Reasonable efforts
280 must be made to place the child in a timely manner in accordance
281 with the permanency plan and to complete all steps necessary to
282 finalize the permanent placement of the child. Thereafter, until
283 the adoption of the child is finalized or the child reaches the
284 age of 18 years, whichever occurs first, the court shall hold
285 hearings every 6 months to review the progress being made toward
286 permanency for the child.

287 (b) If the court finds that clear and convincing evidence
288 does not establish that both parents of a child are deceased and
289 that a legal custodian has not been appointed for the child
290 through a probate or guardianship proceeding, but that a
291 preponderance of the evidence establishes that the child does
292 not have a parent or legal custodian capable of providing
293 supervision or care, the court shall enter a written order
294 adjudicating the child dependent. A disposition hearing shall be
295 scheduled no later than 30 days after the entry of the order as
296 provided in s. 39.521.

297 (c) If the court finds that clear and convincing evidence
298 does not establish that both parents of a child are deceased and
299 that a legal custodian has not been appointed for the child
300 through a probate or guardianship proceeding and that a



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301 preponderance of the evidence does not establish that the child
302 does not have a parent or legal custodian capable of providing
303 supervision or care, the court shall enter a written order so
304 finding and dismissing the petition.

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

307 (a) If the court finds that the petitioner has met the
308 clear and convincing standard, the court shall enter a written
309 order permanently committing the child to the custody of the
310 department for purposes of adoption. A disposition hearing shall
311 be scheduled no later than 30 days after the entry of the order,
312 in which the department shall provide an amended case plan that
313 identifies the permanency goal for the child to the court.

314 Reasonable efforts must be made to place the child in a timely
315 manner in accordance with the permanency plan and to complete
316 all steps necessary to finalize the permanent placement of the
317 child. Thereafter, until the adoption of the child is finalized
318 or the child reaches the age of 18 years, whichever occurs
319 first, the court shall hold hearings every 6 months to review
320 the progress being made toward permanency for the child.

321 (b) If the court finds that clear and convincing evidence
322 does not establish that both parents of a child are deceased and
323 that a legal custodian has not been appointed for the child
324 through a probate or guardianship proceeding, the court shall
325 enter a written order denying the petition. The order has no
326 effect on the child's prior adjudication. The order does not bar
327 the petitioner from filing a subsequent petition for permanent
328 commitment based on newly discovered evidence that establishes
329 that both parents of a child are deceased and that a legal



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330 custodian has not been appointed for the child through a probate
331 or guardianship proceeding.

332 Section 6. Paragraph (c) of subsection (1) and subsections
333 (3) and (7) of section 39.521, Florida Statutes, are amended to
334 read:

335 39.521 Disposition hearings; powers of disposition.—

336 (1) A disposition hearing shall be conducted by the court,
337 if the court finds that the facts alleged in the petition for
338 dependency were proven in the adjudicatory hearing, or if the
339 parents or legal custodians have consented to the finding of
340 dependency or admitted the allegations in the petition, have
341 failed to appear for the arraignment hearing after proper
342 notice, or have not been located despite a diligent search
343 having been conducted.

344 (c) When any child is adjudicated by a court to be
345 dependent, the court having jurisdiction of the child has the
346 power by order to:

347 1. Require the parent and, when appropriate, the legal
348 guardian or the child to participate in treatment and services
349 identified as necessary. The court may require the person who
350 has custody or who is requesting custody of the child to submit
351 to a mental health or substance abuse disorder assessment or
352 evaluation. The order may be made only upon good cause shown and
353 pursuant to notice and procedural requirements provided under
354 the Florida Rules of Juvenile Procedure. The mental health
355 assessment or evaluation must be administered by a qualified
356 professional as defined in s. 39.01, and the substance abuse
357 assessment or evaluation must be administered by a qualified
358 professional as defined in s. 397.311. The court may also



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359 require such person to participate in and comply with treatment
360 and services identified as necessary, including, when
361 appropriate and available, participation in and compliance with
362 a mental health court program established under chapter 394 or a
363 treatment-based drug court program established under s. 397.334.
364 Adjudication of a child as dependent based upon evidence of harm
365 as defined in s. 39.01(35)(g) demonstrates good cause, and the
366 court shall require the parent whose actions caused the harm to
367 submit to a substance abuse disorder assessment or evaluation
368 and to participate and comply with treatment and services
369 identified in the assessment or evaluation as being necessary.
370 In addition to supervision by the department, the court,
371 including the mental health court program or the treatment-based
372 drug court program, may oversee the progress and compliance with
373 treatment by a person who has custody or is requesting custody
374 of the child. The court may impose appropriate available
375 sanctions for noncompliance upon a person who has custody or is
376 requesting custody of the child or make a finding of
377 noncompliance for consideration in determining whether an
378 alternative placement of the child is in the child's best
379 interests. Any order entered under this subparagraph may be made
380 only upon good cause shown. This subparagraph does not authorize
381 placement of a child with a person seeking custody of the child,
382 other than the child's parent or legal custodian, who requires
383 mental health or substance abuse disorder treatment.

384 2. Require, if the court deems necessary, the parties to
385 participate in dependency mediation.

386 3. Require placement of the child either under the
387 protective supervision of an authorized agent of the department



388 in the home of one or both of the child's parents or in the home
389 of a relative of the child or another adult approved by the
390 court, or in the custody of the department. ~~Protective~~
391 ~~supervision continues until the court terminates it or until the~~
392 ~~child reaches the age of 18, whichever date is first. Protective~~
393 ~~supervision shall be terminated by the court whenever the court~~
394 ~~determines that permanency has been achieved for the child,~~
395 ~~whether with a parent, another relative, or a legal custodian,~~
396 ~~and that protective supervision is no longer needed. The~~
397 ~~termination of supervision may be with or without retaining~~
398 ~~jurisdiction, at the court's discretion, and shall in either~~
399 ~~case be considered a permanency option for the child. The order~~
400 ~~terminating supervision by the department must set forth the~~
401 ~~powers of the custodian of the child and include the powers~~
402 ~~ordinarily granted to a guardian of the person of a minor unless~~
403 ~~otherwise specified. Upon the court's termination of supervision~~
404 ~~by the department, further judicial reviews are not required if~~
405 ~~permanency has been established for the child.~~

406 4. Determine whether the child has a strong attachment to
407 the prospective permanent guardian and whether such guardian has
408 a strong commitment to permanently caring for the child.

409 (3) When any child is adjudicated by a court to be
410 dependent, the court shall determine the appropriate placement
411 for the child as follows:

412 (a) If the court determines that the child can safely
413 remain in the home with the parent with whom the child was
414 residing at the time the events or conditions arose that brought
415 the child within the jurisdiction of the court and that
416 remaining in this home is in the best interest of the child,



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417 then the court shall order conditions under which the child may
418 remain or return to the home and that this placement be under
419 the protective supervision of the department for not less than 6
420 months.

421 (b) If there is a parent with whom the child was not
422 residing at the time the events or conditions arose that brought
423 the child within the jurisdiction of the court who desires to
424 assume custody of the child, the court shall place the child
425 with that parent upon completion of a home study, unless the
426 court finds that such placement would endanger the safety, well-
427 being, or physical, mental, or emotional health of the child.
428 Any party with knowledge of the facts may present to the court
429 evidence regarding whether the placement will endanger the
430 safety, well-being, or physical, mental, or emotional health of
431 the child. If the court places the child with such parent, it
432 may do either of the following:

433 1. Order that the parent assume sole custodial
434 responsibilities for the child. The court may also provide for
435 reasonable visitation by the noncustodial parent. The court may
436 then terminate its jurisdiction over the child.

437 2. Order that the parent assume custody subject to the
438 jurisdiction of the circuit court hearing dependency matters.
439 The court may order that reunification services be provided to
440 the parent from whom the child has been removed, that services
441 be provided solely to the parent who is assuming physical
442 custody in order to allow that parent to retain later custody
443 without court jurisdiction, or that services be provided to both
444 parents, in which case the court shall determine at every review
445 hearing which parent, if either, shall have custody of the



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446 child. The standard for changing custody of the child from one
447 parent to another or to a relative or another adult approved by
448 the court shall be the best interest of the child.

449 (c) If no fit parent is willing or available to assume care
450 and custody of the child, place the child in the temporary legal
451 custody of an adult relative, the adoptive parent of the child's
452 sibling, or another adult approved by the court who is willing
453 to care for the child, under the protective supervision of the
454 department. The department must supervise this placement until
455 the child reaches permanency status in this home, and in no case
456 for a period of less than 6 months. Permanency in a relative
457 placement shall be by adoption, long-term custody, or
458 guardianship.

459 (d) If the child cannot be safely placed in a nonlicensed
460 placement, the court shall commit the child to the temporary
461 legal custody of the department. Such commitment invests in the
462 department all rights and responsibilities of a legal custodian.
463 The department may ~~shall~~ not return any child to the physical
464 care and custody of the person from whom the child was removed,
465 except for court-approved visitation periods, without the
466 approval of the court. Any order for visitation or other contact
467 must conform to the provisions of s. 39.0139. The term of such
468 commitment continues until terminated by the court or until the
469 child reaches the age of 18. After the child is committed to the
470 temporary legal custody of the department, all further
471 proceedings under this section are governed by this chapter.

472
473 ~~Protective supervision continues until the court terminates it~~
474 ~~or until the child reaches the age of 18, whichever date is~~



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475 ~~first. Protective supervision shall be terminated by the court~~
476 ~~whenever the court determines that permanency has been achieved~~
477 ~~for the child, whether with a parent, another relative, or a~~
478 ~~legal custodian, and that protective supervision is no longer~~
479 ~~needed. The termination of supervision may be with or without~~
480 ~~retaining jurisdiction, at the court's discretion, and shall in~~
481 ~~either case be considered a permanency option for the child. The~~
482 ~~order terminating supervision by the department shall set forth~~
483 ~~the powers of the custodian of the child and shall include the~~
484 ~~powers ordinarily granted to a guardian of the person of a minor~~
485 ~~unless otherwise specified. Upon the court's termination of~~
486 ~~supervision by the department, no further judicial reviews are~~
487 ~~required, so long as permanency has been established for the~~
488 ~~child.~~

489 ~~(7) The court may enter an order ending its jurisdiction~~
490 ~~over a child when a child has been returned to the parents,~~
491 ~~provided the court shall not terminate its jurisdiction or the~~
492 ~~department's supervision over the child until 6 months after the~~
493 ~~child's return. The department shall supervise the placement of~~
494 ~~the child after reunification for at least 6 months with each~~
495 ~~parent or legal custodian from whom the child was removed. The~~
496 ~~court shall determine whether its jurisdiction should be~~
497 ~~continued or terminated in such a case based on a report of the~~
498 ~~department or agency or the child's guardian ad litem, and any~~
499 ~~other relevant factors; if its jurisdiction is to be terminated,~~
500 ~~the court shall enter an order to that effect.~~

501 Section 7. Section 39.522, Florida Statutes, is amended to
502 read:

503 39.522 Postdisposition change of custody.—The court may



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504 change the temporary legal custody or the conditions of
505 protective supervision at a postdisposition hearing, without the
506 necessity of another adjudicatory hearing. If a child has been
507 returned to the parent and is under protective supervision by
508 the department and the child is later removed again from the
509 parent's custody, any modifications of placement shall be done
510 under this section.

511 (1) At any time, an authorized agent of the department or a
512 law enforcement officer may remove a child from a court-ordered
513 placement and take the child into custody if the child's current
514 caregiver requests immediate removal of the child from the home
515 or if there is probable cause as required in s. 39.401(1)(b).
516 The department shall file a motion to modify placement within 1
517 business day after the child is taken into custody. Unless all
518 parties agree to the change of placement, the court must set a
519 hearing within 24 hours after the filing of the motion. At the
520 hearing, the court shall determine whether the department has
521 established probable cause to support the immediate removal of
522 the child from his or her current placement. The court may base
523 its determination on a sworn petition, testimony, or an
524 affidavit and may hear all relevant and material evidence,
525 including oral or written reports, to the extent of its
526 probative value even though it would not be competent evidence
527 at an adjudicatory hearing. If the court finds that probable
528 cause is not established to support the removal of the child
529 from the placement, the court shall order that the child be
530 returned to his or her current placement. If the caregiver
531 admits to a need for a change of placement or probable cause is
532 established to support the removal, the court shall enter an



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533 order changing the placement of the child. If the child is not
534 placed in foster care, then the new placement for the child must
535 meet the home study criteria in chapter 39. If the child's
536 placement is modified based on a probable cause finding, the
537 court must conduct a subsequent evidentiary hearing, unless
538 waived by all parties, on the motion to determine whether the
539 department has established by a preponderance of the evidence
540 that maintaining the new placement of the child is in the best
541 interest of the child. The court shall consider the continuity
542 of the child's placement in the same out-of-home residence as a
543 factor when determining the best interests of the child.

544 (2) ~~(1)~~ At any time before a child is residing in the
545 permanent placement approved at the permanency hearing, a child
546 who has been placed in the child's own home under the protective
547 supervision of an authorized agent of the department, in the
548 home of a relative, in the home of a legal custodian, or in some
549 other place may be brought before the court by the department or
550 by any other party ~~interested person~~, upon the filing of a
551 petition ~~motion~~ alleging a need for a change in the conditions
552 of protective supervision or the placement. If the parents or
553 other legal custodians deny the need for a change, the court
554 shall hear all parties in person or by counsel, or both. Upon
555 the admission of a need for a change or after such hearing, the
556 court shall enter an order changing the placement, modifying the
557 conditions of protective supervision, or continuing the
558 conditions of protective supervision as ordered. The standard
559 for changing custody of the child is determined by a
560 preponderance of the evidence that establishes that a change is
561 in ~~shall be~~ the best interest of the child. When applying this



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562 standard, the court shall consider the continuity of the child's
563 placement in the same out-of-home residence as a factor when
564 determining the best interests of the child. If the child is not
565 placed in foster care, then the new placement for the child must
566 meet the home study criteria and court approval under ~~pursuant~~
567 ~~to~~ this chapter.

568 (3)~~(2)~~ In cases where the issue before the court is whether
569 a child should be reunited with a parent, the court shall review
570 the conditions for return and determine whether the
571 circumstances that caused the out-of-home placement and issues
572 subsequently identified have been remedied to the extent that
573 the return of the child to the home with an in-home safety plan
574 prepared or approved by the department will not be detrimental
575 to the child's safety, well-being, and physical, mental, and
576 emotional health.

577 (4)~~(3)~~ In cases where the issue before the court is whether
578 a child who is placed in the custody of a parent should be
579 reunited with the other parent upon a finding that the
580 circumstances that caused the out-of-home placement and issues
581 subsequently identified have been remedied to the extent that
582 the return of the child to the home of the other parent with an
583 in-home safety plan prepared or approved by the department will
584 not be detrimental to the child, the standard shall be that the
585 safety, well-being, and physical, mental, and emotional health
586 of the child would not be endangered by reunification and that
587 reunification would be in the best interest of the child.

588 Section 8. Subsection (8) of section 39.6011, Florida
589 Statutes, is amended to read:

590 39.6011 Case plan development.—



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591 (8) The case plan must be filed with the court and copies
592 provided to all parties, including the child if appropriate:
593 ~~not less than 3 business days before the disposition hearing.~~

594 (a) Not less than 72 hours before the disposition hearing,
595 if the disposition hearing occurs on or after the 60th day after
596 the date the child was placed in out-of-home care; or

597 (b) Not less than 72 hours before the case plan acceptance
598 hearing, if the disposition hearing occurs before the 60th day
599 after the date the child was placed in out-of-home care and a
600 case plan has not been submitted under this subsection, or if
601 the court does not approve the case plan at the disposition
602 hearing.

603 Section 9. Paragraph (a) of subsection (3) of section
604 39.801, Florida Statutes, is amended to read:

605 39.801 Procedures and jurisdiction; notice; service of
606 process.—

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

610 (a) Notice of the date, time, and place of the advisory
611 hearing for the petition to terminate parental rights and a copy
612 of the petition must be personally served upon the following
613 persons, specifically notifying them that a petition has been
614 filed:

615 1. The parents of the child.

616 2. The legal custodians of the child.

617 3. If the parents who would be entitled to notice are dead
618 or unknown, a living relative of the child, unless upon diligent
619 search and inquiry no such relative can be found.



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620 4. Any person who has physical custody of the child.
621 5. Any grandparent entitled to priority for adoption under
622 s. 63.0425.
623 6. Any prospective parent who has been identified and
624 located under s. 39.503 or s. 39.803, unless a court order has
625 been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or
626 (9) which indicates no further notice is required. Except as
627 otherwise provided in this section, if there is not a legal
628 father, notice of the petition for termination of parental
629 rights must be provided to any known prospective father who is
630 identified under oath before the court or who is identified and
631 located by a diligent search of the Florida Putative Father
632 Registry. Service of the notice of the petition for termination
633 of parental rights is not required if the prospective father
634 executes an affidavit of nonpaternity or a consent to
635 termination of his parental rights which is accepted by the
636 court after notice and opportunity to be heard by all parties to
637 address the best interests of the child in accepting such
638 affidavit.
639 7. The guardian ad litem for the child or the
640 representative of the guardian ad litem program, if the program
641 has been appointed.
642
643 The document containing the notice to respond or appear must
644 contain, in type at least as large as the type in the balance of
645 the document, the following or substantially similar language:
646 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
647 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
648 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND



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649 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
650 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
651 NOTICE.”

652 Section 10. Paragraph (e) of subsection (1) and subsection
653 (2) of section 39.806, Florida Statutes, are amended to read:

654 39.806 Grounds for termination of parental rights.—

655 (1) Grounds for the termination of parental rights may be
656 established under any of the following circumstances:

657 (e) When a child has been adjudicated dependent, a case
658 plan has been filed with the court, and:

659 1. The child continues to be abused, neglected, or
660 abandoned by the parent or parents. The failure of the parent or
661 parents to substantially comply with the case plan for a period
662 of 12 months after an adjudication of the child as a dependent
663 child or the child’s placement into shelter care, whichever
664 occurs first, constitutes evidence of continuing abuse, neglect,
665 or abandonment unless the failure to substantially comply with
666 the case plan was due to the parent’s lack of financial
667 resources or to the failure of the department to make reasonable
668 efforts to reunify the parent and child. The 12-month period
669 begins to run only after the child’s placement into shelter care
670 or the entry of a disposition order placing the custody of the
671 child with the department or a person other than the parent and
672 the court’s approval of a case plan having the goal of
673 reunification with the parent, whichever occurs first; ~~or~~

674 2. The parent or parents have materially breached the case
675 plan by their action or inaction. Time is of the essence for
676 permanency of children in the dependency system. In order to
677 prove the parent or parents have materially breached the case



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678 plan, the court must find by clear and convincing evidence that
679 the parent or parents are unlikely or unable to substantially
680 comply with the case plan before time to comply with the case
681 plan expires; or-

682 3. The child has been in care for any 12 of the last 22
683 months and the parents have not substantially complied with the
684 case plan so as to permit reunification under s. 39.522(3) ~~s.~~
685 ~~39.522(2)~~ unless the failure to substantially comply with the
686 case plan was due to the parent's lack of financial resources or
687 to the failure of the department to make reasonable efforts to
688 reunify the parent and child.

689 (2) Reasonable efforts to preserve and reunify families are
690 not required if a court of competent jurisdiction has determined
691 that any of the events described in paragraphs (1)(b)-(d) or
692 paragraphs (1)(f)-(n) ~~(1)(f)-(m)~~ have occurred.

693 Section 11. Subsection (9) of section 39.811, Florida
694 Statutes, is amended to read:

695 39.811 Powers of disposition; order of disposition.-

696 (9) After termination of parental rights or a written order
697 of permanent commitment entered under s. 39.5035, the court
698 shall retain jurisdiction over any child for whom custody is
699 given to a social service agency until the child is adopted. The
700 court shall review the status of the child's placement and the
701 progress being made toward permanent adoptive placement. As part
702 of this continuing jurisdiction, for good cause shown by the
703 guardian ad litem for the child, the court may review the
704 appropriateness of the adoptive placement of the child. The
705 department's decision to deny an application to adopt a child
706 who is under the court's jurisdiction is reviewable only through



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707 a motion to file a chapter 63 petition as provided in s.
708 39.812(4), and is not subject to chapter 120.

709 Section 12. Subsections (1), (4), and (5) of section
710 39.812, Florida Statutes, are amended to read:

711 39.812 Postdisposition relief; petition for adoption.—

712 (1) If the department is given custody of a child for
713 subsequent adoption in accordance with this chapter, the
714 department may place the child with an agency as defined in s.
715 63.032, with a child-caring agency registered under s. 409.176,
716 or in a family home for prospective subsequent adoption without
717 the need for a court order unless otherwise required under this
718 section. The department may allow prospective adoptive parents
719 to visit with a child in the department's custody without a
720 court order to determine whether the adoptive placement would be
721 appropriate. The department may thereafter become a party to any
722 proceeding for the legal adoption of the child and appear in any
723 court where the adoption proceeding is pending and consent to
724 the adoption, and that consent alone shall in all cases be
725 sufficient.

726 (4) The court shall retain jurisdiction over any child
727 placed in the custody of the department until the case is closed
728 as provided in s. 39.63 ~~the child is adopted~~. After custody of a
729 child for subsequent adoption has been given to the department,
730 the court has jurisdiction for the purpose of reviewing the
731 status of the child and the progress being made toward permanent
732 adoptive placement. As part of this continuing jurisdiction, for
733 good cause shown by the guardian ad litem for the child, the
734 court may review the appropriateness of the adoptive placement
735 of the child.



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736 (a) If the department has denied a person's application to
737 adopt a child, the denied applicant may file a motion with the
738 court within 30 days after the issuance of the written
739 notification of denial to allow him or her to file a chapter 63
740 petition to adopt a child without the department's consent. The
741 denied applicant must allege in its motion that the department
742 unreasonably withheld its consent to the adoption. The court, as
743 part of its continuing jurisdiction, may review and rule on the
744 motion.

745 1. The denied applicant only has standing in the chapter 39
746 proceeding to file the motion in paragraph (a) and to present
747 evidence in support of the motion at a hearing, which must be
748 held within 30 days after the filing of the motion.

749 2. At the hearing on the motion, the court may only
750 consider whether the department's review of the application was
751 consistent with its policies and made in an expeditious manner.
752 The standard of review by the court is whether the department's
753 denial of the application is an abuse of discretion. The court
754 may not compare the denied applicant against another applicant
755 to determine which placement is in the best interests of the
756 child.

757 3. If the denied applicant establishes by a preponderance
758 of the evidence that the department unreasonably withheld its
759 consent, the court shall enter an order authorizing the denied
760 applicant to file a petition to adopt the child under chapter 63
761 without the department's consent.

762 4. If the denied applicant does not prove by a
763 preponderance of the evidence that the department unreasonably
764 withheld its consent, the court shall enter an order so finding



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765 and dismiss the motion.

766 5. The standing of the denied applicant in the chapter 39
767 proceeding is terminated upon entry of the court's order.

768 (b) When a licensed foster parent or court-ordered
769 custodian has applied to adopt a child who has resided with the
770 foster parent or custodian for at least 6 months and who has
771 previously been permanently committed to the legal custody of
772 the department and the department does not grant the application
773 to adopt, the department may not, in the absence of a prior
774 court order authorizing it to do so, remove the child from the
775 foster home or custodian, except when:

776 1.~~(a)~~ There is probable cause to believe that the child is
777 at imminent risk of abuse or neglect;

778 2.~~(b)~~ Thirty days have expired following written notice to
779 the foster parent or custodian of the denial of the application
780 to adopt, within which period no formal challenge of the
781 department's decision has been filed; ~~or~~

782 3.~~(c)~~ The foster parent or custodian agrees to the child's
783 removal; or.

784 4. The department has selected another prospective adoptive
785 parent to adopt the child and either the foster parent or
786 custodian has not filed a motion with the court to allow him or
787 her to file a chapter 63 petition to adopt a child without the
788 department's consent, as provided under paragraph (a), or the
789 court has denied such a motion.

790 (5) The petition for adoption must be filed in the division
791 of the circuit court which entered the judgment terminating
792 parental rights, unless a motion for change of venue is granted
793 under pursuant to s. 47.122. A copy of the consent executed by



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794 the department must be attached to the petition, unless such
795 consent is waived under subsection (4) pursuant to s. 63.062(7).

796 The petition must be accompanied by a statement, signed by the
797 prospective adoptive parents, acknowledging receipt of all
798 information required to be disclosed under s. 63.085 and a form
799 provided by the department which details the social and medical
800 history of the child and each parent and includes the social
801 security number and date of birth for each parent, if such
802 information is available or readily obtainable. The prospective
803 adoptive parents may not file a petition for adoption until the
804 judgment terminating parental rights becomes final. An adoption
805 proceeding under this subsection is governed by chapter 63.

806 Section 13. Subsection (7) of section 63.062, Florida
807 Statutes, is amended to read:

808 63.062 Persons required to consent to adoption; affidavit
809 of nonpaternity; waiver of venue.—

810 (7) If parental rights to the minor have previously been
811 terminated, the adoption entity with which the minor has been
812 placed for subsequent adoption may provide consent to the
813 adoption. In such case, no other consent is required. If the
814 minor has been permanently committed to the department for
815 subsequent adoption, the department must consent to the adoption
816 or, in the alternative, the court order entered under s.
817 39.812(4) finding that the department ~~The consent of the~~
818 ~~department shall be waived upon a determination by the court~~
819 ~~that such consent is being unreasonably withheld~~ its consent
820 must be attached to the petition to adopt, and if the petitioner
821 must file ~~has filed with the court~~ a favorable preliminary
822 adoptive home study as required under s. 63.092.



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823 Section 14. Paragraph (b) of subsection (6) of section
824 63.082, Florida Statutes, is amended to read:

825 63.082 Execution of consent to adoption or affidavit of
826 nonpaternity; family social and medical history; revocation of
827 consent.—

828 (6)

829 (b) Upon execution of the consent of the parent, the
830 adoption entity must ~~shall~~ be permitted to intervene in the
831 dependency case as a party in interest and must provide the
832 court that acquired jurisdiction over the minor, pursuant to the
833 shelter order or dependency petition filed by the department, a
834 copy of the preliminary home study of the prospective adoptive
835 parents and any other evidence of the suitability of the
836 placement. The preliminary home study must be maintained with
837 strictest confidentiality within the dependency court file and
838 the department's file. A preliminary home study must be provided
839 to the court in all cases in which an adoption entity has
840 intervened under ~~pursuant to~~ this section. The exemption in s.
841 63.092(3) from the home study for a stepparent or relative does
842 not apply if a minor is under the supervision of the department
843 or is otherwise subject to the jurisdiction of the dependency
844 court as a result of the filing of a shelter petition,
845 dependency petition, or termination of parental rights petition
846 under chapter 39. Unless the court has concerns regarding the
847 qualifications of the home study provider, or concerns that the
848 home study may not be adequate to determine the best interests
849 of the child, the home study provided by the adoption entity is
850 ~~shall be deemed to be~~ sufficient and no additional home study
851 needs to be performed by the department.



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852 Section 15. Subsections (8) and (9) of section 402.302,
853 Florida Statutes, are amended to read:

854 402.302 Definitions.—As used in this chapter, the term:

855 (8) "Family day care home" means an occupied primary
856 residence leased or owned by the operator in which child care is
857 regularly provided for children from at least two unrelated
858 families and which receives a payment, fee, or grant for any of
859 the children receiving care, whether or not operated for profit.
860 Household children under 13 years of age, when on the premises
861 of the family day care home or on a field trip with children
862 enrolled in child care, are ~~shall be~~ included in the overall
863 capacity of the licensed home. A family day care home is ~~shall~~
864 ~~be~~ allowed to provide care for one of the following groups of
865 children, which shall include household children under 13 years
866 of age:

867 (a) A maximum of four children from birth to 12 months of
868 age.

869 (b) A maximum of three children from birth to 12 months of
870 age, and other children, for a maximum total of six children.

871 (c) A maximum of six preschool children if all are older
872 than 12 months of age.

873 (d) A maximum of 10 children if no more than 5 are
874 preschool age and, of those 5, no more than 2 are under 12
875 months of age.

876 (9) "Household children" means children who are related by
877 blood, marriage, or legal adoption to, or who are the legal
878 wards of, the family day care home operator, the large family
879 child care home operator, or an adult household member who
880 permanently or temporarily resides in the home. Supervision of



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881 the operator's household children shall be left to the
882 discretion of the operator unless those children receive
883 subsidized child care through the school readiness program under
884 ~~pursuant to~~ s. 1002.92 to be in the home.

885 Section 16. Paragraph (a) of subsection (7), paragraphs (b)
886 and (c) of subsection (9), and subsection (10) of section
887 402.305, Florida Statutes, are amended to read:

888 402.305 Licensing standards; child care facilities.—

889 (7) SANITATION AND SAFETY.—

890 (a) Minimum standards shall include requirements for
891 sanitary and safety conditions, first aid treatment, emergency
892 procedures, and pediatric cardiopulmonary resuscitation. The
893 minimum standards shall require that at least one staff person
894 trained and certified in cardiopulmonary resuscitation, as
895 evidenced by current documentation of course completion, must be
896 present at all times that children are present.

897 (9) ADMISSIONS AND RECORDKEEPING.—

898 (b) At the time of initial enrollment and annually
899 thereafter ~~During the months of August and September of each~~
900 ~~year~~, each child care facility shall provide parents of children
901 enrolled in the facility detailed information regarding the
902 causes, symptoms, and transmission of the influenza virus in an
903 effort to educate those parents regarding the importance of
904 immunizing their children against influenza as recommended by
905 the Advisory Committee on Immunization Practices of the Centers
906 for Disease Control and Prevention.

907 (c) At the time of initial enrollment and annually
908 thereafter ~~During the months of April and September of each~~
909 ~~year~~, at a minimum, each facility shall provide parents of



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910 children enrolled in the facility information regarding the
911 potential for a distracted adult to fail to drop off a child at
912 the facility and instead leave the child in the adult's vehicle
913 upon arrival at the adult's destination. The child care facility
914 shall also give parents information about resources with
915 suggestions to avoid this occurrence. The department shall
916 develop a flyer or brochure with this information that shall be
917 posted to the department's website, which child care facilities
918 may choose to reproduce and provide to parents to satisfy the
919 requirements of this paragraph.

920 (10) TRANSPORTATION SAFETY.—

921 (a) Minimum standards for child care facilities, family day
922 care homes, and large family child care homes shall include all
923 of the following:

924 1. Requirements for child restraints or seat belts in
925 vehicles used by ~~child care~~ facilities and ~~large family child~~
926 ~~care~~ homes to transport children.

927 2. Requirements for annual inspections of such ~~the~~
928 vehicles.

929 3. Limitations on the number of children which may be
930 transported in such ~~the~~ vehicles, ~~procedures to avoid leaving~~
931 children in vehicles when transported by the facility, and
932 accountability for children transported by the child care
933 facility.

934 (b) Before providing transportation services or reinstating
935 transportation services after a lapse or discontinuation of
936 longer than 30 days, a child care facility, family day care
937 home, or large family child care home must be approved by the
938 department to transport children. Approval by the department is



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939 based on the provider's demonstration of compliance with all
940 current rules and standards for transportation.

941 (c) A child care facility, family day care home, or large
942 family child care home is not responsible for the safe transport
943 of children when they are being transported by a parent or
944 guardian.

945 Section 17. Subsections (14) and (15) of section 402.313,
946 Florida Statutes, are amended to read:

947 402.313 Family day care homes.—

948 (14) At the time of initial enrollment and annually
949 thereafter ~~During the months of August and September of each~~
950 ~~year~~, each family day care home shall provide parents of
951 children enrolled in the home detailed information regarding the
952 causes, symptoms, and transmission of the influenza virus in an
953 effort to educate those parents regarding the importance of
954 immunizing their children against influenza as recommended by
955 the Advisory Committee on Immunization Practices of the Centers
956 for Disease Control and Prevention.

957 (15) At the time of initial enrollment and annually
958 thereafter ~~During the months of April and September of each~~
959 ~~year~~, at a minimum, each family day care home shall provide
960 parents of children attending the family day care home
961 information regarding the potential for a distracted adult to
962 fail to drop off a child at the family day care home and instead
963 leave the child in the adult's vehicle upon arrival at the
964 adult's destination. The family day care home shall also give
965 parents information about resources with suggestions to avoid
966 this occurrence. The department shall develop a flyer or
967 brochure with this information that shall be posted to the



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968 department's website, which family day care homes may choose to
969 reproduce and provide to parents to satisfy the requirements of
970 this subsection.

971 Section 18. Subsections (8), (9), and (10) of section
972 402.3131, Florida Statutes, are amended to read:

973 402.3131 Large family child care homes.—

974 (8) Before ~~Prior to~~ being licensed by the department, large
975 family child care homes must be approved by the state or local
976 fire marshal in accordance with standards established for child
977 care facilities.

978 (9) At the time of initial enrollment and annually
979 thereafter ~~During the months of August and September of each~~
980 ~~year~~, each large family child care home shall provide parents of
981 children enrolled in the home detailed information regarding the
982 causes, symptoms, and transmission of the influenza virus in an
983 effort to educate those parents regarding the importance of
984 immunizing their children against influenza as recommended by
985 the Advisory Committee on Immunization Practices of the Centers
986 for Disease Control and Prevention.

987 (10) At the time of initial enrollment and annually
988 thereafter ~~During the months of April and September of each~~
989 ~~year~~, at a minimum, each large family child care home shall
990 provide parents of children attending the large family child
991 care home information regarding the potential for a distracted
992 adult to fail to drop off a child at the large family child care
993 home and instead leave the child in the adult's vehicle upon
994 arrival at the adult's destination. The large family child care
995 home shall also give parents information about resources with
996 suggestions to avoid this occurrence. The department shall



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997 develop a flyer or brochure with this information that shall be
998 posted to the department's website, which large family child
999 care homes may choose to reproduce and provide to parents to
1000 satisfy the requirements of this subsection.

1001 Section 19. Subsection (6) and paragraphs (b) and (e) of
1002 subsection (7) of section 409.1451, Florida Statutes, are
1003 amended to read:

1004 409.1451 The Road-to-Independence Program.—

1005 (6) ACCOUNTABILITY.—The department shall develop outcome
1006 measures for the program and other performance measures ~~in order~~
1007 ~~to maintain oversight of the program. No later than January 31~~
1008 ~~of each year, the department shall prepare a report on the~~
1009 ~~outcome measures and the department's oversight activities and~~
1010 ~~submit the report to the President of the Senate, the Speaker of~~
1011 ~~the House of Representatives, and the committees with~~
1012 ~~jurisdiction over issues relating to children and families in~~
1013 ~~the Senate and the House of Representatives. The report must~~
1014 ~~include:~~

1015 ~~(a) An analysis of performance on the outcome measures~~
1016 ~~developed under this section reported for each community-based~~
1017 ~~care lead agency and compared with the performance of the~~
1018 ~~department on the same measures.~~

1019 ~~(b) A description of the department's oversight of the~~
1020 ~~program, including, by lead agency, any programmatic or fiscal~~
1021 ~~deficiencies found, corrective actions required, and current~~
1022 ~~status of compliance.~~

1023 ~~(c) Any rules adopted or proposed under this section since~~
1024 ~~the last report. For the purposes of the first report, any rules~~
1025 ~~adopted or proposed under this section must be included.~~



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1026 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The
1027 secretary shall establish the Independent Living Services
1028 Advisory Council for the purpose of reviewing and making
1029 recommendations concerning the implementation and operation of
1030 the provisions of s. 39.6251 and the Road-to-Independence
1031 Program. The advisory council shall function as specified in
1032 this subsection until the Legislature determines that the
1033 advisory council can no longer provide a valuable contribution
1034 to the department's efforts to achieve the goals of the services
1035 designed to enable a young adult to live independently.

1036 ~~(b) The advisory council shall report to the secretary on~~
1037 ~~the status of the implementation of the Road-to-Independence~~
1038 ~~Program, efforts to publicize the availability of the Road to-~~
1039 ~~Independence Program, the success of the services, problems~~
1040 ~~identified, recommendations for department or legislative~~
1041 ~~action, and the department's implementation of the~~
1042 ~~recommendations contained in the Independent Living Services~~
1043 ~~Integration Workgroup Report submitted to the appropriate~~
1044 ~~substantive committees of the Legislature by December 31, 2013.~~
1045 ~~The department shall submit a report by December 31 of each year~~
1046 ~~to the Governor, the President of the Senate, and the Speaker of~~
1047 ~~the House of Representatives which includes a summary of the~~
1048 ~~factors reported on by the council and identifies the~~
1049 ~~recommendations of the advisory council and either describes the~~
1050 ~~department's actions to implement the recommendations or~~
1051 ~~provides the department's rationale for not implementing the~~
1052 ~~recommendations.~~

1053 ~~(c) The advisory council report required under paragraph~~
1054 ~~(b) must include an analysis of the system of independent living~~



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1055 ~~transition services for young adults who reach 18 years of age~~
1056 ~~while in foster care before completing high school or its~~
1057 ~~equivalent and recommendations for department or legislative~~
1058 ~~action. The council shall assess and report on the most~~
1059 ~~effective method of assisting these young adults to complete~~
1060 ~~high school or its equivalent by examining the practices of~~
1061 ~~other states.~~

1062 Section 20. This act shall take effect October 1, 2020.

1063

1064 ===== T I T L E A M E N D M E N T =====

1065 And the title is amended as follows:

1066 Delete everything before the enacting clause
1067 and insert:

1068 A bill to be entitled
1069 An act relating to child welfare; amending s. 25.385,
1070 F.S.; requiring the Florida Court Educational Council
1071 to establish certain standards for instruction of
1072 specified circuit court judges; amending s. 39.205,
1073 F.S.; deleting a requirement for the Department of
1074 Children and Families to report certain information to
1075 the Legislature; amending s. 39.302, F.S.; requiring
1076 the department to review certain reports under certain
1077 circumstances; amending s. 39.407, F.S.; transferring
1078 certain duties to the department from the Agency for
1079 Health Care Administration; creating s. 39.5035, F.S.;
1080 providing court procedures and requirements relating
1081 to deceased parents of a dependent child; providing
1082 requirements for petitions for adjudication and
1083 permanent commitment for certain children; amending s.



1084 39.521, F.S.; deleting provisions relating to
1085 protective supervision; deleting provisions relating
1086 to the court's authority to enter an order ending its
1087 jurisdiction over a child under certain circumstances;
1088 amending s. 39.522, F.S.; providing requirements for a
1089 modification of placement of a child under the
1090 supervision of the department; amending s. 39.6011,
1091 F.S.; providing timeframes in which case plans must be
1092 filed with the court and be provided to specified
1093 parties; amending s. 39.801, F.S.; conforming
1094 provisions to changes made by the act; amending s.
1095 39.806, F.S.; conforming cross-references; amending s.
1096 39.811, F.S.; expanding conditions under which a court
1097 retains jurisdiction; providing when certain decisions
1098 relating to adoption are reviewable; amending s.
1099 39.812, F.S.; authorizing the department to take
1100 certain actions without a court order; authorizing
1101 certain persons to file a petition to adopt a child
1102 without the department's consent; providing standing
1103 requirements; providing a standard of proof; providing
1104 responsibilities of the court in such cases; amending
1105 s. 63.062, F.S.; requiring the department to consent
1106 to certain adoptions; providing exceptions; amending
1107 s. 63.082, F.S.; providing construction; amending s.
1108 402.302, F.S.; revising definitions; amending s.
1109 402.305, F.S.; requiring a certain number of staff
1110 persons at child care facilities to be certified in
1111 certain safety techniques; requiring child care
1112 facilities to provide certain information to parents



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1113 at the time of initial enrollment and annually
1114 thereafter; revising minimum standards for child care
1115 facilities, family day care homes, and large family
1116 child care homes relating to transportation; requiring
1117 child care facilities, family day care homes, and
1118 large family child care homes to be approved by the
1119 department to transport children in certain
1120 situations; amending s. 402.313, F.S.; requiring
1121 family day care homes to provide certain information
1122 to parents at the time of enrollment and annually
1123 thereafter; amending s. 402.3131, F.S.; requiring
1124 large family child care homes to provide certain
1125 information to parents at the time of enrollment and
1126 annually thereafter; amending s. 409.1451, F.S.;
1127 deleting a reporting requirement of the department and
1128 the Independent Living Services Advisory Council;
1129 providing an effective date.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 25.385, Florida Statutes, is amended to read:

25.385 Standards for instruction of circuit and county court judges ~~in handling domestic violence cases.~~

(1) The Florida Court Educational Council shall establish standards for instruction of circuit and county court judges who



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11 have responsibility for domestic violence cases, and the council
12 shall provide such instruction on a periodic and timely basis.

13 ~~(2)~~ As used in this section:

14 (a) The term "domestic violence" has the meaning set forth
15 in s. 741.28.

16 (b) "Family or household member" has the meaning set forth
17 in s. 741.28.

18 (2) The Florida Court Educational Council shall establish
19 standards for instruction of circuit court judges who have
20 responsibility for dependency cases. The standards for
21 instruction must be consistent with and reinforce the purposes
22 of chapter 39, with emphasis on ensuring that a permanent
23 placement is achieved as soon as possible and that a child
24 should not remain in foster care for longer than 1 year. This
25 instruction must be provided on a periodic and timely basis and
26 may be provided by or in consultation with current or retired
27 judges, the Department of Children and Families, or the
28 Statewide Guardian Ad Litem Office established in s. 39.8296.

29 Section 2. Subsection (7) of section 39.205, Florida
30 Statutes, is amended to read:

31 39.205 Penalties relating to reporting of child abuse,
32 abandonment, or neglect.—

33 (7) The department shall establish procedures for
34 determining whether a false report of child abuse, abandonment,
35 or neglect has been made and for submitting all identifying
36 information relating to such a report to the appropriate law
37 enforcement agency and ~~shall report annually to the Legislature~~
38 ~~the number of reports referred.~~

39 Section 3. Subsection (7) of section 39.302, Florida



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40 Statutes, is amended to read:

41 39.302 Protective investigations of institutional child
42 abuse, abandonment, or neglect.—

43 (7) When an investigation of institutional abuse, neglect,
44 or abandonment is closed and a person is not identified as a
45 caregiver responsible for the abuse, neglect, or abandonment
46 alleged in the report, the fact that the person is named in some
47 capacity in the report may not be used in any way to adversely
48 affect the interests of that person. This prohibition applies to
49 any use of the information in employment screening, licensing,
50 child placement, adoption, or any other decisions by a private
51 adoption agency or a state agency or its contracted providers.

52 (a) However, if such a person is a licensee of the
53 department and is named in any capacity in a report ~~three or~~
54 ~~more reports~~ within a 5-year period, the department must ~~may~~
55 review the report ~~those reports~~ and determine whether the
56 information contained in the report ~~reports~~ is relevant for
57 purposes of determining whether the person's license should be
58 renewed or revoked. If the information is relevant to the
59 decision to renew or revoke the license, the department may rely
60 on the information contained in the report in making that
61 decision.

62 (b) Likewise, if a person is employed as a caregiver in a
63 residential group home licensed pursuant to s. 409.175 and is
64 named in any capacity in a report ~~three or more reports~~ within a
65 5-year period, the department must ~~may~~ review the report ~~all~~
66 ~~reports~~ for the purposes of the employment screening as defined
67 in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(e)~~.

68 Section 4. Subsection (6) of section 39.407, Florida



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69 Statutes, is amended to read:

70 39.407 Medical, psychiatric, and psychological examination
71 and treatment of child; physical, mental, or substance abuse
72 examination of person with or requesting child custody.—

73 (6) Children who are in the legal custody of the department
74 may be placed by the department, without prior approval of the
75 court, in a residential treatment center licensed under s.
76 394.875 or a hospital licensed under chapter 395 for residential
77 mental health treatment only as provided in ~~pursuant to~~ this
78 section or may be placed by the court in accordance with an
79 order of involuntary examination or involuntary placement
80 entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children
81 placed in a residential treatment program under this subsection
82 must have a guardian ad litem appointed.

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

84 1. "Residential treatment" means placement for observation,
85 diagnosis, or treatment of an emotional disturbance in a
86 residential treatment center licensed under s. 394.875 or a
87 hospital licensed under chapter 395.

88 2. "Least restrictive alternative" means the treatment and
89 conditions of treatment that, separately and in combination, are
90 no more intrusive or restrictive of freedom than reasonably
91 necessary to achieve a substantial therapeutic benefit or to
92 protect the child or adolescent or others from physical injury.

93 3. "Suitable for residential treatment" or "suitability"
94 means a determination concerning a child or adolescent with an
95 emotional disturbance as defined in s. 394.492(5) or a serious
96 emotional disturbance as defined in s. 394.492(6) that each of
97 the following criteria is met:



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98 a. The child requires residential treatment.

99 b. The child is in need of a residential treatment program
100 and is expected to benefit from mental health treatment.

101 c. An appropriate, less restrictive alternative to
102 residential treatment is unavailable.

103 (b) Whenever the department believes that a child in its
104 legal custody is emotionally disturbed and may need residential
105 treatment, an examination and suitability assessment must be
106 conducted by a qualified evaluator who is appointed by the
107 department ~~Agency for Health Care Administration~~. This
108 suitability assessment must be completed before the placement of
109 the child in a residential treatment center for emotionally
110 disturbed children and adolescents or a hospital. The qualified
111 evaluator must be a psychiatrist or a psychologist licensed in
112 Florida who has at least 3 years of experience in the diagnosis
113 and treatment of serious emotional disturbances in children and
114 adolescents and who has no actual or perceived conflict of
115 interest with any inpatient facility or residential treatment
116 center or program.

117 (c) Before a child is admitted under this subsection, the
118 child shall be assessed for suitability for residential
119 treatment by a qualified evaluator who has conducted a personal
120 examination and assessment of the child and has made written
121 findings that:

122 1. The child appears to have an emotional disturbance
123 serious enough to require residential treatment and is
124 reasonably likely to benefit from the treatment.

125 2. The child has been provided with a clinically
126 appropriate explanation of the nature and purpose of the



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127 treatment.

128 3. All available modalities of treatment less restrictive
129 than residential treatment have been considered, and a less
130 restrictive alternative that would offer comparable benefits to
131 the child is unavailable.

132
133 A copy of the written findings of the evaluation and suitability
134 assessment must be provided to the department, to the guardian
135 ad litem, and, if the child is a member of a Medicaid managed
136 care plan, to the plan that is financially responsible for the
137 child's care in residential treatment, all of whom must be
138 provided with the opportunity to discuss the findings with the
139 evaluator.

140 (d) Immediately upon placing a child in a residential
141 treatment program under this section, the department must notify
142 the guardian ad litem and the court having jurisdiction over the
143 child and must provide the guardian ad litem and the court with
144 a copy of the assessment by the qualified evaluator.

145 (e) Within 10 days after the admission of a child to a
146 residential treatment program, the director of the residential
147 treatment program or the director's designee must ensure that an
148 individualized plan of treatment has been prepared by the
149 program and has been explained to the child, to the department,
150 and to the guardian ad litem, and submitted to the department.
151 The child must be involved in the preparation of the plan to the
152 maximum feasible extent consistent with his or her ability to
153 understand and participate, and the guardian ad litem and the
154 child's foster parents must be involved to the maximum extent
155 consistent with the child's treatment needs. The plan must



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156 include a preliminary plan for residential treatment and
157 aftercare upon completion of residential treatment. The plan
158 must include specific behavioral and emotional goals against
159 which the success of the residential treatment may be measured.
160 A copy of the plan must be provided to the child, to the
161 guardian ad litem, and to the department.

162 (f) Within 30 days after admission, the residential
163 treatment program must review the appropriateness and
164 suitability of the child's placement in the program. The
165 residential treatment program must determine whether the child
166 is receiving benefit toward the treatment goals and whether the
167 child could be treated in a less restrictive treatment program.
168 The residential treatment program shall prepare a written report
169 of its findings and submit the report to the guardian ad litem
170 and to the department. The department must submit the report to
171 the court. The report must include a discharge plan for the
172 child. The residential treatment program must continue to
173 evaluate the child's treatment progress every 30 days thereafter
174 and must include its findings in a written report submitted to
175 the department. The department may not reimburse a facility
176 until the facility has submitted every written report that is
177 due.

178 (g)1. The department must submit, at the beginning of each
179 month, to the court having jurisdiction over the child, a
180 written report regarding the child's progress toward achieving
181 the goals specified in the individualized plan of treatment.

182 2. The court must conduct a hearing to review the status of
183 the child's residential treatment plan no later than 60 days
184 after the child's admission to the residential treatment



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185 program. An independent review of the child's progress toward
186 achieving the goals and objectives of the treatment plan must be
187 completed by a qualified evaluator and submitted to the court
188 before its 60-day review.

189 3. For any child in residential treatment at the time a
190 judicial review is held pursuant to s. 39.701, the child's
191 continued placement in residential treatment must be a subject
192 of the judicial review.

193 4. If at any time the court determines that the child is
194 not suitable for continued residential treatment, the court
195 shall order the department to place the child in the least
196 restrictive setting that is best suited to meet his or her
197 needs.

198 (h) After the initial 60-day review, the court must conduct
199 a review of the child's residential treatment plan every 90
200 days.

201 (i) The department must adopt rules for implementing
202 timeframes for the completion of suitability assessments by
203 qualified evaluators and a procedure that includes timeframes
204 for completing the 60-day independent review by the qualified
205 evaluators of the child's progress toward achieving the goals
206 and objectives of the treatment plan which review must be
207 submitted to the court. The Agency for Health Care
208 Administration must adopt rules for the registration of
209 qualified evaluators, the procedure for selecting the evaluators
210 to conduct the reviews required under this section, and a
211 reasonable, cost-efficient fee schedule for qualified
212 evaluators.

213 Section 5. Section 39.5035, Florida Statutes, is created to



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214 read:

215 39.5035 Deceased parents; special procedures.-

216 (1) (a) 1. If both parents of a child are deceased and a
217 legal custodian has not been appointed for the child through a
218 probate or guardianship proceeding, then an attorney for the
219 department or any other person, who has knowledge of the facts
220 whether alleged or is informed of the alleged facts and believes
221 them to be true, may initiate a proceeding by filing a petition
222 for adjudication and permanent commitment.

223 2. If a child has been placed in shelter status by order of
224 the court but has not yet been adjudicated, a petition for
225 adjudication and permanent commitment must be filed within 21
226 days after the shelter hearing. In all other cases, the petition
227 must be filed within a reasonable time after the date the child
228 was referred to protective investigation or after the petitioner
229 first becomes aware of the facts that support the petition for
230 adjudication and permanent commitment.

231 (b) If both parents or the last living parent dies after a
232 child has already been adjudicated dependent, an attorney for
233 the department or any other person who has knowledge of the
234 facts alleged or is informed of the alleged facts and believes
235 them to be true may file a petition for permanent commitment.

236 (2) The petition:

237 (a) Must be in writing, identify the alleged deceased
238 parents, and provide facts that establish that both parents of
239 the child are deceased and that a legal custodian has not been
240 appointed for the child through a probate or guardianship
241 proceeding.

242 (b) Must be signed by the petitioner under oath stating the



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243 petitioner's good faith in filing the petition.

244 (3) When a petition for adjudication and permanent
245 commitment or a petition for permanent commitment has been
246 filed, the clerk of court shall set the case before the court
247 for an adjudicatory hearing. The adjudicatory hearing must be
248 held as soon as practicable after the petition is filed, but no
249 later than 30 days after the filing date.

250 (4) Notice of the date, time, and place of the adjudicatory
251 hearing and a copy of the petition must be served on the
252 following persons:

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

254 (b) A living relative of each parent of the child, unless a
255 living relative cannot be found after a diligent search and
256 inquiry.

257 (c) The guardian ad litem for the child or the
258 representative of the guardian ad litem program, if the program
259 has been appointed.

260 (5) Adjudicatory hearings shall be conducted by the judge
261 without a jury, applying the rules of evidence in use in civil
262 cases and adjourning the hearings from time to time as
263 necessary. At the hearing, the judge must determine whether the
264 petitioner has established by clear and convincing evidence that
265 both parents of the child are deceased and that a legal
266 custodian has not been appointed for the child through a probate
267 or guardianship proceeding. A certified copy of the death
268 certificate for each parent is sufficient evidence of proof of
269 the parents' deaths.

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



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272 (a) If the court finds that the petitioner has met the
273 clear and convincing standard, the court shall enter a written
274 order adjudicating the child dependent and permanently
275 committing the child to the custody of the department for the
276 purpose of adoption. A disposition hearing shall be scheduled no
277 later than 30 days after the entry of the order, in which the
278 department shall provide a case plan that identifies the
279 permanency goal for the child to the court. Reasonable efforts
280 must be made to place the child in a timely manner in accordance
281 with the permanency plan and to complete all steps necessary to
282 finalize the permanent placement of the child. Thereafter, until
283 the adoption of the child is finalized or the child reaches the
284 age of 18 years, whichever occurs first, the court shall hold
285 hearings every 6 months to review the progress being made toward
286 permanency for the child.

287 (b) If the court finds that clear and convincing evidence
288 does not establish that both parents of a child are deceased and
289 that a legal custodian has not been appointed for the child
290 through a probate or guardianship proceeding, but that a
291 preponderance of the evidence establishes that the child does
292 not have a parent or legal custodian capable of providing
293 supervision or care, the court shall enter a written order
294 adjudicating the child dependent. A disposition hearing shall be
295 scheduled no later than 30 days after the entry of the order as
296 provided in s. 39.521.

297 (c) If the court finds that clear and convincing evidence
298 does not establish that both parents of a child are deceased and
299 that a legal custodian has not been appointed for the child
300 through a probate or guardianship proceeding and that a



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301 preponderance of the evidence does not establish that the child
302 does not have a parent or legal custodian capable of providing
303 supervision or care, the court shall enter a written order so
304 finding and dismissing the petition.

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

307 (a) If the court finds that the petitioner has met the
308 clear and convincing standard, the court shall enter a written
309 order permanently committing the child to the custody of the
310 department for purposes of adoption. A disposition hearing shall
311 be scheduled no later than 30 days after the entry of the order,
312 in which the department shall provide an amended case plan that
313 identifies the permanency goal for the child to the court.

314 Reasonable efforts must be made to place the child in a timely
315 manner in accordance with the permanency plan and to complete
316 all steps necessary to finalize the permanent placement of the
317 child. Thereafter, until the adoption of the child is finalized
318 or the child reaches the age of 18 years, whichever occurs
319 first, the court shall hold hearings every 6 months to review
320 the progress being made toward permanency for the child.

321 (b) If the court finds that clear and convincing evidence
322 does not establish that both parents of a child are deceased and
323 that a legal custodian has not been appointed for the child
324 through a probate or guardianship proceeding, the court shall
325 enter a written order denying the petition. The order has no
326 effect on the child's prior adjudication. The order does not bar
327 the petitioner from filing a subsequent petition for permanent
328 commitment based on newly discovered evidence that establishes
329 that both parents of a child are deceased and that a legal



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330 custodian has not been appointed for the child through a probate
331 or guardianship proceeding.

332 Section 6. Paragraph (c) of subsection (1) and subsections
333 (3) and (7) of section 39.521, Florida Statutes, are amended to
334 read:

335 39.521 Disposition hearings; powers of disposition.—

336 (1) A disposition hearing shall be conducted by the court,
337 if the court finds that the facts alleged in the petition for
338 dependency were proven in the adjudicatory hearing, or if the
339 parents or legal custodians have consented to the finding of
340 dependency or admitted the allegations in the petition, have
341 failed to appear for the arraignment hearing after proper
342 notice, or have not been located despite a diligent search
343 having been conducted.

344 (c) When any child is adjudicated by a court to be
345 dependent, the court having jurisdiction of the child has the
346 power by order to:

347 1. Require the parent and, when appropriate, the legal
348 guardian or the child to participate in treatment and services
349 identified as necessary. The court may require the person who
350 has custody or who is requesting custody of the child to submit
351 to a mental health or substance abuse disorder assessment or
352 evaluation. The order may be made only upon good cause shown and
353 pursuant to notice and procedural requirements provided under
354 the Florida Rules of Juvenile Procedure. The mental health
355 assessment or evaluation must be administered by a qualified
356 professional as defined in s. 39.01, and the substance abuse
357 assessment or evaluation must be administered by a qualified
358 professional as defined in s. 397.311. The court may also



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359 require such person to participate in and comply with treatment
360 and services identified as necessary, including, when
361 appropriate and available, participation in and compliance with
362 a mental health court program established under chapter 394 or a
363 treatment-based drug court program established under s. 397.334.
364 Adjudication of a child as dependent based upon evidence of harm
365 as defined in s. 39.01(35)(g) demonstrates good cause, and the
366 court shall require the parent whose actions caused the harm to
367 submit to a substance abuse disorder assessment or evaluation
368 and to participate and comply with treatment and services
369 identified in the assessment or evaluation as being necessary.
370 In addition to supervision by the department, the court,
371 including the mental health court program or the treatment-based
372 drug court program, may oversee the progress and compliance with
373 treatment by a person who has custody or is requesting custody
374 of the child. The court may impose appropriate available
375 sanctions for noncompliance upon a person who has custody or is
376 requesting custody of the child or make a finding of
377 noncompliance for consideration in determining whether an
378 alternative placement of the child is in the child's best
379 interests. Any order entered under this subparagraph may be made
380 only upon good cause shown. This subparagraph does not authorize
381 placement of a child with a person seeking custody of the child,
382 other than the child's parent or legal custodian, who requires
383 mental health or substance abuse disorder treatment.

384 2. Require, if the court deems necessary, the parties to
385 participate in dependency mediation.

386 3. Require placement of the child either under the
387 protective supervision of an authorized agent of the department



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388 in the home of one or both of the child's parents or in the home
389 of a relative of the child or another adult approved by the
390 court, or in the custody of the department. ~~Protective~~
391 ~~supervision continues until the court terminates it or until the~~
392 ~~child reaches the age of 18, whichever date is first. Protective~~
393 ~~supervision shall be terminated by the court whenever the court~~
394 ~~determines that permanency has been achieved for the child,~~
395 ~~whether with a parent, another relative, or a legal custodian,~~
396 ~~and that protective supervision is no longer needed. The~~
397 ~~termination of supervision may be with or without retaining~~
398 ~~jurisdiction, at the court's discretion, and shall in either~~
399 ~~case be considered a permanency option for the child. The order~~
400 ~~terminating supervision by the department must set forth the~~
401 ~~powers of the custodian of the child and include the powers~~
402 ~~ordinarily granted to a guardian of the person of a minor unless~~
403 ~~otherwise specified. Upon the court's termination of supervision~~
404 ~~by the department, further judicial reviews are not required if~~
405 ~~permanency has been established for the child.~~

406 4. Determine whether the child has a strong attachment to
407 the prospective permanent guardian and whether such guardian has
408 a strong commitment to permanently caring for the child.

409 (3) When any child is adjudicated by a court to be
410 dependent, the court shall determine the appropriate placement
411 for the child as follows:

412 (a) If the court determines that the child can safely
413 remain in the home with the parent with whom the child was
414 residing at the time the events or conditions arose that brought
415 the child within the jurisdiction of the court and that
416 remaining in this home is in the best interest of the child,



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417 then the court shall order conditions under which the child may
418 remain or return to the home and that this placement be under
419 the protective supervision of the department for not less than 6
420 months.

421 (b) If there is a parent with whom the child was not
422 residing at the time the events or conditions arose that brought
423 the child within the jurisdiction of the court who desires to
424 assume custody of the child, the court shall place the child
425 with that parent upon completion of a home study, unless the
426 court finds that such placement would endanger the safety, well-
427 being, or physical, mental, or emotional health of the child.
428 Any party with knowledge of the facts may present to the court
429 evidence regarding whether the placement will endanger the
430 safety, well-being, or physical, mental, or emotional health of
431 the child. If the court places the child with such parent, it
432 may do either of the following:

433 1. Order that the parent assume sole custodial
434 responsibilities for the child. The court may also provide for
435 reasonable visitation by the noncustodial parent. The court may
436 then terminate its jurisdiction over the child.

437 2. Order that the parent assume custody subject to the
438 jurisdiction of the circuit court hearing dependency matters.
439 The court may order that reunification services be provided to
440 the parent from whom the child has been removed, that services
441 be provided solely to the parent who is assuming physical
442 custody in order to allow that parent to retain later custody
443 without court jurisdiction, or that services be provided to both
444 parents, in which case the court shall determine at every review
445 hearing which parent, if either, shall have custody of the



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446 child. The standard for changing custody of the child from one
447 parent to another or to a relative or another adult approved by
448 the court shall be the best interest of the child.

449 (c) If no fit parent is willing or available to assume care
450 and custody of the child, place the child in the temporary legal
451 custody of an adult relative, the adoptive parent of the child's
452 sibling, or another adult approved by the court who is willing
453 to care for the child, under the protective supervision of the
454 department. The department must supervise this placement until
455 the child reaches permanency status in this home, and in no case
456 for a period of less than 6 months. Permanency in a relative
457 placement shall be by adoption, long-term custody, or
458 guardianship.

459 (d) If the child cannot be safely placed in a nonlicensed
460 placement, the court shall commit the child to the temporary
461 legal custody of the department. Such commitment invests in the
462 department all rights and responsibilities of a legal custodian.
463 The department may ~~shall~~ not return any child to the physical
464 care and custody of the person from whom the child was removed,
465 except for court-approved visitation periods, without the
466 approval of the court. Any order for visitation or other contact
467 must conform to the provisions of s. 39.0139. The term of such
468 commitment continues until terminated by the court or until the
469 child reaches the age of 18. After the child is committed to the
470 temporary legal custody of the department, all further
471 proceedings under this section are governed by this chapter.

472
473 ~~Protective supervision continues until the court terminates it~~
474 ~~or until the child reaches the age of 18, whichever date is~~



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475 ~~first. Protective supervision shall be terminated by the court~~
476 ~~whenever the court determines that permanency has been achieved~~
477 ~~for the child, whether with a parent, another relative, or a~~
478 ~~legal custodian, and that protective supervision is no longer~~
479 ~~needed. The termination of supervision may be with or without~~
480 ~~retaining jurisdiction, at the court's discretion, and shall in~~
481 ~~either case be considered a permanency option for the child. The~~
482 ~~order terminating supervision by the department shall set forth~~
483 ~~the powers of the custodian of the child and shall include the~~
484 ~~powers ordinarily granted to a guardian of the person of a minor~~
485 ~~unless otherwise specified. Upon the court's termination of~~
486 ~~supervision by the department, no further judicial reviews are~~
487 ~~required, so long as permanency has been established for the~~
488 ~~child.~~

489 ~~(7) The court may enter an order ending its jurisdiction~~
490 ~~over a child when a child has been returned to the parents,~~
491 ~~provided the court shall not terminate its jurisdiction or the~~
492 ~~department's supervision over the child until 6 months after the~~
493 ~~child's return. The department shall supervise the placement of~~
494 ~~the child after reunification for at least 6 months with each~~
495 ~~parent or legal custodian from whom the child was removed. The~~
496 ~~court shall determine whether its jurisdiction should be~~
497 ~~continued or terminated in such a case based on a report of the~~
498 ~~department or agency or the child's guardian ad litem, and any~~
499 ~~other relevant factors; if its jurisdiction is to be terminated,~~
500 ~~the court shall enter an order to that effect.~~

501 Section 7. Section 39.522, Florida Statutes, is amended to
502 read:

503 39.522 Postdisposition change of custody.—The court may



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504 change the temporary legal custody or the conditions of
505 protective supervision at a postdisposition hearing, without the
506 necessity of another adjudicatory hearing. If a child has been
507 returned to the parent and is under protective supervision by
508 the department and the child is later removed again from the
509 parent's custody, any modifications of placement shall be done
510 under this section.

511 (1) At any time, an authorized agent of the department or a
512 law enforcement officer may remove a child from a court-ordered
513 placement and take the child into custody if the child's current
514 caregiver requests immediate removal of the child from the home
515 or if there is probable cause as required in s. 39.401(1)(b).
516 The department shall file a motion to modify placement within 1
517 business day after the child is taken into custody. Unless all
518 parties agree to the change of placement, the court must set a
519 hearing within 24 hours after the filing of the motion. At the
520 hearing, the court shall determine whether the department has
521 established probable cause to support the immediate removal of
522 the child from his or her current placement. The court may base
523 its determination on a sworn petition, testimony, or an
524 affidavit and may hear all relevant and material evidence,
525 including oral or written reports, to the extent of its
526 probative value even though it would not be competent evidence
527 at an adjudicatory hearing. If the court finds that probable
528 cause is not established to support the removal of the child
529 from the placement, the court shall order that the child be
530 returned to his or her current placement. If the caregiver
531 admits to a need for a change of placement or probable cause is
532 established to support the removal, the court shall enter an



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533 order changing the placement of the child. If the child is not
534 placed in foster care, then the new placement for the child must
535 meet the home study criteria in chapter 39. If the child's
536 placement is modified based on a probable cause finding, the
537 court must conduct a subsequent evidentiary hearing, unless
538 waived by all parties, on the motion to determine whether the
539 department has established by a preponderance of the evidence
540 that maintaining the new placement of the child is in the best
541 interest of the child. The court shall consider the continuity
542 of the child's placement in the same out-of-home residence as a
543 factor when determining the best interests of the child.

544 (2)(1) At any time before a child is residing in the
545 permanent placement approved at the permanency hearing, a child
546 who has been placed in the child's own home under the protective
547 supervision of an authorized agent of the department, in the
548 home of a relative, in the home of a legal custodian, or in some
549 other place may be brought before the court by the department or
550 by any other party interested person, upon the filing of a
551 petition ~~motion~~ alleging a need for a change in the conditions
552 of protective supervision or the placement. If the parents or
553 other legal custodians deny the need for a change, the court
554 shall hear all parties in person or by counsel, or both. Upon
555 the admission of a need for a change or after such hearing, the
556 court shall enter an order changing the placement, modifying the
557 conditions of protective supervision, or continuing the
558 conditions of protective supervision as ordered. The standard
559 for changing custody of the child is determined by a
560 preponderance of the evidence that establishes that a change is
561 in shall be the best interest of the child. When applying this



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562 standard, the court shall consider the continuity of the child's
563 placement in the same out-of-home residence as a factor when
564 determining the best interests of the child. If the child is not
565 placed in foster care, then the new placement for the child must
566 meet the home study criteria and court approval under ~~pursuant~~
567 ~~to~~ this chapter.

568 (3)~~(2)~~ In cases where the issue before the court is whether
569 a child should be reunited with a parent, the court shall review
570 the conditions for return and determine whether the
571 circumstances that caused the out-of-home placement and issues
572 subsequently identified have been remedied to the extent that
573 the return of the child to the home with an in-home safety plan
574 prepared or approved by the department will not be detrimental
575 to the child's safety, well-being, and physical, mental, and
576 emotional health.

577 (4)~~(3)~~ In cases where the issue before the court is whether
578 a child who is placed in the custody of a parent should be
579 reunited with the other parent upon a finding that the
580 circumstances that caused the out-of-home placement and issues
581 subsequently identified have been remedied to the extent that
582 the return of the child to the home of the other parent with an
583 in-home safety plan prepared or approved by the department will
584 not be detrimental to the child, the standard shall be that the
585 safety, well-being, and physical, mental, and emotional health
586 of the child would not be endangered by reunification and that
587 reunification would be in the best interest of the child.

588 Section 8. Subsection (8) of section 39.6011, Florida
589 Statutes, is amended to read:

590 39.6011 Case plan development.—



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591 (8) The case plan must be filed with the court and copies
592 provided to all parties, including the child if appropriate:
593 ~~not less than 3 business days before the disposition hearing.~~

594 (a) Not less than 72 hours before the disposition hearing,
595 if the disposition hearing occurs on or after the 60th day after
596 the date the child was placed in out-of-home care; or

597 (b) Not less than 72 hours before the case plan acceptance
598 hearing, if the disposition hearing occurs before the 60th day
599 after the date the child was placed in out-of-home care and a
600 case plan has not been submitted under this subsection, or if
601 the court does not approve the case plan at the disposition
602 hearing.

603 Section 9. Section 39.63, Florida Statutes, is created to
604 read:

605 39.63 Case closure.—Unless s. 39.6251 applies, the court
606 shall close the judicial case for all proceedings under this
607 chapter by terminating protective supervision and its
608 jurisdiction as provided in this section.

609 (1) If a child is placed under the protective supervision
610 of the department, the protective supervision continues until
611 such supervision is terminated by the court or until the child
612 reaches the age of 18, whichever occurs first. The court shall
613 terminate protective supervision when it determines that
614 permanency has been achieved for the child and supervision is no
615 longer needed. If the court adopts a permanency goal of
616 reunification with a parent or legal custodian from whom the
617 child was initially removed, the court must retain jurisdiction
618 and the department must supervise the placement for a minimum of
619 6 months after reunification. The court shall determine whether



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620 its jurisdiction should be continued or terminated based on a
621 report of the department or the child's guardian ad litem. The
622 termination of supervision may be with or without retaining
623 jurisdiction, at the court's discretion.

624 (2) The order terminating protective supervision must set
625 forth the powers of the legal custodian of the child and include
626 the powers originally granted to a guardian of the person of a
627 minor unless otherwise specified.

628 (3) Upon the court's termination of supervision by the
629 department, further judicial reviews are not required.

630 (4) The court must enter a written order terminating its
631 jurisdiction over a child when the child is returned to his or
632 her parent. However, the court must retain jurisdiction over the
633 child for a minimum of 6 months after reunification and may not
634 terminate its jurisdiction until the court determines that
635 protective supervision is no longer needed.

636 (5) If a child was not removed from the home, the court
637 must enter a written order terminating its jurisdiction over the
638 child when the court determines that permanency has been
639 achieved.

640 (6) If a child is placed in the custody of a parent and the
641 court determines that reasonable efforts to reunify the child
642 with the other parent are not required, the court may, at any
643 time, order that the custodial parent assume sole custodial
644 responsibilities for the child, provide for reasonable
645 visitation by the noncustodial parent, and terminate its
646 jurisdiction over the child. If the court previously approved a
647 case plan that requires services to be provided to the
648 noncustodial parent, the court may not terminate its



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649 jurisdiction before the case plan expires unless the court finds
650 by a preponderance of the evidence that it is not likely that
651 the child will be reunified with the noncustodial parent within
652 12 months after the child was removed from the home.

653 (7) When a child has been adopted under a chapter 63
654 proceeding, the court must enter a written order terminating its
655 jurisdiction over the child in the chapter 39 proceeding.

656 Section 10. Paragraph (e) of subsection (1) and subsection
657 (2) of section 39.806, Florida Statutes, are amended to read:

658 39.806 Grounds for termination of parental rights.—

659 (1) Grounds for the termination of parental rights may be
660 established under any of the following circumstances:

661 (e) When a child has been adjudicated dependent, a case
662 plan has been filed with the court, and:

663 1. The child continues to be abused, neglected, or
664 abandoned by the parent or parents. The failure of the parent or
665 parents to substantially comply with the case plan for a period
666 of 12 months after an adjudication of the child as a dependent
667 child or the child's placement into shelter care, whichever
668 occurs first, constitutes evidence of continuing abuse, neglect,
669 or abandonment unless the failure to substantially comply with
670 the case plan was due to the parent's lack of financial
671 resources or to the failure of the department to make reasonable
672 efforts to reunify the parent and child. The 12-month period
673 begins to run only after the child's placement into shelter care
674 or the entry of a disposition order placing the custody of the
675 child with the department or a person other than the parent and
676 the court's approval of a case plan having the goal of
677 reunification with the parent, whichever occurs first; ~~or~~



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678 2. The parent or parents have materially breached the case
679 plan by their action or inaction. Time is of the essence for
680 permanency of children in the dependency system. In order to
681 prove the parent or parents have materially breached the case
682 plan, the court must find by clear and convincing evidence that
683 the parent or parents are unlikely or unable to substantially
684 comply with the case plan before time to comply with the case
685 plan expires; or-

686 3. The child has been in care for any 12 of the last 22
687 months and the parents have not substantially complied with the
688 case plan so as to permit reunification under s. 39.522(3) ~~s.~~
689 ~~39.522(2)~~ unless the failure to substantially comply with the
690 case plan was due to the parent's lack of financial resources or
691 to the failure of the department to make reasonable efforts to
692 reunify the parent and child.

693 (2) Reasonable efforts to preserve and reunify families are
694 not required if a court of competent jurisdiction has determined
695 that any of the events described in paragraphs (1)(b)-(d) or
696 paragraphs (1)(f)-(n) ~~(1)(f)-(m)~~ have occurred.

697 Section 11. Subsection (9) of section 39.811, Florida
698 Statutes, is amended to read:

699 39.811 Powers of disposition; order of disposition.—

700 (9) After termination of parental rights or a written order
701 of permanent commitment entered under s. 39.5035, the court
702 shall retain jurisdiction over any child for whom custody is
703 given to a social service agency until the child is adopted. The
704 court shall review the status of the child's placement and the
705 progress being made toward permanent adoptive placement. As part
706 of this continuing jurisdiction, for good cause shown by the



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707 guardian ad litem for the child, the court may review the
708 appropriateness of the adoptive placement of the child. The
709 department's decision to deny an application to adopt a child
710 who is under the court's jurisdiction is reviewable only through
711 a motion to file a chapter 63 petition as provided in s.
712 39.812(4), and is not subject to chapter 120.

713 Section 12. Subsections (1), (4), and (5) of section
714 39.812, Florida Statutes, are amended to read:

715 39.812 Postdisposition relief; petition for adoption.—

716 (1) If the department is given custody of a child for
717 subsequent adoption in accordance with this chapter, the
718 department may place the child with an agency as defined in s.
719 63.032, with a child-caring agency registered under s. 409.176,
720 or in a family home for prospective subsequent adoption without
721 the need for a court order unless otherwise required under this
722 section. The department may allow prospective adoptive parents
723 to visit with a child in the department's custody without a
724 court order to determine whether the adoptive placement would be
725 appropriate. The department may thereafter become a party to any
726 proceeding for the legal adoption of the child and appear in any
727 court where the adoption proceeding is pending and consent to
728 the adoption, and that consent alone shall in all cases be
729 sufficient.

730 (4) The court shall retain jurisdiction over any child
731 placed in the custody of the department until the case is closed
732 as provided in s. 39.63 ~~the child is adopted~~. After custody of a
733 child for subsequent adoption has been given to the department,
734 the court has jurisdiction for the purpose of reviewing the
735 status of the child and the progress being made toward permanent



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736 adoptive placement. As part of this continuing jurisdiction, for
737 good cause shown by the guardian ad litem for the child, the
738 court may review the appropriateness of the adoptive placement
739 of the child.

740 (a) If the department has denied a person's application to
741 adopt a child, the denied applicant may file a motion with the
742 court within 30 days after the issuance of the written
743 notification of denial to allow him or her to file a chapter 63
744 petition to adopt a child without the department's consent. The
745 denied applicant must allege in its motion that the department
746 unreasonably withheld its consent to the adoption. The court, as
747 part of its continuing jurisdiction, may review and rule on the
748 motion.

749 1. The denied applicant only has standing in the chapter 39
750 proceeding to file the motion in paragraph (a) and to present
751 evidence in support of the motion at a hearing, which must be
752 held within 30 days after the filing of the motion.

753 2. At the hearing on the motion, the court may only
754 consider whether the department's review of the application was
755 consistent with its policies and made in an expeditious manner.
756 The standard of review by the court is whether the department's
757 denial of the application is an abuse of discretion. The court
758 may not compare the denied applicant against another applicant
759 to determine which placement is in the best interests of the
760 child.

761 3. If the denied applicant establishes by a preponderance
762 of the evidence that the department unreasonably withheld its
763 consent, the court shall enter an order authorizing the denied
764 applicant to file a petition to adopt the child under chapter 63



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765 without the department's consent.

766 4. If the denied applicant does not prove by a
767 preponderance of the evidence that the department unreasonably
768 withheld its consent, the court shall enter an order so finding
769 and dismiss the motion.

770 5. The standing of the denied applicant in the chapter 39
771 proceeding is terminated upon entry of the court's order.

772 (b) When a licensed foster parent or court-ordered
773 custodian has applied to adopt a child who has resided with the
774 foster parent or custodian for at least 6 months and who has
775 previously been permanently committed to the legal custody of
776 the department and the department does not grant the application
777 to adopt, the department may not, in the absence of a prior
778 court order authorizing it to do so, remove the child from the
779 foster home or custodian, except when:

780 1. ~~(a)~~ There is probable cause to believe that the child is
781 at imminent risk of abuse or neglect;

782 2. ~~(b)~~ Thirty days have expired following written notice to
783 the foster parent or custodian of the denial of the application
784 to adopt, within which period no formal challenge of the
785 department's decision has been filed; ~~or~~

786 3. ~~(c)~~ The foster parent or custodian agrees to the child's
787 removal; ~~or~~

788 4. The department has selected another prospective adoptive
789 parent to adopt the child and either the foster parent or
790 custodian has not filed a motion with the court to allow him or
791 her to file a chapter 63 petition to adopt a child without the
792 department's consent, as provided under paragraph (a), or the
793 court has denied such a motion.



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794 (5) The petition for adoption must be filed in the division
795 of the circuit court which entered the judgment terminating
796 parental rights, unless a motion for change of venue is granted
797 under ~~pursuant to~~ s. 47.122. A copy of the consent executed by
798 the department must be attached to the petition, unless such
799 consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~.

800 The petition must be accompanied by a statement, signed by the
801 prospective adoptive parents, acknowledging receipt of all
802 information required to be disclosed under s. 63.085 and a form
803 provided by the department which details the social and medical
804 history of the child and each parent and includes the social
805 security number and date of birth for each parent, if such
806 information is available or readily obtainable. The prospective
807 adoptive parents may not file a petition for adoption until the
808 judgment terminating parental rights becomes final. An adoption
809 proceeding under this subsection is governed by chapter 63.

810 Section 13. Section 39.820, Florida Statutes, is amended to
811 read:

812 39.820 Definitions.—As used in this chapter part, the term:

813 (1) "Guardian ad litem" as referred to in any civil or
814 criminal proceeding includes the following: The Statewide
815 Guardian Ad Litem Office, which includes circuit a certified
816 guardian ad litem programs; program, a duly certified volunteer,
817 a staff member, a staff attorney, a contract attorney, or
818 ~~certified a~~ pro bono attorney working on behalf of a guardian ad
819 litem ~~or the program; staff members of a program office;~~ a
820 court-appointed attorney; or a responsible adult who is
821 appointed by the court to represent the best interests of a
822 child in a proceeding as provided for by law, including, but not



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823 limited to, this chapter, who is a party to any judicial
824 proceeding as a representative of the child, and who serves
825 until discharged by the court.

826 (2) "Guardian advocate" means a person appointed by the
827 court to act on behalf of a drug dependent newborn pursuant to
828 the provisions of this part.

829 Section 14. Subsection (7) of section 63.062, Florida
830 Statutes, is amended to read:

831 63.062 Persons required to consent to adoption; affidavit
832 of nonpaternity; waiver of venue.-

833 (7) If parental rights to the minor have previously been
834 terminated, the adoption entity with which the minor has been
835 placed for subsequent adoption may provide consent to the
836 adoption. In such case, no other consent is required. If the
837 minor has been permanently committed to the department for
838 subsequent adoption, the department must consent to the adoption
839 or, in the alternative, the court order entered under s.
840 39.812(4) finding that the department ~~The consent of the~~
841 ~~department shall be waived upon a determination by the court~~
842 ~~that such consent is being unreasonably withheld~~ its consent
843 must be attached to the petition to adopt, and if the petitioner
844 must file ~~has filed with the court~~ a favorable preliminary
845 adoptive home study as required under s. 63.092.

846 Section 15. Paragraph (b) of subsection (6) of section
847 63.082, Florida Statutes, is amended to read:

848 63.082 Execution of consent to adoption or affidavit of
849 nonpaternity; family social and medical history; revocation of
850 consent.-

851 (6)



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852 (b) Upon execution of the consent of the parent, the
853 adoption entity is ~~shall be~~ permitted to intervene in the
854 dependency case as a party in interest and must provide the
855 court that acquired jurisdiction over the minor, pursuant to the
856 shelter order or dependency petition filed by the department, a
857 copy of the preliminary home study of the prospective adoptive
858 parents and any other evidence of the suitability of the
859 placement. The preliminary home study must be maintained with
860 strictest confidentiality within the dependency court file and
861 the department's file. A preliminary home study must be provided
862 to the court in all cases in which an adoption entity has
863 intervened under ~~pursuant to~~ this section. The exemption in s.
864 63.092(3) from the home study for a stepparent or relative does
865 not apply if a minor is under the supervision of the department
866 or is otherwise subject to the jurisdiction of the dependency
867 court as a result of the filing of a shelter petition,
868 dependency petition, or termination of parental rights petition
869 under chapter 39. Unless the court has concerns regarding the
870 qualifications of the home study provider, or concerns that the
871 home study may not be adequate to determine the best interests
872 of the child, the home study provided by the adoption entity is
873 ~~shall be deemed to be~~ sufficient and no additional home study
874 needs to be performed by the department.

875 Section 16. Subsections (8) and (9) of section 402.302,
876 Florida Statutes, are amended to read:

877 402.302 Definitions.—As used in this chapter, the term:

878 (8) "Family day care home" means an occupied primary
879 residence leased or owned by the operator in which child care is
880 regularly provided for children from at least two unrelated



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881 families and which receives a payment, fee, or grant for any of
882 the children receiving care, whether or not operated for profit.
883 Household children under 13 years of age, when on the premises
884 of the family day care home or on a field trip with children
885 enrolled in child care, are ~~shall be~~ included in the overall
886 capacity of the licensed home. A family day care home is ~~shall~~
887 ~~be~~ allowed to provide care for one of the following groups of
888 children, which shall include household children under 13 years
889 of age:

890 (a) A maximum of four children from birth to 12 months of
891 age.

892 (b) A maximum of three children from birth to 12 months of
893 age, and other children, for a maximum total of six children.

894 (c) A maximum of six preschool children if all are older
895 than 12 months of age.

896 (d) A maximum of 10 children if no more than 5 are
897 preschool age and, of those 5, no more than 2 are under 12
898 months of age.

899 (9) "Household children" means children who are related by
900 blood, marriage, or legal adoption to, or who are the legal
901 wards of, the family day care home operator, the large family
902 child care home operator, or an adult household member who
903 permanently or temporarily resides in the home. Supervision of
904 the operator's household children shall be left to the
905 discretion of the operator unless those children receive
906 subsidized child care through the school readiness program under
907 ~~pursuant to~~ s. 1002.92 to be in the home.

908 Section 17. Paragraph (a) of subsection (7), paragraphs (b)
909 and (c) of subsection (9), and subsection (10) of section



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910 402.305, Florida Statutes, are amended to read:

911 402.305 Licensing standards; child care facilities.—

912 (7) SANITATION AND SAFETY.—

913 (a) Minimum standards shall include requirements for
914 sanitary and safety conditions, first aid treatment, emergency
915 procedures, and pediatric cardiopulmonary resuscitation. The
916 minimum standards shall require that at least one staff person
917 trained and certified in cardiopulmonary resuscitation, as
918 evidenced by current documentation of course completion, must be
919 present at all times that children are present.

920 (9) ADMISSIONS AND RECORDKEEPING.—

921 (b) At the time of initial enrollment and annually
922 thereafter ~~During the months of August and September of each~~
923 ~~year~~, each child care facility shall provide parents of children
924 enrolled in the facility detailed information regarding the
925 causes, symptoms, and transmission of the influenza virus in an
926 effort to educate those parents regarding the importance of
927 immunizing their children against influenza as recommended by
928 the Advisory Committee on Immunization Practices of the Centers
929 for Disease Control and Prevention.

930 (c) At the time of initial enrollment and annually
931 thereafter ~~During the months of April and September of each~~
932 ~~year~~, at a minimum, each facility shall provide parents of
933 children enrolled in the facility information regarding the
934 potential for a distracted adult to fail to drop off a child at
935 the facility and instead leave the child in the adult's vehicle
936 upon arrival at the adult's destination. The child care facility
937 shall also give parents information about resources with
938 suggestions to avoid this occurrence. The department shall



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939 develop a flyer or brochure with this information that shall be
940 posted to the department's website, which child care facilities
941 may choose to reproduce and provide to parents to satisfy the
942 requirements of this paragraph.

943 (10) TRANSPORTATION SAFETY.—

944 (a) Minimum standards for child care facilities, family day
945 care homes, and large family child care homes shall include all
946 of the following:

947 1. Requirements for child restraints or seat belts in
948 vehicles used by child care facilities and large family child
949 care homes to transport children.

950 2. Requirements for annual inspections of such the
951 vehicles.

952 3. Limitations on the number of children which may be
953 transported in such the vehicles.

954 4. Procedures to avoid leaving children in vehicles when
955 transported by the facility, and accountability for children
956 transported by the child care facility.

957 (b) Before providing transportation services or reinstating
958 transportation services after a lapse or discontinuation of
959 longer than 30 days, a child care facility, family day care
960 home, or large family child care home must be approved by the
961 department to transport children. Approval by the department is
962 based on the provider's demonstration of compliance with all
963 current rules and standards for transportation.

964 (c) A child care facility, family day care home, or large
965 family child care home is not responsible for the safe transport
966 of children when they are being transported by a parent or
967 guardian.



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968 Section 18. Subsections (14) and (15) of section 402.313,
969 Florida Statutes, are amended to read:

970 402.313 Family day care homes.—

971 (14) At the time of initial enrollment and annually
972 thereafter ~~During the months of August and September of each~~
973 ~~year~~, each family day care home shall provide parents of
974 children enrolled in the home detailed information regarding the
975 causes, symptoms, and transmission of the influenza virus in an
976 effort to educate those parents regarding the importance of
977 immunizing their children against influenza as recommended by
978 the Advisory Committee on Immunization Practices of the Centers
979 for Disease Control and Prevention.

980 (15) At the time of initial enrollment and annually
981 thereafter ~~During the months of April and September of each~~
982 ~~year~~, at a minimum, each family day care home shall provide
983 parents of children attending the family day care home
984 information regarding the potential for a distracted adult to
985 fail to drop off a child at the family day care home and instead
986 leave the child in the adult's vehicle upon arrival at the
987 adult's destination. The family day care home shall also give
988 parents information about resources with suggestions to avoid
989 this occurrence. The department shall develop a flyer or
990 brochure with this information that shall be posted to the
991 department's website, which family day care homes may choose to
992 reproduce and provide to parents to satisfy the requirements of
993 this subsection.

994 Section 19. Subsections (8), (9), and (10) of section
995 402.3131, Florida Statutes, are amended to read:

996 402.3131 Large family child care homes.—



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997 (8) Before ~~Prior to~~ being licensed by the department, large
998 family child care homes must be approved by the state or local
999 fire marshal in accordance with standards established for child
1000 care facilities.

1001 (9) At the time of initial enrollment and annually
1002 thereafter ~~During the months of August and September of each~~
1003 ~~year~~, each large family child care home shall provide parents of
1004 children enrolled in the home detailed information regarding the
1005 causes, symptoms, and transmission of the influenza virus in an
1006 effort to educate those parents regarding the importance of
1007 immunizing their children against influenza as recommended by
1008 the Advisory Committee on Immunization Practices of the Centers
1009 for Disease Control and Prevention.

1010 (10) At the time of initial enrollment and annually
1011 thereafter ~~During the months of April and September of each~~
1012 ~~year~~, at a minimum, each large family child care home shall
1013 provide parents of children attending the large family child
1014 care home information regarding the potential for a distracted
1015 adult to fail to drop off a child at the large family child care
1016 home and instead leave the child in the adult's vehicle upon
1017 arrival at the adult's destination. The large family child care
1018 home shall also give parents information about resources with
1019 suggestions to avoid this occurrence. The department shall
1020 develop a flyer or brochure with this information that shall be
1021 posted to the department's website, which large family child
1022 care homes may choose to reproduce and provide to parents to
1023 satisfy the requirements of this subsection.

1024 Section 20. Subsection (6) and paragraphs (b) and (e) of
1025 subsection (7) of section 409.1451, Florida Statutes, are



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1026 amended to read:

1027 409.1451 The Road-to-Independence Program.—

1028 (6) ACCOUNTABILITY.—The department shall develop outcome
1029 measures for the program and other performance measures ~~in order~~
1030 ~~to maintain oversight of the program. No later than January 31~~
1031 ~~of each year, the department shall prepare a report on the~~
1032 ~~outcome measures and the department's oversight activities and~~
1033 ~~submit the report to the President of the Senate, the Speaker of~~
1034 ~~the House of Representatives, and the committees with~~
1035 ~~jurisdiction over issues relating to children and families in~~
1036 ~~the Senate and the House of Representatives. The report must~~
1037 ~~include:~~

1038 ~~(a) An analysis of performance on the outcome measures~~
1039 ~~developed under this section reported for each community-based~~
1040 ~~care lead agency and compared with the performance of the~~
1041 ~~department on the same measures.~~

1042 ~~(b) A description of the department's oversight of the~~
1043 ~~program, including, by lead agency, any programmatic or fiscal~~
1044 ~~deficiencies found, corrective actions required, and current~~
1045 ~~status of compliance.~~

1046 ~~(c) Any rules adopted or proposed under this section since~~
1047 ~~the last report. For the purposes of the first report, any rules~~
1048 ~~adopted or proposed under this section must be included.~~

1049 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The
1050 secretary shall establish the Independent Living Services
1051 Advisory Council for the purpose of reviewing and making
1052 recommendations concerning the implementation and operation of
1053 the provisions of s. 39.6251 and the Road-to-Independence
1054 Program. The advisory council shall function as specified in



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1055 this subsection until the Legislature determines that the
1056 advisory council can no longer provide a valuable contribution
1057 to the department's efforts to achieve the goals of the services
1058 designed to enable a young adult to live independently.

1059 ~~(b) The advisory council shall report to the secretary on~~
1060 ~~the status of the implementation of the Road to Independence~~
1061 ~~Program, efforts to publicize the availability of the Road to~~
1062 ~~Independence Program, the success of the services, problems~~
1063 ~~identified, recommendations for department or legislative~~
1064 ~~action, and the department's implementation of the~~
1065 ~~recommendations contained in the Independent Living Services~~
1066 ~~Integration Workgroup Report submitted to the appropriate~~
1067 ~~substantive committees of the Legislature by December 31, 2013.~~
1068 ~~The department shall submit a report by December 31 of each year~~
1069 ~~to the Governor, the President of the Senate, and the Speaker of~~
1070 ~~the House of Representatives which includes a summary of the~~
1071 ~~factors reported on by the council and identifies the~~
1072 ~~recommendations of the advisory council and either describes the~~
1073 ~~department's actions to implement the recommendations or~~
1074 ~~provides the department's rationale for not implementing the~~
1075 ~~recommendations.~~

1076 ~~(c) The advisory council report required under paragraph~~
1077 ~~(b) must include an analysis of the system of independent living~~
1078 ~~transition services for young adults who reach 18 years of age~~
1079 ~~while in foster care before completing high school or its~~
1080 ~~equivalent and recommendations for department or legislative~~
1081 ~~action. The council shall assess and report on the most~~
1082 ~~effective method of assisting these young adults to complete~~
1083 ~~high school or its equivalent by examining the practices of~~



1084 ~~other states.~~

1085 Section 21. This act shall take effect October 1, 2020.

1086

1087 ===== T I T L E A M E N D M E N T =====

1088 And the title is amended as follows:

1089 Delete everything before the enacting clause

1090 and insert:

1091 A bill to be entitled

1092 An act relating to child welfare; amending s. 25.385,
1093 F.S.; requiring the Florida Court Educational Council
1094 to establish certain standards for instruction of
1095 specified circuit court judges; amending s. 39.205,
1096 F.S.; deleting a requirement for the Department of
1097 Children and Families to report certain information to
1098 the Legislature; amending s. 39.302, F.S.; requiring
1099 the department to review certain reports under certain
1100 circumstances; amending s. 39.407, F.S.; transferring
1101 certain duties to the department from the Agency for
1102 Health Care Administration; creating s. 39.5035, F.S.;
1103 providing court procedures and requirements relating
1104 to deceased parents of a dependent child; providing
1105 requirements for petitions for adjudication and
1106 permanent commitment for certain children; amending s.
1107 39.521, F.S.; deleting provisions relating to
1108 protective supervision; deleting provisions relating
1109 to the court's authority to enter an order ending its
1110 jurisdiction over a child under certain circumstances;
1111 amending s. 39.522, F.S.; providing requirements for a
1112 modification of placement of a child under the



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1113 supervision of the department; amending s. 39.6011,
1114 F.S.; providing timeframes in which case plans must be
1115 filed with the court and be provided to specified
1116 parties; creating s. 39.63, F.S.; providing procedures
1117 and requirements for closing a case under chapter 39;
1118 amending s. 39.806, F.S.; conforming cross-references;
1119 amending s. 39.811, F.S.; expanding conditions under
1120 which a court retains jurisdiction; providing when
1121 certain decisions relating to adoption are reviewable;
1122 amending s. 39.812, F.S.; authorizing the department
1123 to take certain actions without a court order;
1124 authorizing certain persons to file a petition to
1125 adopt a child without the department's consent;
1126 providing standing requirements; providing a standard
1127 of proof; providing responsibilities of the court in
1128 such cases; amending s. 39.820, F.S.; revising the
1129 definition of the term "guardian ad litem"; amending
1130 s. 63.062, F.S.; requiring the department to consent
1131 to certain adoptions; providing exceptions; amending
1132 s. 63.082, F.S.; providing construction; amending s.
1133 402.302, F.S.; revising definitions; amending s.
1134 402.305, F.S.; requiring a certain number of staff
1135 persons at child care facilities to be certified in
1136 certain safety techniques; requiring child care
1137 facilities to provide certain information to parents
1138 at the time of initial enrollment and annually
1139 thereafter; revising minimum standards for child care
1140 facilities, family day care homes, and large family
1141 child care homes relating to transportation; requiring



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1142 child care facilities, family day care homes, and
1143 large family child care homes to be approved by the
1144 department to transport children in certain
1145 situations; amending s. 402.313, F.S.; requiring
1146 family day care homes to provide certain information
1147 to parents at the time of enrollment and annually
1148 thereafter; amending s. 402.3131, F.S.; requiring
1149 large family child care homes to provide certain
1150 information to parents at the time of enrollment and
1151 annually thereafter; amending s. 409.1451, F.S.;
1152 deleting a reporting requirement of the department and
1153 the Independent Living Services Advisory Council;
1154 providing an effective date.

By Senator Perry

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1 A bill to be entitled
2 An act relating to child welfare; amending s. 25.385,
3 F.S.; requiring the Florida Court Educational Council
4 to establish certain standards for instruction of
5 specified circuit court judges; amending s. 39.01,
6 F.S.; revising the definition of the term "parent";
7 amending s. 39.205, F.S.; deleting a requirement for
8 the Department of Children and Families to report
9 certain information to the Legislature; amending s.
10 39.302, F.S.; requiring the department to review
11 certain reports under certain circumstances; amending
12 s. 39.402, F.S.; providing requirements for the court
13 when establishing paternity at a shelter hearing;
14 amending s. 39.407, F.S.; transferring certain duties
15 to the department from the Agency for Health Care
16 Administration; amending s. 39.503, F.S.; revising
17 procedures and requirements relating to the unknown
18 identity or location of a parent of a dependent child;
19 providing that a person does not have standing under
20 certain circumstances; creating s. 39.5035, F.S.;
21 providing court procedures and requirements relating
22 to deceased parents of a dependent child; providing
23 requirements for petitions for adjudication and
24 permanent commitment for certain children; amending s.
25 39.521, F.S.; deleting provisions relating to
26 protective supervision; deleting provisions relating
27 to the court's authority to enter an order ending its
28 jurisdiction over a child under certain circumstances;
29 amending s. 39.522, F.S.; providing requirements for a

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30 modification of placement of a child under the
31 supervision of the department; amending s. 39.6011,
32 F.S.; providing timeframes in which case plans must be
33 filed with the court and be provided to specified
34 parties; creating s. 39.63, F.S.; providing procedures
35 and requirements for closing a case under chapter 39;
36 amending s. 39.801, F.S.; conforming provisions to
37 changes made by the act; amending s. 39.803, F.S.;
38 revising procedures and requirements relating to the
39 unknown identity or location of a parent of a
40 dependent child; providing that a person does not have
41 standing under certain circumstances; amending s.
42 39.806, F.S.; conforming cross-references; amending s.
43 39.811, F.S.; expanding conditions under which a court
44 retains jurisdiction; providing when certain decisions
45 relating to adoption are reviewable; amending s.
46 39.812, F.S.; authorizing the department to take
47 certain actions without a court order; authorizing
48 certain persons to file a petition to adopt a child
49 without the department's consent; providing standing
50 requirements; providing a standard of proof; providing
51 responsibilities of the court in such cases; amending
52 s. 63.062, F.S.; requiring the department to consent
53 to certain adoptions; providing exceptions; amending
54 s. 63.082, F.S.; providing construction; amending s.
55 402.302, F.S.; revising definitions; amending s.
56 402.305, F.S.; requiring a certain number of staff
57 persons at child care facilities to be certified in
58 certain safety techniques; requiring child care

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59 facilities to provide certain information to parents
60 at the time of initial enrollment and annually
61 thereafter; revising minimum standards for child care
62 facilities, family day care homes, and large family
63 child care homes relating to transportation; requiring
64 child care facilities, family day care homes, and
65 large family child care homes to be approved by the
66 department to transport children in certain
67 situations; amending s. 402.313, F.S.; requiring
68 family day care homes to provide certain information
69 to parents at the time of enrollment and annually
70 thereafter; amending s. 402.3131, F.S.; requiring
71 large family child care homes to provide certain
72 information to parents at the time of enrollment and
73 annually thereafter; amending s. 409.1451, F.S.;
74 deleting a reporting requirement of the department and
75 the Independent Living Services Advisory Council;
76 creating s. 742.0211, F.S.; defining the term
77 "dependent child"; providing requirements and
78 procedures for the determination of paternity when a
79 child is dependent; providing the burden of proof for
80 certain paternity complaints; providing applicability;
81 providing an effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. Section 25.385, Florida Statutes, is amended to
86 read:
87 25.385 Standards for instruction of circuit and county

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88 court judges ~~in handling domestic violence cases.~~

89 (1) The Florida Court Educational Council shall establish
90 standards for instruction of circuit and county court judges who
91 have responsibility for domestic violence cases, and the council
92 shall provide such instruction on a periodic and timely basis.

93 ~~(2)~~ As used in this section:

94 (a) The term "domestic violence" has the meaning set forth
95 in s. 741.28.

96 (b) "Family or household member" has the meaning set forth
97 in s. 741.28.

98 (2) The Florida Court Educational Council shall establish
99 standards for instruction of circuit court judges who have
100 responsibility for dependency cases. The standards for
101 instruction must be consistent with and reinforce the purposes
102 of chapter 39, with emphasis on ensuring that a permanent
103 placement is achieved as soon as possible and that a child
104 should not remain in foster care for longer than 1 year. This
105 instruction must be provided on a periodic and timely basis and
106 may be provided by or in consultation with current or retired
107 judges, the Department of Children and Families, or the
108 Statewide Guardian Ad Litem Office established in s. 39.8296.

109 Section 2. Subsection (56) of section 39.01, Florida
110 Statutes, is amended to read:

111 39.01 Definitions.—When used in this chapter, unless the
112 context otherwise requires:

113 (56) "Parent" means a woman who gives birth to a child and
114 a man whose consent to the adoption of the child would be
115 required under s. 63.062(1). The term "parent" also means legal
116 father as defined in this section. If a child has been legally

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117 adopted, the term "parent" means the adoptive mother or father
118 of the child. For purposes of this chapter only, when the phrase
119 "parent or legal custodian" is used, it refers to rights or
120 responsibilities of the parent and, only if there is no living
121 parent with intact parental rights, to the rights or
122 responsibilities of the legal custodian who has assumed the role
123 of the parent. The term does not include an individual whose
124 parental relationship to the child has been legally terminated,
125 or an alleged or prospective parent, unless:

126 ~~(a) The parental status falls within the terms of s.~~
127 ~~39.503(1) or s. 63.062(1); or~~

128 ~~(b)~~ parental status is applied for the purpose of
129 determining whether the child has been abandoned.

130 Section 3. Subsection (7) of section 39.205, Florida
131 Statutes, is amended to read:

132 39.205 Penalties relating to reporting of child abuse,
133 abandonment, or neglect.—

134 (7) The department shall establish procedures for
135 determining whether a false report of child abuse, abandonment,
136 or neglect has been made and for submitting all identifying
137 information relating to such a report to the appropriate law
138 enforcement agency ~~and shall report annually to the Legislature~~
139 ~~the number of reports referred.~~

140 Section 4. Subsection (7) of section 39.302, Florida
141 Statutes, is amended to read:

142 39.302 Protective investigations of institutional child
143 abuse, abandonment, or neglect.—

144 (7) When an investigation of institutional abuse, neglect,
145 or abandonment is closed and a person is not identified as a

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146 caregiver responsible for the abuse, neglect, or abandonment
147 alleged in the report, the fact that the person is named in some
148 capacity in the report may not be used in any way to adversely
149 affect the interests of that person. This prohibition applies to
150 any use of the information in employment screening, licensing,
151 child placement, adoption, or any other decisions by a private
152 adoption agency or a state agency or its contracted providers.

153 (a) However, if such a person is a licensee of the
154 department and is named in any capacity in a report ~~three or~~
155 ~~more reports~~ within a 5-year period, the department must ~~may~~
156 review the report ~~those reports~~ and determine whether the
157 information contained in the report ~~reports~~ is relevant for
158 purposes of determining whether the person's license should be
159 renewed or revoked. If the information is relevant to the
160 decision to renew or revoke the license, the department may rely
161 on the information contained in the report in making that
162 decision.

163 (b) Likewise, if a person is employed as a caregiver in a
164 residential group home licensed pursuant to s. 409.175 and is
165 named in any capacity in a report ~~three or more reports~~ within a
166 5-year period, the department must ~~may~~ review the report ~~all~~
167 ~~reports~~ for the purposes of the employment screening as defined
168 in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(c)~~.

169 Section 5. Paragraph (c) of subsection (8) of section
170 39.402, Florida Statutes, is amended to read:

171 39.402 Placement in a shelter.—

172 (8)

173 (c) At the shelter hearing, the court shall:

174 1. Appoint a guardian ad litem to represent the best

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175 interest of the child, unless the court finds that such
176 representation is unnecessary.†

177 2. Inform the parents or legal custodians of their right to
178 counsel to represent them at the shelter hearing and at each
179 subsequent hearing or proceeding, and the right of the parents
180 to appointed counsel, pursuant to the procedures set forth in s.
181 39.013.†

182 3. Give the parents or legal custodians an opportunity to
183 be heard and to present evidence.† ~~and~~

184 4. Inquire of those present at the shelter hearing as to
185 the identity and location of the legal father. In determining
186 who the legal father of the child may be, the court shall
187 inquire under oath of those present at the shelter hearing
188 whether they have any of the following information:

189 a. Whether the mother of the child was married at the
190 probable time of conception of the child or at the time of birth
191 of the child.

192 b. Whether the mother was cohabiting with a male at the
193 probable time of conception of the child.

194 c. Whether the mother has received payments or promises of
195 support with respect to the child or because of her pregnancy
196 from a man who claims to be the father.

197 d. Whether the mother has named any man as the father on
198 the birth certificate of the child or in connection with
199 applying for or receiving public assistance.

200 e. Whether any man has acknowledged or claimed paternity of
201 the child in a jurisdiction in which the mother resided at the
202 time of or since conception of the child or in which the child
203 has resided or resides.

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204 f. Whether a man is named on the birth certificate of the
205 child under ~~pursuant to~~ s. 382.013(2).

206 g. Whether a man has been determined by a court order to be
207 the father of the child.

208 h. Whether a man has been determined to be the father of
209 the child by the Department of Revenue as provided in s.
210 409.256.

211 5. If the inquiry under subparagraph 4. identifies a person
212 as a legal father, as defined in s. 39.01, enter an order
213 establishing the paternity of the child. Once an order
214 establishing paternity has been entered, the court may not take
215 any action to disestablish paternity in the absence of an action
216 filed under chapter 742. An action filed under chapter 742
217 concerning a child who is the subject in a dependence proceeding
218 must comply with s. 742.0211.

219 Section 6. Subsection (6) of section 39.407, Florida
220 Statutes, is amended to read:

221 39.407 Medical, psychiatric, and psychological examination
222 and treatment of child; physical, mental, or substance abuse
223 examination of person with or requesting child custody.—

224 (6) Children who are in the legal custody of the department
225 may be placed by the department, without prior approval of the
226 court, in a residential treatment center licensed under s.
227 394.875 or a hospital licensed under chapter 395 for residential
228 mental health treatment only as provided in ~~pursuant to~~ this
229 section or may be placed by the court in accordance with an
230 order of involuntary examination or involuntary placement
231 entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children
232 placed in a residential treatment program under this subsection

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233 must have a guardian ad litem appointed.

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

235 1. "Residential treatment" means placement for observation,
236 diagnosis, or treatment of an emotional disturbance in a
237 residential treatment center licensed under s. 394.875 or a
238 hospital licensed under chapter 395.

239 2. "Least restrictive alternative" means the treatment and
240 conditions of treatment that, separately and in combination, are
241 no more intrusive or restrictive of freedom than reasonably
242 necessary to achieve a substantial therapeutic benefit or to
243 protect the child or adolescent or others from physical injury.

244 3. "Suitable for residential treatment" or "suitability"
245 means a determination concerning a child or adolescent with an
246 emotional disturbance as defined in s. 394.492(5) or a serious
247 emotional disturbance as defined in s. 394.492(6) that each of
248 the following criteria is met:

249 a. The child requires residential treatment.

250 b. The child is in need of a residential treatment program
251 and is expected to benefit from mental health treatment.

252 c. An appropriate, less restrictive alternative to
253 residential treatment is unavailable.

254 (b) Whenever the department believes that a child in its
255 legal custody is emotionally disturbed and may need residential
256 treatment, an examination and suitability assessment must be
257 conducted by a qualified evaluator who is appointed by the
258 department ~~Agency for Health Care Administration~~. This
259 suitability assessment must be completed before the placement of
260 the child in a residential treatment center for emotionally
261 disturbed children and adolescents or a hospital. The qualified

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262 evaluator must be a psychiatrist or a psychologist licensed in
263 Florida who has at least 3 years of experience in the diagnosis
264 and treatment of serious emotional disturbances in children and
265 adolescents and who has no actual or perceived conflict of
266 interest with any inpatient facility or residential treatment
267 center or program.

268 (c) Before a child is admitted under this subsection, the
269 child shall be assessed for suitability for residential
270 treatment by a qualified evaluator who has conducted a personal
271 examination and assessment of the child and has made written
272 findings that:

273 1. The child appears to have an emotional disturbance
274 serious enough to require residential treatment and is
275 reasonably likely to benefit from the treatment.

276 2. The child has been provided with a clinically
277 appropriate explanation of the nature and purpose of the
278 treatment.

279 3. All available modalities of treatment less restrictive
280 than residential treatment have been considered, and a less
281 restrictive alternative that would offer comparable benefits to
282 the child is unavailable.

283

284 A copy of the written findings of the evaluation and suitability
285 assessment must be provided to the department, to the guardian
286 ad litem, and, if the child is a member of a Medicaid managed
287 care plan, to the plan that is financially responsible for the
288 child's care in residential treatment, all of whom must be
289 provided with the opportunity to discuss the findings with the
290 evaluator.

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291 (d) Immediately upon placing a child in a residential
292 treatment program under this section, the department must notify
293 the guardian ad litem and the court having jurisdiction over the
294 child and must provide the guardian ad litem and the court with
295 a copy of the assessment by the qualified evaluator.

296 (e) Within 10 days after the admission of a child to a
297 residential treatment program, the director of the residential
298 treatment program or the director's designee must ensure that an
299 individualized plan of treatment has been prepared by the
300 program and has been explained to the child, to the department,
301 and to the guardian ad litem, and submitted to the department.
302 The child must be involved in the preparation of the plan to the
303 maximum feasible extent consistent with his or her ability to
304 understand and participate, and the guardian ad litem and the
305 child's foster parents must be involved to the maximum extent
306 consistent with the child's treatment needs. The plan must
307 include a preliminary plan for residential treatment and
308 aftercare upon completion of residential treatment. The plan
309 must include specific behavioral and emotional goals against
310 which the success of the residential treatment may be measured.
311 A copy of the plan must be provided to the child, to the
312 guardian ad litem, and to the department.

313 (f) Within 30 days after admission, the residential
314 treatment program must review the appropriateness and
315 suitability of the child's placement in the program. The
316 residential treatment program must determine whether the child
317 is receiving benefit toward the treatment goals and whether the
318 child could be treated in a less restrictive treatment program.
319 The residential treatment program shall prepare a written report

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320 of its findings and submit the report to the guardian ad litem
321 and to the department. The department must submit the report to
322 the court. The report must include a discharge plan for the
323 child. The residential treatment program must continue to
324 evaluate the child's treatment progress every 30 days thereafter
325 and must include its findings in a written report submitted to
326 the department. The department may not reimburse a facility
327 until the facility has submitted every written report that is
328 due.

329 (g)1. The department must submit, at the beginning of each
330 month, to the court having jurisdiction over the child, a
331 written report regarding the child's progress toward achieving
332 the goals specified in the individualized plan of treatment.

333 2. The court must conduct a hearing to review the status of
334 the child's residential treatment plan no later than 60 days
335 after the child's admission to the residential treatment
336 program. An independent review of the child's progress toward
337 achieving the goals and objectives of the treatment plan must be
338 completed by a qualified evaluator and submitted to the court
339 before its 60-day review.

340 3. For any child in residential treatment at the time a
341 judicial review is held pursuant to s. 39.701, the child's
342 continued placement in residential treatment must be a subject
343 of the judicial review.

344 4. If at any time the court determines that the child is
345 not suitable for continued residential treatment, the court
346 shall order the department to place the child in the least
347 restrictive setting that is best suited to meet his or her
348 needs.

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349 (h) After the initial 60-day review, the court must conduct
350 a review of the child's residential treatment plan every 90
351 days.

352 (i) The department must adopt rules for implementing
353 timeframes for the completion of suitability assessments by
354 qualified evaluators and a procedure that includes timeframes
355 for completing the 60-day independent review by the qualified
356 evaluators of the child's progress toward achieving the goals
357 and objectives of the treatment plan which review must be
358 submitted to the court. The Agency for Health Care
359 Administration must adopt rules for the registration of
360 qualified evaluators, the procedure for selecting the evaluators
361 to conduct the reviews required under this section, and a
362 reasonable, cost-efficient fee schedule for qualified
363 evaluators.

364 Section 7. Section 39.503, Florida Statutes, is amended to
365 read:

366 39.503 Identity or location of parent unknown; special
367 procedures.—

368 (1) If the identity or location of a parent is unknown and
369 a petition for dependency ~~or shelter~~ is filed, the court shall
370 conduct under oath an ~~the following~~ inquiry of the parent or
371 legal custodian who is available, or, if no parent or legal
372 custodian is available, of any relative or custodian of the
373 child who is present at the hearing and likely to have any of
374 the following information:

375 (a) Whether the mother of the child was married at the
376 probable time of conception of the child or at the time of birth
377 of the child.

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378 (b) Whether the mother was cohabiting with a male at the
379 probable time of conception of the child.

380 (c) Whether the mother has received payments or promises of
381 support with respect to the child or because of her pregnancy
382 from a man who claims to be the father.

383 (d) Whether the mother has named any man as the father on
384 the birth certificate of the child or in connection with
385 applying for or receiving public assistance.

386 (e) Whether any man has acknowledged or claimed paternity
387 of the child in a jurisdiction in which the mother resided at
388 the time of or since conception of the child, or in which the
389 child has resided or resides.

390 (f) Whether a man is named on the birth certificate of the
391 child under ~~pursuant to~~ s. 382.013(2).

392 (g) Whether a man has been determined by a court order to
393 be the father of the child.

394 (h) Whether a man has been determined to be the father of
395 the child by the Department of Revenue as provided in s.
396 409.256.

397 (2) The information required in subsection (1) may be
398 supplied to the court or the department in the form of a sworn
399 affidavit by a person having personal knowledge of the facts.

400 (3) If the inquiry under subsection (1) identifies any
401 person as a parent or prospective parent and that person's
402 location is known, the court shall require notice of the hearing
403 to be provided to that person. However, notice is not required
404 to be provided to a prospective parent if there is an identified
405 legal father, as defined in s. 39.01, of the child.

406 (4) If the inquiry under subsection (1) identifies a person

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407 as a legal father, as defined in s. 39.01, the court shall enter
408 an order establishing the paternity of the father. Once an order
409 establishing paternity has been entered, the court may not take
410 any action to disestablish this paternity in the absence of an
411 action filed under chapter 742. An action filed under chapter
412 742 concerning a child who is the subject in a dependence
413 proceeding must comply with s. 742.0211.

414 (5)~~(4)~~ If the inquiry under subsection (1) fails to
415 identify any person as a parent or prospective parent, the court
416 shall so find and may proceed without further notice and the
417 petitioner is relieved of performing any further search.

418 (6)~~(5)~~ If the inquiry under subsection (1) identifies a
419 parent or prospective parent, and that person's location is
420 unknown, the court shall direct the petitioner to conduct a
421 diligent search for that person before scheduling a disposition
422 hearing regarding the dependency of the child unless the court
423 finds that the best interest of the child requires proceeding
424 without notice to the person whose location is unknown. However,
425 a diligent search is not required to be conducted for a
426 prospective parent if there is an identified legal father, as
427 defined in s. 39.01, of the child.

428 (7)~~(6)~~ The diligent search required by subsection (6) ~~(5)~~
429 must include, at a minimum, inquiries of all relatives of the
430 parent or prospective parent made known to the petitioner,
431 inquiries of all offices of program areas of the department
432 likely to have information about the parent or prospective
433 parent, inquiries of other state and federal agencies likely to
434 have information about the parent or prospective parent,
435 inquiries of appropriate utility and postal providers, a

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436 thorough search of at least one electronic database specifically
437 designed for locating persons, a search of the Florida Putative
438 Father Registry, and inquiries of appropriate law enforcement
439 agencies. Pursuant to s. 453 of the Social Security Act, 42
440 U.S.C. s. 653(c)(4), the department, as the state agency
441 administering Titles IV-B and IV-E of the act, shall be provided
442 access to the federal and state parent locator service for
443 diligent search activities.

444 (8)~~(7)~~ Any agency contacted by a petitioner with a request
445 for information under ~~pursuant to~~ subsection (7) ~~must~~ ~~(6)~~ ~~shall~~
446 release the requested information to the petitioner without the
447 necessity of a subpoena or court order.

448 (9) If the inquiry and diligent search identifies and
449 locates a parent, that person is considered a parent for all
450 purposes under this chapter and must be provided notice of all
451 hearings.

452 (10)~~(8)~~ If the inquiry and diligent search identifies and
453 locates a prospective parent and there is no legal father, that
454 person must be given the opportunity to become a party to the
455 proceedings by completing a sworn affidavit of parenthood and
456 filing it with the court or the department. A prospective parent
457 who files a sworn affidavit of parenthood while the child is a
458 dependent child but no later than at the time of or before the
459 adjudicatory hearing in any termination of parental rights
460 proceeding for the child shall be considered a parent for all
461 purposes under this chapter ~~section~~ unless the other parent
462 contests the determination of parenthood. A person does not have
463 standing to file a sworn affidavit of parenthood or otherwise
464 establish parenthood, except through adoption, after entry of a

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465 judgment terminating the parental rights of the legal father for
466 a child. If the known parent contests the recognition of the
467 prospective parent as a parent, the court having jurisdiction
468 over the dependency matter shall conduct a determination of
469 parentage under chapter 742. The prospective parent may not be
470 recognized as a parent until proceedings to determine maternity
471 or paternity ~~under chapter 742~~ have been concluded. However, the
472 prospective parent shall continue to receive notice of hearings
473 as a participant pending results of the ~~chapter 742~~ proceedings
474 to determine maternity or paternity.

475 ~~(11)(9)~~ If the diligent search under subsection (6) ~~(5)~~
476 fails to ~~identify and~~ locate a parent or prospective parent who
477 was identified during the inquiry under subsection (1), the
478 court shall so find and may proceed without further notice and
479 the petitioner is relieved from performing any further search.

480 Section 8. Section 39.5035, Florida Statutes, is created to
481 read:

482 39.5035 Deceased parents; special procedures.—

483 (1)(a)1. If both parents of a child are deceased and a
484 legal custodian has not been appointed for the child through a
485 probate or guardianship proceeding, then an attorney for the
486 department or any other person, who has knowledge of the facts
487 whether alleged or is informed of the alleged facts and believes
488 them to be true, may initiate a proceeding by filing a petition
489 for adjudication and permanent commitment.

490 2. If a child has been placed in shelter status by order of
491 the court but has not yet been adjudicated, a petition for
492 adjudication and permanent commitment must be filed within 21
493 days after the shelter hearing. In all other cases, the petition

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494 must be filed within a reasonable time after the date the child
495 was referred to protective investigation or after the petitioner
496 first becomes aware of the facts that support the petition for
497 adjudication and permanent commitment.

498 (b) If both parents or the last living parent dies after a
499 child has already been adjudicated dependent, an attorney for
500 the department or any other person who has knowledge of the
501 facts alleged or is informed of the alleged facts and believes
502 them to be true may file a petition for permanent commitment.

503 (2) The petition:

504 (a) Must be in writing, identify the alleged deceased
505 parents, and provide facts that establish that both parents of
506 the child are deceased and that a legal custodian has not been
507 appointed for the child through a probate or guardianship
508 proceeding.

509 (b) Must be signed by the petitioner under oath stating the
510 petitioner's good faith in filing the petition.

511 (3) When a petition for adjudication and permanent
512 commitment or a petition for permanent commitment has been
513 filed, the clerk of court shall set the case before the court
514 for an adjudicatory hearing. The adjudicatory hearing must be
515 held as soon as practicable after the petition is filed, but no
516 later than 30 days after the filing date.

517 (4) Notice of the date, time, and place of the adjudicatory
518 hearing and a copy of the petition must be served on the
519 following persons:

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

521 (b) A living relative of each parent of the child, unless a
522 living relative cannot be found after a diligent search and

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523 inquiry.

524 (c) The guardian ad litem for the child or the
525 representative of the guardian ad litem program, if the program
526 has been appointed.

527 (5) Adjudicatory hearings shall be conducted by the judge
528 without a jury, applying the rules of evidence in use in civil
529 cases and adjourning the hearings from time to time as
530 necessary. At the hearing, the judge must determine whether the
531 petitioner has established by clear and convincing evidence that
532 both parents of the child are deceased and that a legal
533 custodian has not been appointed for the child through a probate
534 or guardianship proceeding. A certified copy of the death
535 certificate for each parent is sufficient evidence of proof of
536 the parents' deaths.

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

539 (a) If the court finds that the petitioner has met the
540 clear and convincing standard, the court shall enter a written
541 order adjudicating the child dependent and permanently
542 committing the child to the custody of the department for the
543 purpose of adoption. A disposition hearing shall be scheduled no
544 later than 30 days after the entry of the order, in which the
545 department shall provide a case plan that identifies the
546 permanency goal for the child to the court. Reasonable efforts
547 must be made to place the child in a timely manner in accordance
548 with the permanency plan and to complete all steps necessary to
549 finalize the permanent placement of the child. Thereafter, until
550 the adoption of the child is finalized or the child reaches the
551 age of 18 years, whichever occurs first, the court shall hold

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552 hearings every 6 months to review the progress being made toward
553 permanency for the child.

554 (b) If the court finds that clear and convincing evidence
555 does not establish that both parents of a child are deceased and
556 that a legal custodian has not been appointed for the child
557 through a probate or guardianship proceeding, but that a
558 preponderance of the evidence establishes that the child does
559 not have a parent or legal custodian capable of providing
560 supervision or care, the court shall enter a written order
561 adjudicating the child dependent. A disposition hearing shall be
562 scheduled no later than 30 days after the entry of the order as
563 provided in s. 39.521.

564 (c) If the court finds that clear and convincing evidence
565 does not establish that both parents of a child are deceased and
566 that a legal custodian has not been appointed for the child
567 through a probate or guardianship proceeding and that a
568 preponderance of the evidence does not establish that the child
569 does not have a parent or legal custodian capable of providing
570 supervision or care, the court shall enter a written order so
571 finding and dismissing the petition.

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

574 (a) If the court finds that the petitioner has met the
575 clear and convincing standard, the court shall enter a written
576 order permanently committing the child to the custody of the
577 department for purposes of adoption. A disposition hearing shall
578 be scheduled no later than 30 days after the entry of the order,
579 in which the department shall provide an amended case plan that
580 identifies the permanency goal for the child to the court.

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581 Reasonable efforts must be made to place the child in a timely
582 manner in accordance with the permanency plan and to complete
583 all steps necessary to finalize the permanent placement of the
584 child. Thereafter, until the adoption of the child is finalized
585 or the child reaches the age of 18 years, whichever occurs
586 first, the court shall hold hearings every 6 months to review
587 the progress being made toward permanency for the child.

588 (b) If the court finds that clear and convincing evidence
589 does not establish that both parents of a child are deceased and
590 that a legal custodian has not been appointed for the child
591 through a probate or guardianship proceeding, the court shall
592 enter a written order denying the petition. The order has no
593 effect on the child's prior adjudication. The order does not bar
594 the petitioner from filing a subsequent petition for permanent
595 commitment based on newly discovered evidence that establishes
596 that both parents of a child are deceased and that a legal
597 custodian has not been appointed for the child through a probate
598 or guardianship proceeding.

599 Section 9. Paragraph (c) of subsection (1) and subsections
600 (3) and (7) of section 39.521, Florida Statutes, are amended to
601 read:

602 39.521 Disposition hearings; powers of disposition.—

603 (1) A disposition hearing shall be conducted by the court,
604 if the court finds that the facts alleged in the petition for
605 dependency were proven in the adjudicatory hearing, or if the
606 parents or legal custodians have consented to the finding of
607 dependency or admitted the allegations in the petition, have
608 failed to appear for the arraignment hearing after proper
609 notice, or have not been located despite a diligent search

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610 having been conducted.

611 (c) When any child is adjudicated by a court to be
612 dependent, the court having jurisdiction of the child has the
613 power by order to:

614 1. Require the parent and, when appropriate, the legal
615 guardian or the child to participate in treatment and services
616 identified as necessary. The court may require the person who
617 has custody or who is requesting custody of the child to submit
618 to a mental health or substance abuse disorder assessment or
619 evaluation. The order may be made only upon good cause shown and
620 pursuant to notice and procedural requirements provided under
621 the Florida Rules of Juvenile Procedure. The mental health
622 assessment or evaluation must be administered by a qualified
623 professional as defined in s. 39.01, and the substance abuse
624 assessment or evaluation must be administered by a qualified
625 professional as defined in s. 397.311. The court may also
626 require such person to participate in and comply with treatment
627 and services identified as necessary, including, when
628 appropriate and available, participation in and compliance with
629 a mental health court program established under chapter 394 or a
630 treatment-based drug court program established under s. 397.334.
631 Adjudication of a child as dependent based upon evidence of harm
632 as defined in s. 39.01(35)(g) demonstrates good cause, and the
633 court shall require the parent whose actions caused the harm to
634 submit to a substance abuse disorder assessment or evaluation
635 and to participate and comply with treatment and services
636 identified in the assessment or evaluation as being necessary.
637 In addition to supervision by the department, the court,
638 including the mental health court program or the treatment-based

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639 drug court program, may oversee the progress and compliance with
640 treatment by a person who has custody or is requesting custody
641 of the child. The court may impose appropriate available
642 sanctions for noncompliance upon a person who has custody or is
643 requesting custody of the child or make a finding of
644 noncompliance for consideration in determining whether an
645 alternative placement of the child is in the child's best
646 interests. Any order entered under this subparagraph may be made
647 only upon good cause shown. This subparagraph does not authorize
648 placement of a child with a person seeking custody of the child,
649 other than the child's parent or legal custodian, who requires
650 mental health or substance abuse disorder treatment.

651 2. Require, if the court deems necessary, the parties to
652 participate in dependency mediation.

653 3. Require placement of the child either under the
654 protective supervision of an authorized agent of the department
655 in the home of one or both of the child's parents or in the home
656 of a relative of the child or another adult approved by the
657 court, or in the custody of the department. ~~Protective~~
658 ~~supervision continues until the court terminates it or until the~~
659 ~~child reaches the age of 18, whichever date is first. Protective~~
660 ~~supervision shall be terminated by the court whenever the court~~
661 ~~determines that permanency has been achieved for the child,~~
662 ~~whether with a parent, another relative, or a legal custodian,~~
663 ~~and that protective supervision is no longer needed. The~~
664 ~~termination of supervision may be with or without retaining~~
665 ~~jurisdiction, at the court's discretion, and shall in either~~
666 ~~case be considered a permanency option for the child. The order~~
667 ~~terminating supervision by the department must set forth the~~

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668 ~~powers of the custodian of the child and include the powers~~
669 ~~ordinarily granted to a guardian of the person of a minor unless~~
670 ~~otherwise specified. Upon the court's termination of supervision~~
671 ~~by the department, further judicial reviews are not required if~~
672 ~~permanency has been established for the child.~~

673 4. Determine whether the child has a strong attachment to
674 the prospective permanent guardian and whether such guardian has
675 a strong commitment to permanently caring for the child.

676 (3) When any child is adjudicated by a court to be
677 dependent, the court shall determine the appropriate placement
678 for the child as follows:

679 (a) If the court determines that the child can safely
680 remain in the home with the parent with whom the child was
681 residing at the time the events or conditions arose that brought
682 the child within the jurisdiction of the court and that
683 remaining in this home is in the best interest of the child,
684 then the court shall order conditions under which the child may
685 remain or return to the home and that this placement be under
686 the protective supervision of the department for not less than 6
687 months.

688 (b) If there is a parent with whom the child was not
689 residing at the time the events or conditions arose that brought
690 the child within the jurisdiction of the court who desires to
691 assume custody of the child, the court shall place the child
692 with that parent upon completion of a home study, unless the
693 court finds that such placement would endanger the safety, well-
694 being, or physical, mental, or emotional health of the child.
695 Any party with knowledge of the facts may present to the court
696 evidence regarding whether the placement will endanger the

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697 safety, well-being, or physical, mental, or emotional health of
698 the child. If the court places the child with such parent, it
699 may do either of the following:

700 1. Order that the parent assume sole custodial
701 responsibilities for the child. The court may also provide for
702 reasonable visitation by the noncustodial parent. The court may
703 then terminate its jurisdiction over the child.

704 2. Order that the parent assume custody subject to the
705 jurisdiction of the circuit court hearing dependency matters.
706 The court may order that reunification services be provided to
707 the parent from whom the child has been removed, that services
708 be provided solely to the parent who is assuming physical
709 custody in order to allow that parent to retain later custody
710 without court jurisdiction, or that services be provided to both
711 parents, in which case the court shall determine at every review
712 hearing which parent, if either, shall have custody of the
713 child. The standard for changing custody of the child from one
714 parent to another or to a relative or another adult approved by
715 the court shall be the best interest of the child.

716 (c) If no fit parent is willing or available to assume care
717 and custody of the child, place the child in the temporary legal
718 custody of an adult relative, the adoptive parent of the child's
719 sibling, or another adult approved by the court who is willing
720 to care for the child, under the protective supervision of the
721 department. The department must supervise this placement until
722 the child reaches permanency status in this home, and in no case
723 for a period of less than 6 months. Permanency in a relative
724 placement shall be by adoption, long-term custody, or
725 guardianship.

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726 (d) If the child cannot be safely placed in a nonlicensed
727 placement, the court shall commit the child to the temporary
728 legal custody of the department. Such commitment invests in the
729 department all rights and responsibilities of a legal custodian.
730 The department may ~~shall~~ not return any child to the physical
731 care and custody of the person from whom the child was removed,
732 except for court-approved visitation periods, without the
733 approval of the court. Any order for visitation or other contact
734 must conform to the provisions of s. 39.0139. The term of such
735 commitment continues until terminated by the court or until the
736 child reaches the age of 18. After the child is committed to the
737 temporary legal custody of the department, all further
738 proceedings under this section are governed by this chapter.

739
740 ~~Protective supervision continues until the court terminates it~~
741 ~~or until the child reaches the age of 18, whichever date is~~
742 ~~first. Protective supervision shall be terminated by the court~~
743 ~~whenever the court determines that permanency has been achieved~~
744 ~~for the child, whether with a parent, another relative, or a~~
745 ~~legal custodian, and that protective supervision is no longer~~
746 ~~needed. The termination of supervision may be with or without~~
747 ~~retaining jurisdiction, at the court's discretion, and shall in~~
748 ~~either case be considered a permanency option for the child. The~~
749 ~~order terminating supervision by the department shall set forth~~
750 ~~the powers of the custodian of the child and shall include the~~
751 ~~powers ordinarily granted to a guardian of the person of a minor~~
752 ~~unless otherwise specified. Upon the court's termination of~~
753 ~~supervision by the department, no further judicial reviews are~~
754 ~~required, so long as permanency has been established for the~~

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755 ~~child.~~

756 ~~(7) The court may enter an order ending its jurisdiction~~
757 ~~over a child when a child has been returned to the parents,~~
758 ~~provided the court shall not terminate its jurisdiction or the~~
759 ~~department's supervision over the child until 6 months after the~~
760 ~~child's return. The department shall supervise the placement of~~
761 ~~the child after reunification for at least 6 months with each~~
762 ~~parent or legal custodian from whom the child was removed. The~~
763 ~~court shall determine whether its jurisdiction should be~~
764 ~~continued or terminated in such a case based on a report of the~~
765 ~~department or agency or the child's guardian ad litem, and any~~
766 ~~other relevant factors; if its jurisdiction is to be terminated,~~
767 ~~the court shall enter an order to that effect.~~

768 Section 10. Section 39.522, Florida Statutes, is amended to
769 read:

770 39.522 Postdisposition change of custody.—The court may
771 change the temporary legal custody or the conditions of
772 protective supervision at a postdisposition hearing, without the
773 necessity of another adjudicatory hearing. If a child has been
774 returned to the parent and is under protective supervision by
775 the department and the child is later removed again from the
776 parent's custody, any modifications of placement shall be done
777 under this section.

778 (1) At any time, an authorized agent of the department or a
779 law enforcement officer may remove a child from a court-ordered
780 placement and take the child into custody if the child's current
781 caregiver requests immediate removal of the child from the home
782 or if there is probable cause as required in s. 39.401(1)(b).
783 The department shall file a motion to modify placement within 1

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784 business day after the child is taken into custody. Unless all
785 parties agree to the change of placement, the court must set a
786 hearing within 24 hours after the filing of the motion. At the
787 hearing, the court shall determine whether the department has
788 established probable cause to support the immediate removal of
789 the child from his or her current placement. The court may base
790 its determination on a sworn petition, testimony, or an
791 affidavit and may hear all relevant and material evidence,
792 including oral or written reports, to the extent of its
793 probative value even though it would not be competent evidence
794 at an adjudicatory hearing. If the court finds that probable
795 cause is not established to support the removal of the child
796 from the placement, the court shall order that the child be
797 returned to his or her current placement. If the caregiver
798 admits to a need for a change of placement or probable cause is
799 established to support the removal, the court shall enter an
800 order changing the placement of the child. If the child is not
801 placed in foster care, then the new placement for the child must
802 meet the home study criteria in chapter 39. If the child's
803 placement is modified based on a probable cause finding, the
804 court must conduct a subsequent evidentiary hearing, unless
805 waived by all parties, on the motion to determine whether the
806 department has established by a preponderance of the evidence
807 that maintaining the new placement of the child is in the best
808 interest of the child. The court shall consider the continuity
809 of the child's placement in the same out-of-home residence as a
810 factor when determining the best interests of the child.

811 (2)~~(1)~~ At any time before a child is residing in the
812 permanent placement approved at the permanency hearing, a child

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813 who has been placed in the child's own home under the protective
814 supervision of an authorized agent of the department, in the
815 home of a relative, in the home of a legal custodian, or in some
816 other place may be brought before the court by the department or
817 by any other party ~~interested person~~, upon the filing of a
818 petition ~~motion~~ alleging a need for a change in the conditions
819 of protective supervision or the placement. If the parents or
820 other legal custodians deny the need for a change, the court
821 shall hear all parties in person or by counsel, or both. Upon
822 the admission of a need for a change or after such hearing, the
823 court shall enter an order changing the placement, modifying the
824 conditions of protective supervision, or continuing the
825 conditions of protective supervision as ordered. The standard
826 for changing custody of the child is determined by a
827 preponderance of the evidence that establishes that a change is
828 in ~~shall be~~ the best interest of the child. When applying this
829 standard, the court shall consider the continuity of the child's
830 placement in the same out-of-home residence as a factor when
831 determining the best interests of the child. If the child is not
832 placed in foster care, then the new placement for the child must
833 meet the home study criteria and court approval under ~~pursuant~~
834 ~~to~~ this chapter.

835 (3) ~~(2)~~ In cases where the issue before the court is whether
836 a child should be reunited with a parent, the court shall review
837 the conditions for return and determine whether the
838 circumstances that caused the out-of-home placement and issues
839 subsequently identified have been remedied to the extent that
840 the return of the child to the home with an in-home safety plan
841 prepared or approved by the department will not be detrimental

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842 to the child's safety, well-being, and physical, mental, and
843 emotional health.

844 ~~(4)(3)~~ In cases where the issue before the court is whether
845 a child who is placed in the custody of a parent should be
846 reunited with the other parent upon a finding that the
847 circumstances that caused the out-of-home placement and issues
848 subsequently identified have been remedied to the extent that
849 the return of the child to the home of the other parent with an
850 in-home safety plan prepared or approved by the department will
851 not be detrimental to the child, the standard shall be that the
852 safety, well-being, and physical, mental, and emotional health
853 of the child would not be endangered by reunification and that
854 reunification would be in the best interest of the child.

855 Section 11. Subsection (8) of section 39.6011, Florida
856 Statutes, is amended to read:

857 39.6011 Case plan development.—

858 (8) The case plan must be filed with the court and copies
859 provided to all parties, including the child if appropriate;~~7~~
860 ~~not less than 3 business days before the disposition hearing.~~

861 (a) Not less than 72 hours before the disposition hearing,
862 if the disposition hearing occurs on or after the 60th day after
863 the date the child was placed in out-of-home care; or

864 (b) Not less than 72 hours before the case plan acceptance
865 hearing, if the disposition hearing occurs before the 60th day
866 after the date the child was placed in out-of-home care and a
867 case plan has not been submitted under this subsection, or if
868 the court does not approve the case plan at the disposition
869 hearing.

870 Section 12. Section 39.63, Florida Statutes, is created to

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871 read:

872 39.63 Case closure.—Unless s. 39.6251 applies, the court
873 shall close the judicial case for all proceedings under this
874 chapter by terminating protective supervision and its
875 jurisdiction as provided in this section.

876 (1) If a child is placed under the protective supervision
877 of the department, the protective supervision continues until
878 such supervision is terminated by the court or until the child
879 reaches the age of 18, whichever occurs first. The court shall
880 terminate protective supervision when it determines that
881 permanency has been achieved for the child and supervision is no
882 longer needed. If the court adopts a permanency goal of
883 reunification with a parent or legal custodian from whom the
884 child was initially removed, the court must retain jurisdiction
885 and the department must supervise the placement for a minimum of
886 6 months after reunification. The court shall determine whether
887 its jurisdiction should be continued or terminated based on a
888 report of the department or the child's guardian ad litem. The
889 termination of supervision may be with or without retaining
890 jurisdiction, at the court's discretion.

891 (2) The order terminating protective supervision must set
892 forth the powers of the legal custodian of the child and include
893 the powers originally granted to a guardian of the person of a
894 minor unless otherwise specified.

895 (3) Upon the court's termination of supervision by the
896 department, further judicial reviews are not required.

897 (4) The court must enter a written order terminating its
898 jurisdiction over a child when the child is returned to his or
899 her parent. However, the court must retain jurisdiction over the

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900 child for a minimum of 6 months after reunification and may not
901 terminate its jurisdiction until the court determines that
902 protective supervision is no longer needed.

903 (5) If a child was not removed from the home, the court
904 must enter a written order terminating its jurisdiction over the
905 child when the court determines that permanency has been
906 achieved.

907 (6) If a child is placed in the custody of a parent and the
908 court determines that reasonable efforts to reunify the child
909 with the other parent are not required, the court may, at any
910 time, order that the custodial parent assume sole custodial
911 responsibilities for the child, provide for reasonable
912 visitation by the noncustodial parent, and terminate its
913 jurisdiction over the child. If the court previously approved a
914 case plan that requires services to be provided to the
915 noncustodial parent, the court may not terminate its
916 jurisdiction before the case plan expires unless the court finds
917 by a preponderance of the evidence that it is not likely that
918 the child will be reunified with the noncustodial parent within
919 12 months after the child was removed from the home.

920 (7) When a child has been adopted under a chapter 63
921 proceeding, the court must enter a written order terminating its
922 jurisdiction over the child in the chapter 39 proceeding.

923 Section 13. Paragraph (a) of subsection (3) of section
924 39.801, Florida Statutes, is amended to read:

925 39.801 Procedures and jurisdiction; notice; service of
926 process.—

927 (3) Before the court may terminate parental rights, in
928 addition to the other requirements set forth in this part, the

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929 following requirements must be met:

930 (a) Notice of the date, time, and place of the advisory
931 hearing for the petition to terminate parental rights and a copy
932 of the petition must be personally served upon the following
933 persons, specifically notifying them that a petition has been
934 filed:

935 1. The parents of the child.

936 2. The legal custodians of the child.

937 3. If the parents who would be entitled to notice are dead
938 or unknown, a living relative of the child, unless upon diligent
939 search and inquiry no such relative can be found.

940 4. Any person who has physical custody of the child.

941 5. Any grandparent entitled to priority for adoption under
942 s. 63.0425.

943 6. Any prospective parent who has been identified and
944 located under s. 39.503 or s. 39.803, unless a court order has
945 been entered under s. 39.503(5) or (11) or s. 39.803(5) or (11)
946 ~~pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9)~~ which
947 indicates no further notice is required. Except as otherwise
948 provided in this section, if there is not a legal father, notice
949 of the petition for termination of parental rights must be
950 provided to any known prospective father who is identified under
951 oath before the court or who is identified and located by a
952 diligent search of the Florida Putative Father Registry. Service
953 of the notice of the petition for termination of parental rights
954 is not required if the prospective father executes an affidavit
955 of nonpaternity or a consent to termination of his parental
956 rights which is accepted by the court after notice and
957 opportunity to be heard by all parties to address the best

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958 interests of the child in accepting such affidavit.

959 7. The guardian ad litem for the child or the
960 representative of the guardian ad litem program, if the program
961 has been appointed.

962

963 The document containing the notice to respond or appear must
964 contain, in type at least as large as the type in the balance of
965 the document, the following or substantially similar language:

966 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
967 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
968 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND
969 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
970 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
971 NOTICE."

972 Section 14. Section 39.803, Florida Statutes, is amended to
973 read:

974 39.803 Identity or location of parent unknown after filing
975 of termination of parental rights petition; special procedures.—

976 (1) If the identity or location of a parent is unknown, and
977 a petition for termination of parental rights is filed, and the
978 court has not previously conducted an inquiry or entered an
979 order relieving the petitioner of further search or notice under
980 s. 39.503, the court shall conduct under oath the following
981 inquiry of the parent who is available, or, if no parent is
982 available, of any relative, caregiver, or legal custodian of the
983 child who is present at the hearing and likely to have the
984 information:

985 (a) Whether the mother of the child was married at the
986 probable time of conception of the child or at the time of birth

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987 of the child.

988 (b) Whether the mother was cohabiting with a male at the
989 probable time of conception of the child.

990 (c) Whether the mother has received payments or promises of
991 support with respect to the child or because of her pregnancy
992 from a man who claims to be the father.

993 (d) Whether the mother has named any man as the father on
994 the birth certificate of the child or in connection with
995 applying for or receiving public assistance.

996 (e) Whether any man has acknowledged or claimed paternity
997 of the child in a jurisdiction in which the mother resided at
998 the time of or since conception of the child, or in which the
999 child has resided or resides.

1000 (f) Whether a man is named on the birth certificate of the
1001 child under ~~pursuant to~~ s. 382.013(2).

1002 (g) Whether a man has been determined by a court order to
1003 be the father of the child.

1004 (h) Whether a man has been determined to be the father of
1005 the child by the Department of Revenue as provided in s.
1006 409.256.

1007 (2) The information required in subsection (1) may be
1008 supplied to the court or the department in the form of a sworn
1009 affidavit by a person having personal knowledge of the facts.

1010 (3) If the inquiry under subsection (1) identifies any
1011 person as a parent or prospective parent and that person's
1012 location is known, the court shall require notice of the hearing
1013 to be provided to that person. However, notice is not required
1014 to be provided to a prospective parent if there is an identified
1015 legal father, as defined in s. 39.01, of the child.

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1016 (4) If the inquiry under subsection (1) identifies a person
1017 as a legal father, as defined in s. 39.01, the court shall enter
1018 an order establishing the paternity of the father. Once an order
1019 establishing paternity has been entered, the court may not take
1020 any action to disestablish this paternity in the absence of an
1021 action filed under chapter 742. An action filed under chapter
1022 742 concerning a child who is the subject in a dependence
1023 proceeding must comply with s. 742.0211.

1024 ~~(5)~~(4) If the inquiry under subsection (1) fails to
1025 identify any person as a parent or prospective parent, the court
1026 shall so find and may proceed without further notice and the
1027 petitioner is relieved of performing any further search.

1028 ~~(6)~~(5) If the inquiry under subsection (1) identifies a
1029 parent or prospective parent, and that person's location is
1030 unknown, the court shall direct the petitioner to conduct a
1031 diligent search for that person before scheduling an
1032 adjudicatory hearing regarding the petition for termination of
1033 parental rights to the child unless the court finds that the
1034 best interest of the child requires proceeding without actual
1035 notice to the person whose location is unknown. However, a
1036 diligent search is not required to be conducted for a
1037 prospective parent if there is an identified legal father, as
1038 defined in s. 39.01, of the child.

1039 ~~(7)~~(6) The diligent search required by subsection ~~(6)~~ (5)
1040 must include, at a minimum, inquiries of all known relatives of
1041 the parent or prospective parent, inquiries of all offices of
1042 program areas of the department likely to have information about
1043 the parent or prospective parent, inquiries of other state and
1044 federal agencies likely to have information about the parent or

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1045 prospective parent, inquiries of appropriate utility and postal
1046 providers, a thorough search of at least one electronic database
1047 specifically designed for locating persons, a search of the
1048 Florida Putative Father Registry, and inquiries of appropriate
1049 law enforcement agencies. Pursuant to s. 453 of the Social
1050 Security Act, 42 U.S.C. s. 653(c)(4), the department, as the
1051 state agency administering Titles IV-B and IV-E of the act,
1052 shall be provided access to the federal and state parent locator
1053 service for diligent search activities.

1054 (8)~~(7)~~ Any agency contacted by petitioner with a request
1055 for information under ~~pursuant to~~ subsection (7) ~~(6)~~ shall
1056 release the requested information to the petitioner without the
1057 necessity of a subpoena or court order.

1058 (9) If the inquiry and diligent search identifies and
1059 locates a parent, that person is considered a parent for all
1060 purposes under this chapter and must be provided notice of all
1061 hearings.

1062 (10)~~(8)~~ If the inquiry and diligent search identifies and
1063 locates a prospective parent and there is no legal father, that
1064 person must be given the opportunity to become a party to the
1065 proceedings by completing a sworn affidavit of parenthood and
1066 filing it with the court or the department. A prospective parent
1067 who files a sworn affidavit of parenthood while the child is a
1068 dependent child but no later than at the time of or before the
1069 adjudicatory hearing in the termination of parental rights
1070 proceeding for the child shall be considered a parent for all
1071 purposes under this chapter ~~section~~. A person does not have
1072 standing to file a sworn affidavit of parenthood or otherwise
1073 establish parenthood, except through adoption, after the entry

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1074 of a judgment terminating the parental rights of the legal
 1075 father for a child. If the known parent contests the recognition
 1076 of the prospective parent as a parent, the court having
 1077 jurisdiction over the dependency matter shall conduct a
 1078 determination of parentage proceeding under chapter 742. The
 1079 prospective parent may not be recognized as a parent until
 1080 proceedings to determine maternity or paternity have been
 1081 concluded. However, the prospective parent shall continue to
 1082 receive notice of hearings as a participant pending results of
 1083 the proceedings to determine maternity or paternity.

1084 (11) ~~(9)~~ If the diligent search under subsection (6) ~~(5)~~
 1085 fails to identify and locate a parent or prospective parent who
 1086 was identified during the inquiry under subsection (1), the
 1087 court shall so find and may proceed without further notice and
 1088 the petitioner is relieved from performing any further search.

1089 Section 15. Paragraph (e) of subsection (1) and subsection
 1090 (2) of section 39.806, Florida Statutes, are amended to read:

1091 39.806 Grounds for termination of parental rights.—

1092 (1) Grounds for the termination of parental rights may be
 1093 established under any of the following circumstances:

1094 (e) When a child has been adjudicated dependent, a case
 1095 plan has been filed with the court, and:

1096 1. The child continues to be abused, neglected, or
 1097 abandoned by the parent or parents. The failure of the parent or
 1098 parents to substantially comply with the case plan for a period
 1099 of 12 months after an adjudication of the child as a dependent
 1100 child or the child's placement into shelter care, whichever
 1101 occurs first, constitutes evidence of continuing abuse, neglect,
 1102 or abandonment unless the failure to substantially comply with

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1103 the case plan was due to the parent's lack of financial
1104 resources or to the failure of the department to make reasonable
1105 efforts to reunify the parent and child. The 12-month period
1106 begins to run only after the child's placement into shelter care
1107 or the entry of a disposition order placing the custody of the
1108 child with the department or a person other than the parent and
1109 the court's approval of a case plan having the goal of
1110 reunification with the parent, whichever occurs first; ~~or~~

1111 2. The parent or parents have materially breached the case
1112 plan by their action or inaction. Time is of the essence for
1113 permanency of children in the dependency system. In order to
1114 prove the parent or parents have materially breached the case
1115 plan, the court must find by clear and convincing evidence that
1116 the parent or parents are unlikely or unable to substantially
1117 comply with the case plan before time to comply with the case
1118 plan expires; or ~~or~~

1119 3. The child has been in care for any 12 of the last 22
1120 months and the parents have not substantially complied with the
1121 case plan so as to permit reunification under s. 39.522(3) ~~s.~~
1122 ~~39.522(2)~~ unless the failure to substantially comply with the
1123 case plan was due to the parent's lack of financial resources or
1124 to the failure of the department to make reasonable efforts to
1125 reunify the parent and child.

1126 (2) Reasonable efforts to preserve and reunify families are
1127 not required if a court of competent jurisdiction has determined
1128 that any of the events described in paragraphs (1) (b)-(d) or
1129 paragraphs (1) (f)-(n) ~~(1) (f)-(m)~~ have occurred.

1130 Section 16. Subsection (9) of section 39.811, Florida
1131 Statutes, is amended to read:

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1132 39.811 Powers of disposition; order of disposition.—

1133 (9) After termination of parental rights or a written order
1134 of permanent commitment entered under s. 39.5035, the court
1135 shall retain jurisdiction over any child for whom custody is
1136 given to a social service agency until the child is adopted. The
1137 court shall review the status of the child's placement and the
1138 progress being made toward permanent adoptive placement. As part
1139 of this continuing jurisdiction, for good cause shown by the
1140 guardian ad litem for the child, the court may review the
1141 appropriateness of the adoptive placement of the child. The
1142 department's decision to deny an application to adopt a child
1143 who is under the court's jurisdiction is reviewable only through
1144 a motion to file a chapter 63 petition as provided in s.
1145 39.812(4), and is not subject to chapter 120.

1146 Section 17. Subsections (1), (4), and (5) of section
1147 39.812, Florida Statutes, are amended to read:

1148 39.812 Postdisposition relief; petition for adoption.—

1149 (1) If the department is given custody of a child for
1150 subsequent adoption in accordance with this chapter, the
1151 department may place the child with an agency as defined in s.
1152 63.032, with a child-caring agency registered under s. 409.176,
1153 or in a family home for prospective subsequent adoption without
1154 the need for a court order unless otherwise required under this
1155 section. The department may allow prospective adoptive parents
1156 to visit with a child in the department's custody without a
1157 court order to determine whether the adoptive placement would be
1158 appropriate. The department may thereafter become a party to any
1159 proceeding for the legal adoption of the child and appear in any
1160 court where the adoption proceeding is pending and consent to

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1161 the adoption, and that consent alone shall in all cases be
1162 sufficient.

1163 (4) The court shall retain jurisdiction over any child
1164 placed in the custody of the department until the case is closed
1165 as provided in s. 39.63 ~~the child is adopted~~. After custody of a
1166 child for subsequent adoption has been given to the department,
1167 the court has jurisdiction for the purpose of reviewing the
1168 status of the child and the progress being made toward permanent
1169 adoptive placement. As part of this continuing jurisdiction, for
1170 good cause shown by the guardian ad litem for the child, the
1171 court may review the appropriateness of the adoptive placement
1172 of the child.

1173 (a) If the department has denied a person's application to
1174 adopt a child, the denied applicant may file a motion with the
1175 court within 30 days after the issuance of the written
1176 notification of denial to allow him or her to file a chapter 63
1177 petition to adopt a child without the department's consent. The
1178 denied applicant must allege in its motion that the department
1179 unreasonably withheld its consent to the adoption. The court, as
1180 part of its continuing jurisdiction, may review and rule on the
1181 motion.

1182 1. The denied applicant only has standing in the chapter 39
1183 proceeding to file the motion in paragraph (a) and to present
1184 evidence in support of the motion at a hearing, which must be
1185 held within 30 days after the filing of the motion.

1186 2. At the hearing on the motion, the court may only
1187 consider whether the department's review of the application was
1188 consistent with its policies and made in an expeditious manner.
1189 The standard of review by the court is whether the department's

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1190 denial of the application is an abuse of discretion. The court
1191 may not compare the denied applicant against another applicant
1192 to determine which placement is in the best interests of the
1193 child.

1194 3. If the denied applicant establishes by a preponderance
1195 of the evidence that the department unreasonably withheld its
1196 consent, the court shall enter an order authorizing the denied
1197 applicant to file a petition to adopt the child under chapter 63
1198 without the department's consent.

1199 4. If the denied applicant does not prove by a
1200 preponderance of the evidence that the department unreasonably
1201 withheld its consent, the court shall enter an order so finding
1202 and dismiss the motion.

1203 5. The standing of the denied applicant in the chapter 39
1204 proceeding is terminated upon entry of the court's order.

1205 (b) When a licensed foster parent or court-ordered
1206 custodian has applied to adopt a child who has resided with the
1207 foster parent or custodian for at least 6 months and who has
1208 previously been permanently committed to the legal custody of
1209 the department and the department does not grant the application
1210 to adopt, the department may not, in the absence of a prior
1211 court order authorizing it to do so, remove the child from the
1212 foster home or custodian, except when:

1213 1.-(a) There is probable cause to believe that the child is
1214 at imminent risk of abuse or neglect;

1215 2.-(b) Thirty days have expired following written notice to
1216 the foster parent or custodian of the denial of the application
1217 to adopt, within which period no formal challenge of the
1218 department's decision has been filed; ~~or~~

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1219 3.~~(e)~~ The foster parent or custodian agrees to the child's
1220 removal; or-

1221 4. The department has selected another prospective adoptive
1222 parent to adopt the child and either the foster parent or
1223 custodian has not filed a motion with the court to allow him or
1224 her to file a chapter 63 petition to adopt a child without the
1225 department's consent, as provided under paragraph (a), or the
1226 court has denied such a motion.

1227 (5) The petition for adoption must be filed in the division
1228 of the circuit court which entered the judgment terminating
1229 parental rights, unless a motion for change of venue is granted
1230 under ~~pursuant to~~ s. 47.122. A copy of the consent executed by
1231 the department must be attached to the petition, unless such
1232 consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~.
1233 The petition must be accompanied by a statement, signed by the
1234 prospective adoptive parents, acknowledging receipt of all
1235 information required to be disclosed under s. 63.085 and a form
1236 provided by the department which details the social and medical
1237 history of the child and each parent and includes the social
1238 security number and date of birth for each parent, if such
1239 information is available or readily obtainable. The prospective
1240 adoptive parents may not file a petition for adoption until the
1241 judgment terminating parental rights becomes final. An adoption
1242 proceeding under this subsection is governed by chapter 63.

1243 Section 18. Subsection (7) of section 63.062, Florida
1244 Statutes, is amended to read:

1245 63.062 Persons required to consent to adoption; affidavit
1246 of nonpaternity; waiver of venue.-

1247 (7) If parental rights to the minor have previously been

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1248 terminated, the adoption entity with which the minor has been
1249 placed for subsequent adoption may provide consent to the
1250 adoption. In such case, no other consent is required. If the
1251 minor has been permanently committed to the department for
1252 subsequent adoption, the department must consent to the adoption
1253 or, in the alternative, the court order entered under s.
1254 39.812(4) finding that the department ~~The consent of the~~
1255 ~~department shall be waived upon a determination by the court~~
1256 ~~that such consent is being~~ unreasonably withheld its consent
1257 must be attached to the petition to adopt, and if the petitioner
1258 must file ~~has filed with the court~~ a favorable preliminary
1259 adoptive home study as required under s. 63.092.

1260 Section 19. Paragraph (b) of subsection (6) of section
1261 63.082, Florida Statutes, is amended to read:

1262 63.082 Execution of consent to adoption or affidavit of
1263 nonpaternity; family social and medical history; revocation of
1264 consent.—

1265 (6)

1266 (b) Upon execution of the consent of the parent, the
1267 adoption entity is ~~shall be~~ permitted to intervene in the
1268 dependency case as a party in interest and must provide the
1269 court that acquired jurisdiction over the minor, pursuant to the
1270 shelter order or dependency petition filed by the department, a
1271 copy of the preliminary home study of the prospective adoptive
1272 parents and any other evidence of the suitability of the
1273 placement. The preliminary home study must be maintained with
1274 strictest confidentiality within the dependency court file and
1275 the department's file. A preliminary home study must be provided
1276 to the court in all cases in which an adoption entity has

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1277 intervened under ~~pursuant to~~ this section. The exemption in s.
1278 63.092(3) from the home study for a stepparent or relative does
1279 not apply if a minor is under the supervision of the department
1280 or is otherwise subject to the jurisdiction of the dependency
1281 court as a result of the filing of a shelter petition,
1282 dependency petition, or termination of parental rights petition
1283 under chapter 39. Unless the court has concerns regarding the
1284 qualifications of the home study provider, or concerns that the
1285 home study may not be adequate to determine the best interests
1286 of the child, the home study provided by the adoption entity is
1287 ~~shall be deemed to be~~ sufficient and no additional home study
1288 needs to be performed by the department.

1289 Section 20. Subsections (8) and (9) of section 402.302,
1290 Florida Statutes, are amended to read:

1291 402.302 Definitions.—As used in this chapter, the term:

1292 (8) "Family day care home" means an occupied primary
1293 residence leased or owned by the operator in which child care is
1294 regularly provided for children from at least two unrelated
1295 families and which receives a payment, fee, or grant for any of
1296 the children receiving care, whether or not operated for profit.
1297 Household children under 13 years of age, when on the premises
1298 of the family day care home or on a field trip with children
1299 enrolled in child care, are ~~shall be~~ included in the overall
1300 capacity of the licensed home. A family day care home is ~~shall~~
1301 ~~be~~ allowed to provide care for one of the following groups of
1302 children, which shall include household children under 13 years
1303 of age:

1304 (a) A maximum of four children from birth to 12 months of
1305 age.

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1306 (b) A maximum of three children from birth to 12 months of
1307 age, and other children, for a maximum total of six children.

1308 (c) A maximum of six preschool children if all are older
1309 than 12 months of age.

1310 (d) A maximum of 10 children if no more than 5 are
1311 preschool age and, of those 5, no more than 2 are under 12
1312 months of age.

1313 (9) "Household children" means children who are related by
1314 blood, marriage, or legal adoption to, or who are the legal
1315 wards of, the family day care home operator, the large family
1316 child care home operator, or an adult household member who
1317 permanently or temporarily resides in the home. Supervision of
1318 the operator's household children shall be left to the
1319 discretion of the operator unless those children receive
1320 subsidized child care through the school readiness program under
1321 ~~pursuant to~~ s. 1002.92 to be in the home.

1322 Section 21. Paragraph (a) of subsection (7), paragraphs (b)
1323 and (c) of subsection (9), and subsection (10) of section
1324 402.305, Florida Statutes, are amended to read:

1325 402.305 Licensing standards; child care facilities.—

1326 (7) SANITATION AND SAFETY.—

1327 (a) Minimum standards shall include requirements for
1328 sanitary and safety conditions, first aid treatment, emergency
1329 procedures, and pediatric cardiopulmonary resuscitation. The
1330 minimum standards shall require that at least one staff person
1331 trained and certified in cardiopulmonary resuscitation, as
1332 evidenced by current documentation of course completion, must be
1333 present at all times that children are present.

1334 (9) ADMISSIONS AND RECORDKEEPING.—

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1335 (b) At the time of initial enrollment and annually
1336 thereafter ~~During the months of August and September of each~~
1337 ~~year~~, each child care facility shall provide parents of children
1338 enrolled in the facility detailed information regarding the
1339 causes, symptoms, and transmission of the influenza virus in an
1340 effort to educate those parents regarding the importance of
1341 immunizing their children against influenza as recommended by
1342 the Advisory Committee on Immunization Practices of the Centers
1343 for Disease Control and Prevention.

1344 (c) At the time of initial enrollment and annually
1345 thereafter ~~During the months of April and September of each~~
1346 ~~year~~, at a minimum, each facility shall provide parents of
1347 children enrolled in the facility information regarding the
1348 potential for a distracted adult to fail to drop off a child at
1349 the facility and instead leave the child in the adult's vehicle
1350 upon arrival at the adult's destination. The child care facility
1351 shall also give parents information about resources with
1352 suggestions to avoid this occurrence. The department shall
1353 develop a flyer or brochure with this information that shall be
1354 posted to the department's website, which child care facilities
1355 may choose to reproduce and provide to parents to satisfy the
1356 requirements of this paragraph.

1357 (10) TRANSPORTATION SAFETY.—

1358 (a) Minimum standards for child care facilities, family day
1359 care homes, and large family child care homes shall include all
1360 of the following:

1361 1. Requirements for child restraints or seat belts in
1362 vehicles used by ~~child care facilities and large family child~~
1363 ~~care~~ homes to transport children.7

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1364 2. Requirements for annual inspections of such ~~the~~
1365 vehicles~~.~~

1366 3. Limitations on the number of children which may be
1367 transported in such ~~the~~ vehicles~~.~~

1368 4. Procedures to ensure that ~~avoid leaving~~ children are not
1369 inadvertently left in vehicles when transported by a ~~the~~
1370 facility or home, and that systems are in place to ensure
1371 accountability for children transported by such facilities or
1372 homes ~~the child care facility~~.

1373 (b) Before providing transportation services or reinstating
1374 transportation services after a lapse or discontinuation of
1375 longer than 30 days, a child care facility, family day care
1376 home, or large family child care home must be approved by the
1377 department to transport children. Approval by the department is
1378 based on the provider's demonstration of compliance with all
1379 current rules and standards for transportation.

1380 (c) A child care facility, family day care home, or large
1381 family child care home is not responsible for the safe transport
1382 of children when they are being transported by a parent or
1383 guardian.

1384 Section 22. Subsections (14) and (15) of section 402.313,
1385 Florida Statutes, are amended to read:

1386 402.313 Family day care homes.—

1387 (14) At the time of initial enrollment and annually
1388 thereafter ~~During the months of August and September of each~~
1389 ~~year~~, each family day care home shall provide parents of
1390 children enrolled in the home detailed information regarding the
1391 causes, symptoms, and transmission of the influenza virus in an
1392 effort to educate those parents regarding the importance of

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1393 immunizing their children against influenza as recommended by
1394 the Advisory Committee on Immunization Practices of the Centers
1395 for Disease Control and Prevention.

1396 (15) At the time of initial enrollment and annually
1397 thereafter ~~During the months of April and September of each~~
1398 ~~year~~, at a minimum, each family day care home shall provide
1399 parents of children attending the family day care home
1400 information regarding the potential for a distracted adult to
1401 fail to drop off a child at the family day care home and instead
1402 leave the child in the adult's vehicle upon arrival at the
1403 adult's destination. The family day care home shall also give
1404 parents information about resources with suggestions to avoid
1405 this occurrence. The department shall develop a flyer or
1406 brochure with this information that shall be posted to the
1407 department's website, which family day care homes may choose to
1408 reproduce and provide to parents to satisfy the requirements of
1409 this subsection.

1410 Section 23. Subsections (8), (9), and (10) of section
1411 402.3131, Florida Statutes, are amended to read:

1412 402.3131 Large family child care homes.—

1413 (8) Before ~~Prior to~~ being licensed by the department, large
1414 family child care homes must be approved by the state or local
1415 fire marshal in accordance with standards established for child
1416 care facilities.

1417 (9) At the time of initial enrollment and annually
1418 thereafter ~~During the months of August and September of each~~
1419 ~~year~~, each large family child care home shall provide parents of
1420 children enrolled in the home detailed information regarding the
1421 causes, symptoms, and transmission of the influenza virus in an

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1422 effort to educate those parents regarding the importance of
1423 immunizing their children against influenza as recommended by
1424 the Advisory Committee on Immunization Practices of the Centers
1425 for Disease Control and Prevention.

1426 (10) At the time of initial enrollment and annually
1427 thereafter ~~During the months of April and September of each~~
1428 ~~year~~, at a minimum, each large family child care home shall
1429 provide parents of children attending the large family child
1430 care home information regarding the potential for a distracted
1431 adult to fail to drop off a child at the large family child care
1432 home and instead leave the child in the adult's vehicle upon
1433 arrival at the adult's destination. The large family child care
1434 home shall also give parents information about resources with
1435 suggestions to avoid this occurrence. The department shall
1436 develop a flyer or brochure with this information that shall be
1437 posted to the department's website, which large family child
1438 care homes may choose to reproduce and provide to parents to
1439 satisfy the requirements of this subsection.

1440 Section 24. Subsection (6) and paragraphs (b) and (e) of
1441 subsection (7) of section 409.1451, Florida Statutes, are
1442 amended to read:

1443 409.1451 The Road-to-Independence Program.—

1444 (6) ACCOUNTABILITY.—The department shall develop outcome
1445 measures for the program and other performance measures ~~in order~~
1446 ~~to maintain oversight of the program. No later than January 31~~
1447 ~~of each year, the department shall prepare a report on the~~
1448 ~~outcome measures and the department's oversight activities and~~
1449 ~~submit the report to the President of the Senate, the Speaker of~~
1450 ~~the House of Representatives, and the committees with~~

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1451 ~~jurisdiction over issues relating to children and families in~~
1452 ~~the Senate and the House of Representatives. The report must~~
1453 ~~include:~~

1454 ~~(a) An analysis of performance on the outcome measures~~
1455 ~~developed under this section reported for each community-based~~
1456 ~~care lead agency and compared with the performance of the~~
1457 ~~department on the same measures.~~

1458 ~~(b) A description of the department's oversight of the~~
1459 ~~program, including, by lead agency, any programmatic or fiscal~~
1460 ~~deficiencies found, corrective actions required, and current~~
1461 ~~status of compliance.~~

1462 ~~(c) Any rules adopted or proposed under this section since~~
1463 ~~the last report. For the purposes of the first report, any rules~~
1464 ~~adopted or proposed under this section must be included.~~

1465 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The
1466 secretary shall establish the Independent Living Services
1467 Advisory Council for the purpose of reviewing and making
1468 recommendations concerning the implementation and operation of
1469 the provisions of s. 39.6251 and the Road-to-Independence
1470 Program. The advisory council shall function as specified in
1471 this subsection until the Legislature determines that the
1472 advisory council can no longer provide a valuable contribution
1473 to the department's efforts to achieve the goals of the services
1474 designed to enable a young adult to live independently.

1475 ~~(b) The advisory council shall report to the secretary on~~
1476 ~~the status of the implementation of the Road-to-Independence~~
1477 ~~Program, efforts to publicize the availability of the Road-to-~~
1478 ~~Independence Program, the success of the services, problems~~
1479 ~~identified, recommendations for department or legislative~~

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1480 ~~action, and the department's implementation of the~~
1481 ~~recommendations contained in the Independent Living Services~~
1482 ~~Integration Workgroup Report submitted to the appropriate~~
1483 ~~substantive committees of the Legislature by December 31, 2013.~~
1484 ~~The department shall submit a report by December 31 of each year~~
1485 ~~to the Governor, the President of the Senate, and the Speaker of~~
1486 ~~the House of Representatives which includes a summary of the~~
1487 ~~factors reported on by the council and identifies the~~
1488 ~~recommendations of the advisory council and either describes the~~
1489 ~~department's actions to implement the recommendations or~~
1490 ~~provides the department's rationale for not implementing the~~
1491 ~~recommendations.~~

1492 ~~(c) The advisory council report required under paragraph~~
1493 ~~(b) must include an analysis of the system of independent living~~
1494 ~~transition services for young adults who reach 18 years of age~~
1495 ~~while in foster care before completing high school or its~~
1496 ~~equivalent and recommendations for department or legislative~~
1497 ~~action. The council shall assess and report on the most~~
1498 ~~effective method of assisting these young adults to complete~~
1499 ~~high school or its equivalent by examining the practices of~~
1500 ~~other states.~~

1501 Section 25. Section 742.0211, Florida Statutes, is created
1502 to read:

1503 742.0211 Proceedings applicable to dependent children.—

1504 (1) As used in this section, the term "dependent child"
1505 means a child who is the subject of any proceeding under chapter
1506 39.

1507 (2) In addition to the other requirements of this chapter,
1508 any paternity proceeding filed under this chapter that concerns

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1509 a dependent child must also comply with the requirements of this
1510 section.

1511 (3) Notwithstanding s. 742.021(1), a paternity proceeding
1512 filed under this chapter that concerns a dependent child may be
1513 filed in the circuit court of the county that is exercising
1514 jurisdiction over the chapter 39 proceeding, even if the
1515 plaintiff or defendant do not reside in that county.

1516 (4) The court having jurisdiction over the dependency
1517 matter may conduct any paternity proceeding filed under this
1518 chapter either as part of the chapter 39 proceeding or as a
1519 separate action under this chapter.

1520 (5) A person does not have standing to file a complaint
1521 under this chapter after the entry of a judgment terminating the
1522 parental rights of the legal father, as defined in s. 39.01, for
1523 the dependent child in the chapter 39 proceeding.

1524 (6) The court must hold a hearing on the complaint
1525 concerning a dependent child as required under s. 742.031 within
1526 30 days after the complaint is filed.

1527 (7) (a) If the dependent child has a legal father, as
1528 defined in s. 39.01, and a different man, who has reason to
1529 believe that he is the father of the dependent child, has filed
1530 a complaint to establish paternity under this chapter and
1531 disestablish the paternity of the legal father, the alleged
1532 father must prove at the hearing held under s. 742.031 that:

1533 1. He has acted with diligence in seeking the establishment
1534 of paternity.

1535 2. He is the father of the dependent child.

1536 3. He has manifested a substantial and continuing concern
1537 for the welfare of the dependent child.

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1538 (b) If the alleged father establishes the facts under
1539 paragraph (a), he must then prove by clear and convincing
1540 evidence that there is a clear and compelling reason to
1541 disestablish the legal father's paternity and instead establish
1542 paternity with him by considering the best interest of the
1543 dependent child.

1544 (c) There is a rebuttable presumption that it is not in the
1545 dependent child's best interest to disestablish the legal
1546 father's paternity if:

1547 1. The dependent child has been the subject of a chapter 39
1548 proceeding for 12 months or more before the alleged father files
1549 a complaint under this chapter.

1550 2. The alleged father does not pass a preliminary home
1551 study as required under s. 63.092 to be a placement for the
1552 dependent child.

1553 (8) The court must enter a written order on the paternity
1554 complaint within 30 days after the conclusion of the hearing.

1555 (9) If the court enters an order disestablishing the
1556 paternity of the legal father and establishing the paternity of
1557 the alleged father, then that person shall be considered a
1558 parent, as defined in s. 39.01, for all purposes of the chapter
1559 39 proceeding.

1560 Section 26. This act shall take effect October 1, 2020.

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 1624

INTRODUCER: Senator Perry

SUBJECT: Economic Self-sufficiency

DATE: February 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Hendon | Hendon | CF | Pre-meeting |
| 2. | | | GO | |
| 3. | | | AP | |

I. Summary:

SB 1624 requires the Auditor General to review the state’s economic assistance, health care, and housing programs every three years. The bill requires the Auditor General to submit a report to the Governor and Legislature within 30 days of completing such reviews.

The bill removes the definitions of “earned income” and “unearned income” from the statutes guiding the School Readiness Program. The bill provides a priority for subsidized child care to parents who have an Intensive Service Account or an Individual Training Account. Such accounts are used by the state’s workforce program, CareerSource Florida, Inc., to assist persons with job referral and placement.

The bill is not expected to have a fiscal impact and has an effective date of July 1, 2020.

II. Present Situation:

Florida Auditor General

The Constitution of the State of Florida provides for the Legislature to appoint an auditor who shall audit the public records and perform related duties as prescribed by law or concurrent resolution. Section 11.42, Florida Statutes, designates the constitutional auditor as the Auditor General and Sections 11.42 through 11.47, Florida Statutes, set forth her general authority and duties. Independently, and in accordance with applicable professional standards, the Auditor General:

- Conducts financial audits of the accounts and records of State government, State universities, State colleges, and school districts.
- Conducts operational and performance audits of public programs, activities, and functions and information technology systems.

- Adopts rules, in consultation with the Florida Board of Accountancy, for audits performed by independent certified public accountants of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for-profit organizations.
- Conducts reviews of audit reports of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for profit organizations.
- Conducts examinations of school districts' and other entities' records to evaluate compliance with State requirements governing the Florida Education Finance Program student enrollment and student transportation funding allocations.
- Conducts quality assessment reviews of the internal audits performed by State agency offices of inspectors general.

Pursuant to the Federal Single Audit Act, the Office of Management and Budget requires an audit of major State-administered Federal awards programs, as described in Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.¹ Accordingly, the Auditor General performs an annual financial and Federal awards audit of the State of Florida, which encompasses all state agencies, universities, and colleges, most recently in Report No. 2019-186. With the exception of the Section 8 program, this audit includes the State administered Federal programs listed in the bill. The Section 8 program is administered by local housing authorities rather than the state. As a result, each of the listed programs except Section 8 is audited by the Auditor General at least once every 3 years.²

Early Learning

The Department of Education's Office of Early Learning oversees three programs—the school readiness program, the Voluntary Prekindergarten Education Program (VPK), and child care resource and referral services—and an annual budget of \$1.3 billion.³ The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund.⁴ The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK program.⁵ The executive director of the OEL is responsible for administering early learning programs at the state level.

The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds. Across the state, 30 regional early learning coalitions are responsible for delivering local services, including the VPK program and the school readiness program.⁶ Each coalition is governed by a board of directors comprised of

¹ Letter from the Auditor General, dated Jan. 21, 2020. On file with the Senate Committee on Children, Families and Elder Affairs

² *Id.*

³ Early Learning Services Program Total, s. 2, ch. 2019-115, L.O.F.

⁴ Section 1002.82(1), F.S.

⁵ The OEL is required to submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be immediately filed with the Department of State. Section 1001.213, F.S.

⁶ The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Jan. 30, 2020). See also 1002.83(1), F.S.

various stakeholders and community representatives.⁷ The State Board of Education does not have authority over the coalitions, and early learning data is not collected in the K-20 student database as part of the management information databases governed by the board.⁸

The school readiness program provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.⁹ The school readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.¹⁰ To participate in the school readiness program, a provider must execute a school readiness contract.¹¹ During the 2017-2018 academic year, 7,668 school readiness providers served 201,474 children enrolled in a school readiness program.¹² For Fiscal Year 2019-2020, a total of \$760.8 million was appropriated for the school readiness program from state and federal funds.¹³

III. Effect of Proposed Changes:

Section 1 amends 11.45, F.S., relating to the Auditor General. The bill provides every three years the Auditor General must conduct performance audits of the following economic assistance and health care programs:

- The Supplemental Nutrition Assistance Program (SNAP) that helps low-income individuals and families buy healthy food.
- The Temporary Cash Assistance Program that provides cash assistance to families with children under the age of 18 that meet the technical, income, and asset requirements.
- The Medicaid Program that provides medical coverage to low-income individuals and families.
- The School Readiness Program that provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.
- The U.S. Department of Housing and Urban Development Section 8 Housing Program that provides housing assistance to low income individuals and families. The U.S. Department of Housing and Urban Development Section 8 Housing Program is operated by the federal government through local organizations in Florida. It is unclear if the Florida Auditor General would have the authority to conduct such reviews or audits.

The bill requires the Auditor General to review eligibility criteria, review how the programs document eligibility, how frequently the programs determine eligibility, how clear the programs communicate requirements to the program beneficiaries, review ways to improve efficiency and

⁷ Section 1002.83(3), F.S.

⁸ Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 13.

⁹ Section 1002.87, F.S.

¹⁰ Section 1002.86, F.S.

¹¹ Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, available at http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Form%20OEL-SR%202020_%20Statewide%20School%20Readiness%20Provider%20Contract_12-19-18_Fi....pdf.

¹² Florida Office of Early Learning, *Early Learning Programs Profile: Monthly State Report* (June 2018), https://factbook.floridaearlylearning.com/oel_1.aspx, (last visited Jan. 30, 2020).

¹³ Specific Appropriation 86, s. 2, ch. 2019-115, L.O.F.

effectiveness through data sharing, and the number of families receiving assistance from more than one of the programs.

The bill directs the Auditor General to determine the number of families receiving assistance from these programs that also receive Earned Income Tax credits. It is unclear whether the Internal Revenue Service (IRS) would be able to provide information on Floridians who receive the Earned Income Tax credit. When dealing with the IRS, taxpayers have the right to confidentiality. Taxpayers can expect that any information they provide to the IRS will not be disclosed to outside parties, unless authorized by the taxpayer or by law.¹⁴ The right to confidentiality requires:

- In general, the IRS may not disclose a taxpayer's tax information to third parties, unless those taxpayers give the agency permission.
- In general, the IRS cannot contact third parties, such as a taxpayer's employer, neighbor, or bank, to get information about a taxpayer unless it provides the taxpayer with reasonable notice before making the contact.
- When dealing with a federally authorized tax practitioner, taxpayers can expect the same confidentiality protection that they would have with an attorney.

The bill requires the Auditor General to report the results of such audits to the Governor and Legislature within 30 days after their completion.

Section 2 amends s. 1002.81, F.S., providing definitions for the School Readiness Program. The bill removes the definitions of "earned income" and "unearned income" from the statutes. It is unclear what the impact of these changes would be to the state's School Readiness Program. The Department of Education has not provided the requested analysis of this bill.

Section 3 amends s. 1002.87, F.S., relating to the School Readiness Program to provide a priority for subsidized child care to parents who have an Intensive Service Account or an Individual Training Account. Such accounts are used by the state's workforce program, CareerSource Florida, Inc., to assist persons with job referral and placement.

Section 4 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁴ U.S. Internal Revenue Service website. See <https://www.irs.gov/newsroom/the-right-to-confidentiality-taxpayer-bill-of-rights-8> (last visited Jan. 30, 2020).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The proposed changes would require the Auditor General to conduct a performance audit every 3 years of various State-administered Federal public assistance programs.

However, the bill would have a minimal impact on the operations of the Auditor General because many of the issues raised in the bill have been or are currently subject to audit.¹⁵

VI. Technical Deficiencies:

The U.S. Department of Housing and Urban Development Section 8 Housing Program is operated by the federal government. It is unclear if the Florida Auditor General would have the authority to conduct reviews or audits of the program.

The Auditor General would not be able to access information on Floridians who receive the Earned Income Tax credit in order to determine if such individuals also participate in the economic assistance and health care programs. Tax information is confidential and only released by the IRS under certain circumstances.

VII. Related Issues:

None.

¹⁵ Letter from the Auditor General, dated Jan. 21, 2020. On file with the Senate Committee on Children, Families and Elder Affairs

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 1002.81, and 1002.87.

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 (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (m) is added to subsection (2) of
section 11.45, Florida Statutes, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(2) DUTIES.—The Auditor General shall:

(m) At least every 3 years, conduct performance audits of
the Supplemental Nutrition Assistance Program established under



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11 7 U.S.C. ss. 2011 et seq., the Temporary Cash Assistance Program
12 provided under s. 414.095, the Medicaid program designated in s.
13 409.963, the School Readiness Program set forth in part VI of
14 chapter 1002, and the Housing Choice Voucher Program established
15 under 42 U.S.C. s. 1437. Such audits shall include a review of
16 eligibility criteria; the manner by which each program
17 establishes and documents eligibility and disbursement policies;
18 the frequency of eligibility determinations; the clarity of both
19 written and verbal communication in which eligibility
20 requirements are conveyed to current and potential program
21 recipients; opportunities for improving service efficiency and
22 efficacy made possible by improved integration of state data
23 system platforms, processes, and procedures related to data
24 collection, analysis, documentation, and interagency sharing;
25 and a review of the number and family size of families receiving
26 multiple program services compared to all eligible families,
27 including whether they are single-parent or two-parent
28 households. If possible, the Auditor General also shall
29 determine the number of families receiving services who are
30 claiming the Earned Income Tax Credit. The Auditor General shall
31 provide the results of the audits in a report to the Governor,
32 the President of the Senate, the Speaker of the House of
33 Representatives, the Chief Financial Officer, and the
34 Legislative Auditing Committee within 30 days after completion
35 of the audit, but no later than December 31, 2020, and every 3
36 years thereafter.

37
38 The Auditor General shall perform his or her duties
39 independently but under the general policies established by the



40 Legislative Auditing Committee. This subsection does not limit
41 the Auditor General's discretionary authority to conduct other
42 audits or engagements of governmental entities as authorized in
43 subsection (3).

44 Section 2. Paragraph (a) of subsection (1) of section
45 1002.87, Florida Statutes, is amended to read:

46 1002.87 School readiness program; eligibility and
47 enrollment.—

48 (1) Each early learning coalition shall give priority for
49 participation in the school readiness program as follows:

50 (a) Priority shall be given first to a child younger than
51 13 years of age from a family that includes a parent who is
52 receiving temporary cash assistance under chapter 414 and
53 subject to the federal work requirements or a parent who
54 receives an Intensive Service Account or an Individual Training
55 Account under s. 445.009.

56 Section 3. This act shall take effect July 1, 2020.

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

59 And the title is amended as follows:

60 Delete everything before the enacting clause
61 and insert:

62 A bill to be entitled
63 An act relating to economic self-sufficiency; amending
64 s. 11.45, F.S.; requiring the Auditor General to
65 perform audits of specified programs at specified
66 intervals; requiring the audits to review specified
67 elements of such programs; requiring the Auditor
68 General to make a specified determination, if



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69 possible; providing reporting requirements for the
70 results of such audits; amending s. 1002.87, F.S.;
71 revising the criteria for a child to be given priority
72 for participation in the school readiness program;
73 providing an effective date.

By Senator Perry

8-01614-20

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1 A bill to be entitled
2 An act relating to economic self-sufficiency; amending
3 s. 11.45, F.S.; requiring the Auditor General to
4 conduct performance audits of the Supplemental
5 Nutrition Assistance Program, the temporary cash
6 assistance program, the Medicaid program, the school
7 readiness program, and the United States Department of
8 Housing and Urban Development Section 8 housing
9 program, every 3 years; requiring that the audits
10 include a review of eligibility requirements and the
11 eligibility determination process; requiring that the
12 audits review the opportunities for improving service
13 efficiency and efficacy made possible by improved
14 integration of state data system platforms, processes,
15 and procedures and interagency sharing; requiring the
16 Auditor General, if possible, to determine the number
17 of families receiving multiple program services;
18 requiring the Auditor General to submit a report to
19 the Governor, the President of the Senate, the Speaker
20 of the House of Representatives, the Chief Financial
21 Officer, and the Legislative Auditing Committee,
22 within a specified timeframe amending s. 1002.81,
23 F.S.; removing definitions; amending s. 1002.87, F.S.;
24 requiring that first priority for eligibility and
25 enrollment in the school readiness program also be
26 given to parents who have an Intensive Service Account
27 or an Individual Training Account; providing an
28 effective date.
29

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

31
32 Section 1. Paragraph (m) is added to subsection (2) of
33 section 11.45, Florida Statutes, to read:

34 11.45 Definitions; duties; authorities; reports; rules.—

35 (2) DUTIES.—The Auditor General shall:

36 (m) At least every 3 years, conduct performance audits of
37 the Supplemental Nutrition Assistance Program authorized under
38 s. 414.455, the temporary cash assistance program administered
39 under s. 414.095, the Medicaid program administered under part
40 III of chapter 409, the school readiness program administered
41 under part VI of chapter 1002, and the United States Department
42 of Housing and Urban Development Section 8 housing program. Such
43 audits must include a review of eligibility criteria; the manner
44 in which each program determines and documents eligibility and
45 establishes disbursement policies; the frequency of eligibility
46 determinations; the clarity of both written and verbal
47 communication in which eligibility requirements are conveyed to
48 current and potential program beneficiaries; opportunities for
49 improving service efficiency and efficacy made possible by
50 improved integration of state data system platforms, processes,
51 and procedures related to data collection, analysis,
52 documentation, and interagency sharing; and the number of
53 families receiving assistance or services under more than one
54 such program and the percentage of such families of the total of
55 eligible families. If possible, the Auditor General shall also
56 determine the number of families receiving services and those
57 using the Internal Revenue Service Earned Income Tax Credit. The
58 Auditor General shall submit a report on the results of the

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59 audits to the Governor, the President of the Senate, the Speaker
 60 of the House of Representatives, the Chief Financial Officer,
 61 and the Legislative Auditing Committee within 30 days after
 62 completion of the audit.

63
 64 The Auditor General shall perform his or her duties
 65 independently but under the general policies established by the
 66 Legislative Auditing Committee. This subsection does not limit
 67 the Auditor General's discretionary authority to conduct other
 68 audits or engagements of governmental entities as authorized in
 69 subsection (3).

70 Section 2. Subsections (6) and (15) of section 1002.81,
 71 Florida Statutes, are amended to read:

72 1002.81 Definitions.—Consistent with the requirements of 45
 73 C.F.R. parts 98 and 99 and as used in this part, the term:

74 ~~(6) "Earned income" means gross remuneration derived from~~
 75 ~~work, professional service, or self-employment. The term~~
 76 ~~includes commissions, bonuses, back pay awards, and the cash~~
 77 ~~value of all remuneration paid in a medium other than cash.~~

78 ~~(15) "Unearned income" means income other than earned~~
 79 ~~income. The term includes, but is not limited to:~~

- 80 ~~(a) Documented alimony and child support received.~~
- 81 ~~(b) Social security benefits.~~
- 82 ~~(c) Supplemental security income benefits.~~
- 83 ~~(d) Workers' compensation benefits.~~
- 84 ~~(e) Reemployment assistance or unemployment compensation~~
 85 ~~benefits.~~
- 86 ~~(f) Veterans' benefits.~~
- 87 ~~(g) Retirement benefits.~~

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88 ~~(h) Temporary cash assistance under chapter 414.~~

89 Section 3. Paragraph (a) of subsection (1) of section
90 1002.87, Florida Statutes, is amended to read:

91 1002.87 School readiness program; eligibility and
92 enrollment.-

93 (1) Each early learning coalition shall give priority for
94 participation in the school readiness program as follows:

95 (a) Priority shall be given first to a child younger than
96 13 years of age from a family that includes a parent who is
97 receiving temporary cash assistance under chapter 414 and
98 subject to the federal work requirements and to a parent who has
99 an Intensive Service Account or an Individual Training Account
100 under s. 445.009.

101 Section 4. This act shall take effect July 1, 2020.

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 1648

INTRODUCER: Senator Albritton

SUBJECT: Support for Incapacitated Adult Children

DATE: February 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Delia | Hendon | CF | Pre-meeting |
| 2. | | | JU | |
| 3. | | | AP | |

I. Summary:

SB 1648 codifies and clarifies a parent’s obligation to support an incapacitated or dependent-in-fact adult child. The bill mandates that the right of a parent to receive and manage support for an incapacitated adult child must be established in a guardianship proceeding. The bill allows for the filing of suit to establish support to be filed at any time after an incapacitated adult child reaches 17 years and 6 months old. The bill provides that parents may agree in writing to extend support in an existing child support case if the agreement is submitted to the court with proper jurisdiction before the adult child reaches 18; otherwise support is required to be established in a guardianship proceeding. The bill requires support paid after the adult child reaches 18 to be paid to a court-appointed guardian.

The bill will have an indeterminate fiscal impact on the state court system and has an effective date of July 1, 2020.

II. Present Situation:

Child Support

Child support is a parent’s legal obligation to contribute to the economic maintenance and education of his or her child until the age of majority, the child’s emancipation before reaching majority, or the child’s completion of secondary education.¹ This obligation arises since each parent has a duty to support² his or her minor or legally dependent child.³ Child support can be entered into voluntarily, by court order, or by an administrative agency. Child support is an

¹ BLACK’S LAW DICTIONARY, 10th edition, 2014.

² s. 61.046(22), F.S., defines “support” as child support when the Department of Revenue is not enforcing the support obligation and it includes spousal support or alimony for the person with whom the child is living when the Department of Revenue is enforcing the support obligation. The definition applies to the use of the term throughout ch. 61, F.S.

³ s. 61.29, F.S. See generally ss. 744.301 and 744.361, F.S.

important source of income for millions of children in the United States. Child support payments represent on average 40 percent of income for poor custodial families who receive them; such payments lifted one million people above poverty in 2008.⁴

Establishment of Child Support Obligation

When parents live apart because they never married or are divorced or separated, the court may order a parent who owes a duty of support to a child to pay support to the other parent, or in the case of both parents, to a third party who has custody, in accordance with the guidelines schedule in s. 61.30, F.S.⁵ Section 61.30, F.S., sets forth guidelines to determine the appropriate amount of child support according to a formula that is based on a parents' income and the amount of time that the child spends with each parent. The judicial officer is permitted to deviate from the guideline amount plus or minus 5 percent after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent.⁶ The judicial officer may also deviate from the guideline amount more than plus or minus 5 percent, but he or she must include a written finding in the support order explaining why the guideline amount is unjust or inappropriate.⁷ Establishment of a child support award, or enforcement of one, may be through the judicial system or the state child support program.

Department of Revenue Child Support Program

As required by Title IV-D of the Social Security Act,⁸ the federal Department of Health and Human Services (HHS) coordinates with child support enforcement programs administered in each state, which perform collection and enforcement services.⁹ Each state's child support enforcement agency operates under an approved state plan based on the program standards and policy set by the federal government.¹⁰ In Florida, the Department of Revenue (DOR) administers the child support program.^{11 12}

Current child support program structures vary widely from state to state, but at a minimum, services offered in all child support programs include:

- Locating noncustodial parents;
- Establishing paternity;
- Establishing and modifying support orders;
- Collecting support payments and enforcing child support orders; and

⁴ National Conference of State Legislatures, *Child Support Overview*, March 15, 2016, available at <http://www.ncsl.org/research/human-services/child-support-homepage.aspx> (last viewed January 31, 2020).

⁵ s. 61.13(1)(a), F.S.

⁶ s. 61.30(1)(a), F.S.

⁷ *Id.*

⁸ See 42 U.S.C. ss. 651 et seq.

⁹ National Conference of State Legislatures, *Child Support 101: State Administration*, April 2013, available at <http://www.ncsl.org/research/human-services/child-support-adminstration.aspx> (last viewed January 31, 2020).

¹⁰ *Id.*

¹¹ s. 409.2557(1), F.S.

¹² Department of Revenue, *About the Child Support Program*, 2016, available at http://floridarevenue.com/dor/childsupport/about_us.html (last viewed January 31, 2020).

- Referring noncustodial parents to employment services.¹³

Any parent or person with custody of a child who needs help to establish a child support order or to collect support payments may apply for services. Individuals receiving public assistance from the state are required to participate in the state child support program.¹⁴ IV-D cases are cases in which a state provides child support services through the state or tribal IV-D program to a custodial parent. The program is funded under Title IV-D of the Social Security Act.

Judges issuing an administrative order for child support may include provisions for monetary support, retroactive support, health care, and other elements of support set forth under state law.¹⁵ An administrative child support order has the same force and effect as a court order until and unless it is modified by the department, vacated on appeal, or superseded by a subsequent court order.¹⁶ Thus, an administrative order may be enforced in the same manner as a court order, except that an administrative order may not be enforced through contempt.¹⁷ Neither DOR nor the DOAH have jurisdiction to authorize a timesharing schedule, but they will recognize an informal agreement and incorporate it into the formula if agreed to by the parties. Such an informal agreement is not enforceable should one party violate the agreement. To obtain an enforceable timesharing order, or to determine timesharing where the parties do not agree, either parent at any time may file a civil action in a circuit having jurisdiction and proper venue for the filing of such an action.¹⁸

Guardianship

Guardianships are trust relationships designed to protect vulnerable members of society who do not have the ability to protect themselves, such as minor children and incapacitated adults. Under a guardianship, a “guardian” is appointed to act on behalf of the vulnerable person, also called a “ward.”¹⁹ There are two main forms of guardianship: (1) guardianship over the person and (2) guardianship over the property, which may be limited or plenary.²⁰ A guardian is given the legal duty and authority to care for the ward and his or her property during the ward’s infancy, disability, or incapacity.²¹

For adults, a guardianship may be established when a person has demonstrated that he or she is unable to manage his or her own affairs. If the adult is competent, this can be accomplished voluntarily. However, when an individual’s mental competence is in question, an involuntary guardianship may be established through the adjudication of incompetence which is determined

¹³ See footnote 9.; see also s. 409.2557(2), F.S.

¹⁴ s. 409.2572(3), F.S.

¹⁵ See s. 409.2563(1)(a), F.S.

¹⁶ s. 409.2563(12), F.S.

¹⁷ ss. 409.2563(9)(d), 409.2563(10)(d), F.S.

¹⁸ s. 409.2563(2)(e), F.S.

¹⁹ See generally, s. 744.102(9), F.S.

²⁰ Section 744.102(9), F.S.

²¹ BLACK’S LAW DICTIONARY, 10th edition, 2014.

by a court appointed examination committee.²² Once an adult is adjudicated incompetent, then a guardian may be appointed.²³

For minors, i.e., an unmarried person under the age of 18,²⁴ no petition to determine incapacity need be filed²⁵ because minors are presumptively lacking in capacity by operation of law. Minors are treated differently “based upon the particular vulnerability of children, their inability to make critical decisions in an informed, mature manner, and the importance of the parental role in child rearing.”²⁶ For instance, minors are deemed not to have legal capacity to initiate legal proceedings²⁷ or enter contracts.²⁸

The process to determine incapacity and the appointment of a guardian begins with a petition filed in the appropriate circuit court.

Continuing Court Jurisdiction

The court retains jurisdiction over all guardianships and shall review the appropriateness and extent of a guardianship annually.²⁹ At any time, any interested person, including the ward, may petition the court for review alleging that the guardian is not complying with the guardianship plan or is exceeding his or her authority under the guardianship plan and is not acting in the best interest of the ward. If the petition for review is found to be without merit the court may assess costs and attorney fees against the petitioner.³⁰

Support Obligations for Incapacitated Adult Children

In some states, an exception to the rule that parents' duty to support their children ends at the children's majority occurs when the child is disabled.³¹ In cases where the child is disabled, mentally or physically, and therefore unable to support himself/herself upon reaching the age of majority most states have adopted the rule that parents have a duty to support their adult disabled children.³² Most often, courts define "disability" in economic terms, i.e., the inability of the adult disabled child to adequately care for one's self by earning a living by reason of mental or physical infirmity. States differ as to whether support for an adult disabled child is determined by

²² See generally, s. 744.102(12), F.S.

²³ *D.H. v. Adept Cmty. Services, Inc.*, 43 Fla. L. Weekly S533 (Fla. Nov. 1, 2018), *reh'g denied*, SC17-829, 2018 WL 6264576 (Fla. Nov. 29, 2018) (quoting *Hayes v. Guardianship of Thompson*, 952 So.2d 498, 505 (Fla. 2006))(internal quotation marks omitted).

²⁴ Section 744.102(13), F.S.

²⁵ Fla. Prob. R. 5.555(a)-(b).

²⁶ 25 Fla. Jur 2d Family Law § 252

²⁷ *D.H. v. Adept Cmty. Services, Inc.*, 43 Fla. L. Weekly S533 (Fla. Nov. 1, 2018), *reh'g denied*, SC17-829, 2018 WL 6264576 (Fla. Nov. 29, 2018).

²⁸ 25 Fla. Jur 2d Family Law § 495.

²⁹ Section 744.372, F.S.

³⁰ Section 744.3715, F.S.

³¹ National Conference of State Legislatures, *Termination of Child-Support – Exception for Adult Children with Disabilities*, available at <https://www.ncsl.org/research/human-services/termination-of-child-support-exception-for-adult.aspx> (last visited January 31, 2020).

³² *Id.*

the state's child support guidelines or by the needs of the child as balanced by the parents' ability to provide support.³³

In Florida, s. 743.07(2), F.S., provides that courts are not prohibited from requiring support for a dependent person beyond the age of 18 years when such dependency is because of a mental or physical incapacity which began prior to a person reaching majority. While courts are permitted to require support in such instances, support beyond the age of majority for incapacitated adult children is not an issue which must be addressed by courts in determining support obligations.

III. Effect of Proposed Changes:

Section 1 creates s. 61.1255, F.S., defining “incapacitated adult child” as an unmarried adult incapable of self-support as a result of a physical or mental incapability that began before the person reached age 18. The bill requires that the right of a parent or guardian to receive support for an incapacitated adult child must be established in a guardianship proceeding. Parents may agree in writing to extend support in an existing support matter if the agreement is submitted to the presiding court before the adult child reaches 18, otherwise support must be established in a guardianship proceeding. Support paid after the adult child reaches 18 may only be paid to the court-appointed guardian.

Section 2 amends s. 61.13, F.S., removing references to s. 743.07(2) rendered obsolete by the bill and adding an extension for high school graduation, removing the ability of the court to extend support due to a physical or mental disability once an individual reaches the age of 18.

Section 3 amends s. 61.29, F.S., providing that child support guidelines do not apply to support for an incapacitated adult child, and specifying that support amounts for such individuals are determined by the newly created s. 61.31, F.S.

Section 4 amends s. 61.30, F.S., limiting the presumption that the child support guidelines currently in statute establish the amounts that the court must order in child support matters where a minor child or a child who is dependent in fact, between 18 and 19 years old, and still in high school with a reasonable expectation of graduation before 19.

Section 5 creates s. 61.31, F.S., specifying the amount of child support to be paid for an incapacitated adult child after the individual turns 18, the terms of the support order, and the rights and duties of both parents with respect to the support order.

Section 6 amends s. 393.12, F.S., providing that an individual being considered for appointment as a guardian does not need to be represented by an attorney unless the potential guardian is delegated the right of a parent to receive support of a person with a developmental disability. The bill provides that a petition to appoint a guardian may include a request for support payments from either or both of the parents of a person with a developmental disability.

³³ *Id.*

Section 7 creates s. 744.1013, F.S., requiring a court to exercise jurisdiction over claims for support of an incapacitated adult child, requiring the court to determine the financial obligation in such cases, and requiring the court to enforce such obligations.

Section 8 amends s. 744.3201, F.S., providing that a petition to a court to determine incapacity may include a request for payment of support, care, maintenance, education, or other needs of an incapacitated adult child as defined under the newly created s. 61.1255, F.S.

Section 9 creates s. 744.422, F.S., providing that a guardian may petition the court for an order requiring either or both parents to make support payments if such payments are not provided for in an initial guardianship plan.

Section 10 amends s. 742.031, F.S., to correct a cross-reference.

Section 11 amends s. 742.06, F.S., providing that modifications of child support and timesharing are to be determined under chapter 61, F.S.

Section 12 amends s. 744.3021, F.S., providing that if a petition is filed for guardianship of a minor with active an child support matter, and the child is 17 years and 6 months or older, the court division with jurisdiction over guardianship matters will have jurisdiction over the proceedings.

Section 13 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on the state court system as additional support and guardianship proceedings will occur throughout the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 61.13, 61.29, 61.30, 393.12, 744.3201, 742.031, 742.06 and 744.3021 of the Florida Statutes.

This bill creates sections 61.1255, 61.31, 744.1013, and 744.422 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 Albritton

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1 A bill to be entitled
2 An act relating to support for incapacitated adult
3 children; creating s. 61.1255, F.S.; defining the term
4 "incapacitated adult child"; specifying that parents
5 are responsible for supporting an incapacitated adult
6 child; requiring certain rights of the parents of an
7 incapacitated adult child to be established in a
8 guardianship proceeding; prohibiting any person who is
9 not court appointed from managing assets for or making
10 decisions for an incapacitated adult child; specifying
11 individuals who may file a petition to establish
12 support for an incapacitated adult child; specifying a
13 timeframe in which such petitions may be filed;
14 specifying procedures for establishing support;
15 specifying who may receive such support before and
16 after the incapacitated adult child's 18th birthday;
17 amending s. 61.13, F.S.; specifying that a child
18 support order need not terminate on the child's 18th
19 birthday in certain circumstances; specifying that a
20 court may modify a child support order for adult
21 children in certain circumstances; providing that
22 either parent may consent to mental health treatment
23 for the child in certain circumstances, unless stated
24 otherwise in the parenting plan; amending s. 61.29,
25 F.S.; specifying that support for incapacitated adult
26 children is determined by certain provisions; amending
27 s. 61.30, F.S.; specifying that the child support
28 guidelines apply to minor children and certain adult
29 children; creating s. 61.31, F.S.; specifying

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30 circumstances the court must consider when determining
31 the amount of support for an incapacitated adult
32 child; prohibiting the court from ordering support in
33 an amount that would negatively impact the
34 incapacitated adult child's eligibility for state or
35 federal programs or benefits; amending s. 393.12,
36 F.S.; providing an additional circumstance under which
37 a guardian advocate must be represented by an attorney
38 in guardianship proceedings; specifying that petitions
39 to appoint a guardian advocate for an individual with
40 disabilities may include certain requests for support
41 from the individual's parents; creating s. 744.1013,
42 F.S.; providing guardianship courts with jurisdiction
43 over petitions for support of incapacitated adult
44 children; providing for enforceability of such support
45 orders in a manner consistent with child support
46 orders entered under certain other provisions;
47 specifying that such support orders supersede any
48 orders entered under certain other provisions;
49 amending s. 744.3201, F.S.; specifying that petitions
50 for determination of capacity may include certain
51 requests for payment of support; creating s. 744.422,
52 F.S.; authorizing guardians of incapacitated adults to
53 petition the court for certain support payments from
54 the incapacitated adult's parents in certain
55 circumstances; specifying that the amount of such
56 support is determined by certain provisions; amending
57 ss. 742.031, 742.06, and 744.3021, F.S.; conforming
58 provisions to changes made by the act; providing an

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59 effective date.

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. Section 61.1255, Florida Statutes, is created to
64 read:

65 61.1255 Support for incapacitated adult children; access;
66 powers of court.-

67 (1) For purposes of this section, an "incapacitated adult
68 child" means an unmarried adult who is incapable of self-support
69 as a result of a physical or mental incapacity that began before
70 the person attained the age of 18.

71 (2) The parent or parents of an incapacitated adult child
72 are responsible for supporting that child. The right of a parent
73 or other person to receive and manage support for or manage the
74 property of an incapacitated adult child or to make decisions to
75 meet essential requirements for the health or safety of the
76 incapacitated adult child must be established in a guardianship
77 proceeding under chapter 393 or chapter 744. A parent or other
78 person does not have the power to manage support for, manage
79 property of, or make decisions regarding needs that are
80 essential to the health and safety of an incapacitated adult
81 child unless he or she has been appointed as the incapacitated
82 adult child's guardian advocate under chapter 393 or guardian
83 under chapter 744.

84 (3) The right of a parent or other person to have access to
85 an incapacitated adult child or to decide where the
86 incapacitated adult child will live must be established in a
87 guardianship proceeding brought under chapter 393 or chapter

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88 744.

89 (4) A petition to establish support for an incapacitated
90 adult child may be filed only by:

91 (a) The incapacitated adult child, if his or her right to
92 sue or defend lawsuits has not been removed by the court;

93 (b) A parent or other person on behalf of the incapacitated
94 adult child if he or she has not been appointed a guardian
95 advocate under chapter 393 or a guardian under chapter 744; or

96 (c) The incapacitated adult child's guardian advocate
97 appointed under chapter 393 or guardian appointed under chapter
98 744.

99 (5) A petition to establish support for an incapacitated
100 adult child may be filed at any time after he or she reaches the
101 age of 17 years and 6 months.

102 (6) If a court has jurisdiction over the parties because of
103 an issue of child support, the parents may agree in writing to
104 extend support in the existing case, if the agreement is
105 submitted to the court for approval before the incapacitated
106 child reaches the age of 18. Otherwise, the amount of support to
107 be paid by one parent to the other must be established in a
108 guardianship proceeding.

109 (7) Support paid after the incapacitated child reaches the
110 age of 18 may be paid only to the incapacitated adult or his or
111 her court-appointed guardian advocate or guardian.

112 Section 2. Paragraph (a) of subsection (1) and paragraph
113 (b) of subsection (2) of section 61.13, Florida Statutes, are
114 amended to read:

115 61.13 Support of children; parenting and time-sharing;
116 powers of court.-

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117 (1) (a) In a proceeding under this chapter, the court may at
118 any time order either or both parents who owe a duty of support
119 to a child to pay support to the other parent or, ~~in the case of~~
120 ~~both parents,~~ to a third party who has custody in accordance
121 with the child support guidelines schedule in s. 61.30.

122 1. All child support orders and income deduction orders
123 entered on or after October 1, 2010, must provide:

124 a. For child support to terminate on a child's 18th
125 birthday unless the court finds or previously found that the
126 child or the child who is dependent in fact is 18 years of age,
127 is still in high school, and is performing in good faith with a
128 reasonable expectation of graduation before he or she reaches
129 the age of 19 ~~s. 743.07(2) applies,~~ or is otherwise agreed to by
130 the parties;

131 b. A schedule, based on the record existing at the time of
132 the order, stating the amount of the monthly child support
133 obligation for all the minor children at the time of the order
134 and the amount of child support that will be owed for any
135 remaining children after one or more of the children are no
136 longer entitled to receive child support; and

137 c. The month, day, and year that the reduction or
138 termination of child support becomes effective.

139 2. The court initially entering an order requiring one or
140 both parents to make child support payments has continuing
141 jurisdiction after the entry of the initial order to modify the
142 amount and terms and conditions of the child support payments if
143 the modification is found by the court to be in the best
144 interests of the child and; ~~when the child reaches majority; if~~
145 there is a substantial change in the circumstances of the

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146 parties; if the minor child or child who is dependent in fact
147 and is between the ages of 18 and 19, is still in high school
148 and is performing in good faith with a reasonable expectation of
149 graduation before he or she reaches the age of 19 ~~if s.~~
150 ~~743.07(2) applies;~~ or when a child is emancipated, marries,
151 joins the armed services, or dies. The court initially entering
152 a child support order has continuing jurisdiction to require the
153 obligee to report to the court on terms prescribed by the court
154 regarding the disposition of the child support payments.

155 (2)

156 (b) A parenting plan approved by the court must, at a
157 minimum:

158 1. Describe in adequate detail how the parents will share
159 and be responsible for the daily tasks associated with the
160 upbringing of the child;

161 2. Include the time-sharing schedule arrangements that
162 specify the time that the minor child will spend with each
163 parent;

164 3. Designate who will be responsible for:

165 a. Any and all forms of health care. If the court orders
166 shared parental responsibility over health care decisions, ~~the~~
167 ~~parenting plan must provide that~~ either parent may consent to
168 mental health treatment for the child, unless stated otherwise
169 in the parenting plan.

170 b. School-related matters, including the address to be used
171 for school-boundary determination and registration.

172 c. Other activities; and

173 4. Describe in adequate detail the methods and technologies
174 that the parents will use to communicate with the child.

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175 Section 3. Subsection (4) is added to section 61.29,
176 Florida Statutes, to read:

177 61.29 Child support guidelines; principles.—The following
178 principles establish the public policy of the State of Florida
179 in the creation of the child support guidelines:

180 (4) The guidelines do not apply to support for an
181 incapacitated adult child as defined in s. 61.1255. The amount
182 of support for an incapacitated adult child is determined by s.
183 61.31.

184 Section 4. Paragraph (a) of subsection (1) of section
185 61.30, Florida Statutes, is amended to read:

186 61.30 Child support guidelines; retroactive child support.—

187 (1)(a) The child support guideline amount as determined by
188 this section presumptively establishes the amount the trier of
189 fact shall order as child support for a minor child or child who
190 is dependent in fact, is between the ages of 18 and 19, is still
191 in high school and is performing in good faith with a reasonable
192 expectation of graduation before he or she reaches the age of 19
193 in an initial proceeding for such support or in a proceeding for
194 modification of an existing order for such support, whether the
195 proceeding arises under this or another chapter. The trier of
196 fact may order payment of child support which varies, plus or
197 minus 5 percent, from the guideline amount, after considering
198 all relevant factors, including the needs of the child or
199 children, age, station in life, standard of living, and the
200 financial status and ability of each parent. The trier of fact
201 may order payment of child support in an amount which varies
202 more than 5 percent from such guideline amount only upon a
203 written finding explaining why ordering payment of such

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204 guideline amount would be unjust or inappropriate.
205 Notwithstanding the variance limitations of this section, the
206 trier of fact shall order payment of child support which varies
207 from the guideline amount as provided in paragraph (11) (b)
208 whenever any of the children are required by court order or
209 mediation agreement to spend a substantial amount of time with
210 either parent. This requirement applies to any living
211 arrangement, whether temporary or permanent.

212 Section 5. Section 61.31, Florida Statutes, is created to
213 read:

214 61.31 Amount of support for incapacitated adult child.—

215 (1) In determining the amount of support to be paid after
216 an incapacitated adult child, as defined in s. 61.1255, reaches
217 the age of 18, the specific terms and conditions of that
218 support, and the rights and duties of both parents with respect
219 to the support of the child, the court shall determine and give
220 special consideration to all of the following:

221 (a) The incapacitated adult child's income and assets.

222 (b) Any existing and future needs of the incapacitated
223 adult child which are directly related to his or her mental or
224 physical incapacity and the substantial care and personal
225 supervision directly required by or related to that incapacity.

226 (c) Whether a parent pays for or will pay for the care or
227 supervision of the incapacitated adult child or provides or will
228 provide such care or supervision himself or herself.

229 (d) The financial resources available to each parent for
230 the support, care, and supervision of the incapacitated adult
231 child.

232 (e) Any other financial resources or other resources or

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233 programs available for the support, care, and supervision of the
234 incapacitated adult child.

235 (2) The court may not order support in an amount that will
236 negatively impact the incapacitated adult child's eligibility
237 for any state or federal programs or benefits.

238 Section 6. Paragraph (b) of subsection (2) and subsection
239 (3) of section 393.12, Florida Statutes, are amended to read:

240 393.12 Capacity; appointment of guardian advocate.—

241 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

242 (b) A person who is being considered for appointment or is
243 appointed as a guardian advocate does not need to ~~not~~ be
244 represented by an attorney unless required by the court or if
245 the guardian advocate is delegated any rights regarding property
246 other than the right to be the representative payee for
247 government benefits or the right of a parent to receive periodic
248 payments from the other parent for support, care, maintenance,
249 education, or other needs of the person with a developmental
250 disability. This paragraph applies only to proceedings relating
251 to the appointment of a guardian advocate and the court's
252 supervision of a guardian advocate and is not an exercise of the
253 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the
254 State Constitution.

255 (3) PETITION.—

256 (a) A petition to appoint a guardian advocate for a person
257 with a developmental disability may be executed by an adult
258 person who is a resident of this state. The petition must be
259 verified and must:

260 1. ~~(a)~~ State the name, age, and present address of the
261 petitioner and his or her relationship to the person with a

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262 developmental disability;

263 ~~2.(b)~~ State the name, age, county of residence, and present
264 address of the person with a developmental disability;

265 ~~3.(e)~~ Allege that the petitioner believes that the person
266 needs a guardian advocate and specify the factual information on
267 which such belief is based;

268 ~~4.(d)~~ Specify the exact areas in which the person lacks the
269 decisionmaking ability to make informed decisions about his or
270 her care and treatment services or to meet the essential
271 requirements for his or her physical health or safety;

272 ~~5.(e)~~ Specify the legal disabilities to which the person is
273 subject; and

274 ~~6.(f)~~ State the name of the proposed guardian advocate, the
275 relationship of that person to the person with a developmental
276 disability; the relationship that the proposed guardian advocate
277 had or has with a provider of health care services, residential
278 services, or other services to the person with a developmental
279 disability; and the reason why this person should be appointed.
280 If a willing and qualified guardian advocate cannot be located,
281 the petition shall so state.

282 (b) A petition to appoint a guardian advocate may include a
283 request for periodic payments from either or both parents of the
284 person with a developmental disability for his or her support,
285 care, maintenance, education, or other needs of the person with
286 a developmental disability.

287 Section 7. Section 744.1013, Florida Statutes, is created
288 to read:

289 744.1013 Jurisdiction.—The court has jurisdiction over all
290 claims for support of an incapacitated adult child, as defined

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291 in s. 61.1255, and shall adjudicate the financial obligation,
292 including health insurance, of the incapacitated adult child's
293 parents or guardian and enforce the financial obligation as
294 provided in chapter 61. All support required to be paid in
295 relation to an incapacitated adult child over the age of 18 must
296 be paid to the incapacitated adult child or his or her court-
297 appointed guardian. The Department of Revenue shall enforce
298 support orders entered under this chapter or chapter 393 in the
299 same manner that it enforces child support orders under chapter
300 61. Any order for support entered in a proceeding under this
301 chapter or chapter 393 takes precedence over any support order
302 entered under chapter 61.

303 Section 8. Present subsection (3) of section 744.3201,
304 Florida Statutes, is redesignated as subsection (4), and a new
305 subsection (3) is added to that section, to read:

306 744.3201 Petition to determine incapacity.-

307 (3) A petition to determine capacity may include a request
308 for payment of support, care, maintenance, education, or other
309 needs of the alleged incapacitated adult child under s. 61.1255.

310 Section 9. Section 744.422, Florida Statutes, is created to
311 read:

312 744.422 Petition for child support for incapacitated adult
313 child.-Pursuant to s. 61.1255, a guardian may petition the court
314 for an order requiring either or both parents to pay periodic
315 amounts for the support, care, maintenance, education, and other
316 needs of an incapacitated adult child, if not otherwise provided
317 for in the guardianship plan. The amount of support is
318 determined by s. 61.31.

319 Section 10. Subsection (1) of section 742.031, Florida

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320 Statutes, is amended to read:

321 742.031 Hearings; court orders for support, hospital
322 expenses, and attorney's fee.—

323 (1) Hearings for the purpose of establishing or refuting
324 the allegations of the complaint and answer shall be held in the
325 chambers and may be restricted to persons, in addition to the
326 parties involved and their counsel, as the judge in his or her
327 discretion may direct. The court shall determine the issues of
328 paternity of the child and the ability of the parents to support
329 the child. Each party's social security number shall be recorded
330 in the file containing the adjudication of paternity. If the
331 court finds that the alleged father is the father of the child,
332 it shall so order. If appropriate, the court shall order the
333 father to pay the complainant, her guardian, or any other person
334 assuming responsibility for the child moneys sufficient to pay
335 reasonable attorney ~~attorney's~~ fees, hospital or medical
336 expenses, cost of confinement, and any other expenses incident
337 to the birth of the child and to pay all costs of the
338 proceeding. Bills for pregnancy, childbirth, and scientific
339 testing are admissible as evidence without requiring third-party
340 foundation testimony, and shall constitute prima facie evidence
341 of amounts incurred for such services or for testing on behalf
342 of the child. The court shall order either or both parents owing
343 a duty of support to the child to pay support under chapter 61
344 ~~pursuant to s. 61.30~~. The court shall issue, upon motion by a
345 party, a temporary order requiring child support for a minor
346 child under ~~pursuant to~~ s. 61.30 pending an administrative or
347 judicial determination of parentage, if there is clear and
348 convincing evidence of paternity on the basis of genetic tests

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349 or other evidence. The court may also make a determination of an
350 appropriate parenting plan, including a time-sharing schedule,
351 in accordance with chapter 61.

352 Section 11. Section 742.06, Florida Statutes, is amended to
353 read:

354 742.06 Jurisdiction retained for future orders.—The court
355 shall retain jurisdiction of the cause for the purpose of
356 entering such other and further orders as changing circumstances
357 of the parties may in justice and equity require. Modifications
358 of child support and timesharing are determined under chapter
359 61.

360 Section 12. Subsection (4) of section 744.3021, Florida
361 Statutes, is amended to read:

362 744.3021 Guardians of minors.—

363 (4) If a petition is filed under ~~pursuant to~~ this section
364 requesting appointment of a guardian for a minor who is the
365 subject of any proceeding under chapter 39 or chapter 61 and who
366 is aged 17 years and 6 months or older, the court division with
367 jurisdiction over guardianship matters has jurisdiction over the
368 proceedings under s. 744.331. The alleged incapacitated minor
369 under this subsection shall be provided all the due process
370 rights conferred upon an alleged incapacitated adult under
371 ~~pursuant to~~ this chapter and applicable court rules. The order
372 of adjudication under s. 744.331 and the letters of limited or
373 plenary guardianship may issue upon the minor's 18th birthday or
374 as soon thereafter as possible. Any proceeding pursuant to this
375 subsection shall be conducted separately from any other
376 proceeding.

377 Section 13. This act shall take effect July 1, 2020.

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 1748

INTRODUCER: Senators Hutson and Perry

SUBJECT: Child Welfare

DATE: January 27, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Hendon | Hendon | CF | Pre-meeting |
| 2. | _____ | _____ | AHS | _____ |
| 3. | _____ | _____ | AP | _____ |

I. Summary:

SB 1748 makes changes to the child welfare statutes to conform to the new federal Family First Prevention Services Act. The bill addresses preventive services, residential group care, and how Florida claims funding under Title IV-E of the Social Security Act. The bill clarifies policies regarding the rates paid to certain foster parents and requires written agreements among the Department of Children and Families (department), community-based care lead agencies and the foster parent when negotiating rates that exceed the state’s suggested monthly foster care rate.

The bill clarifies the extended foster care program where children can remain in care up to the age of 21 to align eligibility with the federal law regarding supervised independent living settings. The bill prohibits young adults from participating in extended foster care when they are in involuntary placements such as juvenile detention. The bill modifies the child support guidelines to establish child support payments for parents of children in foster care. The length of time the department must monitor the placement of a child with a successor guardian is reduced from six months to three months prior to closing the case to permanent guardianship. The bill updates language regarding the state’s Title IV-E plan and data reporting for children in all placement settings.

The bill may have a positive fiscal impact to the state and has an effective date of July 1, 2020.

II. Present Situation:

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on Feb. 9, 2018. This budget deal included the Family First Prevention Services Act, which has the potential to dramatically change child welfare systems across the country.¹ One of the major areas this legislation seeks to

¹ National Conference of State Legislatures, Family First Prevention Services Act Update. Available at <https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx>. Last visited Jan. 24, 2020.

change is the way Social Security Act, Title IV-E funds can be spent by states. Title IV-E funds previously could be used only to help with the costs of foster care maintenance for eligible children; administrative expenses to manage the program; and training for staff, foster parents, and certain private agency staff; adoption assistance; and kinship guardianship assistance.

With the Family First Prevention Services Act, states with an approved Title IV-E plan have the option to use these funds for prevention services that would allow “candidates for foster care” to stay with their parents or relatives. States will be reimbursed for prevention services for up to 12 months. A written, trauma-informed prevention plan must be created, and services will need to be evidence-based.²

The Family First Prevention Services Act also seeks to curtail the use of congregate or group care for children and instead places a new emphasis on family foster homes.³ With limited exceptions, the federal government will not reimburse states for children placed in group care settings for more than two weeks. Approved settings, known as qualified residential treatment programs, must use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff. The act requires children to be formally assessed within 30 days of placement to determine if his or her needs can be met by family members, in a family foster home or another approved setting. The act provides that certain institutions are exempt from the two-week limitation, but are generally limited to 12-month placements. To be eligible for federal reimbursement, the law generally limits the number of children allowed in a foster home to six.

III. Effect of Proposed Changes:

Section 1 amends s. 39.01, F.S., providing definitions. The bill amends the definition of “case plan” to conform the definition with the federal language requiring documentation of “preventive” services.⁴ The definition of “preventive services” is revised so that such services may be voluntary or court ordered.

Section 2 amends s. 39.0135, F.S., establishing the Operations and Maintenance Trust Fund within the department. The bill requires the department to deposit the child support payment, equaling the child’s cost of care, into the Federal Grants Trust Fund for children who are determined Title IV-E eligible. The department is federally required to report and treat child support payments for Title IV-E eligible children differently than Title IV-E ineligible children.⁵

Section 3 amends s. 39.202, F.S., relating to confidentiality of reports of child abuse. The bill permits the Agency for Health Care Administration to receive reports of abuse and neglect as the

² *Id.*

³ *Id.*

⁴ Family First Prevention Services Act of 2017, section 111. See <https://www.congress.gov/bill/115th-congress/house-bill/253/text?q=%7B%22search%22%3A%5B%22family+first+prevention+services+act%22%5D%7D&r=1>. Last visited Jan. 23, 2020.

⁵ Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.

agency is responsible for licensing hospitals under 395 that provide mental health services. This is a new federal requirement.⁶

Section 4 amends s. 39.407, F.S., relating to medical, psychiatric, and psychological assessment and treatment of children. The bill requires such assessments for children placed in a “qualified residential treatment program.” Section 11 of the bill creates this new type of group care to comply with the federal Family First Prevention Services Act.⁷ This is needed because the new federal law limits the use of federal Title IV-E funding for group care unless it is a specialized to meet specific needs of the child. The bill defines a “qualifying assessment” as an assessment of children who need placement in a qualified residential treatment program. This assessment must be completed within 30 days of placement. The court must approve or reject such placements within 60 days of placement. The department may adopt rules to implement this section.

Section 5 amends s. 39.6011, F.S., relating to case plan development for dependent children. The bill requires the child’s case plan to include documentation supporting a placement in a qualified residential treatment program.

Section 6 amends s. 39.6221, F.S., relating to permanent guardianship of a dependent child. The court can place a child with a relative under a permanent guardianship when the court determines that reunification or adoption is not in the best interest of the child. The bill revises the criteria used by the court to grant permanent guardianship to include children who have been placed with a guardian for the preceding 3 months.

Section 7 amends s. 39.6251, F.S., providing for continuing care for young adults. Florida extended foster care to the age of 21. Young adults in extended foster care can reside in supervised independent living environments. The bill excludes residing in juvenile detention centers or other detention programs as supervised independent living environments.

Section 8 amends s. 61.30, F.S., providing child support guidelines and child support. The bill provides a guideline for establishing the child support amount for dependency cases. Specifically, the bill states that if the child is in an out-of-home placement the amount of child support would be 10% of the parent’s income.

Section 9 amends s. 409.145, F.S., relating to the care of dependent children and quality parenting. The bill requires that all residential group home employees meet level 2 background screening requirements pursuant to ss. 39.0138 and 435.04, F.S. This requirement for background screening is required under the federal Family First Prevention Services Act.⁸

Current law allows the department and community based care lead agency to increase the foster care room and board rate when necessary. The bill excludes level I foster care room and board payments from this allowance. Level I foster care is when relatives care for the abused child and such relatives are provided an established rate of \$333 per month.⁹ The bill also requires written

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 409.145, F.S.

documentation between the region and CBC when an enhanced foster care room and board payment is agreed upon.

Section 10 repeals s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs. The department does not currently use this setting for placement of children. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S., to comply with new federal requirements for the use of Title IV E funds.¹⁰

Section 11 creates s. 409.16765, F.S., to create the qualified residential treatment program. This will align Florida Statutes with federal Family First Prevention Services Act and provide for the placement of children who have emotional disturbance or mental illness.¹¹ The new program must provide a safe and therapeutic environment, use strength-based and trauma-informed treatment, be licensed and accredited, have licensed nursing or clinical staff 24 hours a day, and provide after care services to support children who are discharged from the program.

The bill requires the community based care lead agency to ensure that each child placed in a qualified residential treatment program be assessed within 30 days of placement, maintain documentation, and limit placements to no more than 12 consecutive months or 18 nonconsecutive months. For children under the age of 13, placement is limited to 6 months. Stays longer than 6 months for these children must be approved by the department. The bill authorizes the department of adopt rules to implement this section.

Section 12 amends s. 409.1678, F.S., relating to specialized placements of children who are victims of commercial sexual exploitation (human trafficking). The bill allows for safe houses and safe foster homes to serve victim of or at risk of human trafficking in the same setting with children of any population.

Section 13 repeals s. 409.1679, F.S., relating to reimbursement for comprehensive residential group care services to children who have extraordinary needs. This type of program is not used and is repealed by the bill. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S.

Section 14 amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemptions. The bill adds qualified residential treatment programs and human trafficking safe houses to the definition of a residential child-caring agency. This will ensure that the state can seek Title IV-E funding for such placements.¹²

Section 15 amends s. 39.301, F.S., relating to the initiation of a child abuse investigation. The bill conforms to changes made regarding preventive services.

¹⁰ Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.

¹¹ *Id.*

¹² *Id.*

Section 16 amends s. 39.302, F.S., relating to child abuse investigations for children residing in an institution to correct a cross reference.

Section 17 amends s. 39.402, F.S., relating to placement of children in a shelter. The bill conforms to changes made regarding preventive services.

Section 18 amends s. 39.501, F.S., relating to petitions for dependency to conform to changes made in the bill regarding preventive services.

Section 19 amends s. 39.6013, F.S., relating to case plan amendments to correct a cross reference.

Section 20 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill revises the criteria the court uses to grant permanent guardianship to include children who have been placed with a guardian for the preceding 3 months rather than the current requirement of 6 months for those cases where the caregiver has been named as the successor guardian. The reduction by three months will reduce costs to the department for supervision and legal services. The amount of savings is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.0135, 39.202, 39.407, 39.6011, 39.6221, 39.6251, 61.30, 409.145, 409.1678, 409.175, 39.301, 39.302, 39.402, 39.501, and 39.6013.

This bill creates section 409.16765 of the Florida Statutes.

This bill repeals ss. 409.1676, and 409.1679 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 (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (11) and (67) of section 39.01,
Florida Statutes, are amended to read:

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

(11) "Case plan" means a document, as described in s.
39.6011, prepared by the department with input from all parties.



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11 The case plan follows the child from the provision of preventive
12 ~~voluntary~~ services through any dependency, foster care, or
13 termination of parental rights proceeding or related activity or
14 process.

15 (67) "Preventive services" means social services and other
16 supportive and rehabilitative services provided, either
17 voluntarily or by court order, to the parent or legal custodian
18 of the child and to the child or on behalf of the child for the
19 purpose of averting the removal of the child from the home or
20 disruption of a family which will or could result in the
21 placement of a child in foster care. Social services and other
22 supportive and rehabilitative services shall promote the child's
23 developmental needs and need for physical, mental, and emotional
24 health and a safe, stable, living environment; shall promote
25 family autonomy; and shall strengthen family life, whenever
26 possible.

27 Section 2. Section 39.0135, Florida Statutes, is amended to
28 read:

29 39.0135 Federal Grants and Operations and Maintenance Trust
30 Funds Fund.—The department shall deposit all child support
31 payments made to the department, equaling the cost of care,
32 under pursuant to this chapter into the Federal Grants Trust
33 Fund for Title IV-E eligible children and the Operations and
34 Maintenance Trust Fund for children ineligible for Title IV-E.
35 If the child support payment does not equal the cost of care,
36 the total amount of the payment shall be deposited into the
37 appropriate trust fund. The purpose of this funding is to care
38 for children who are committed to the temporary legal custody of
39 the department.



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40 Section 3. Paragraphs (a) and (h) of subsection (2) of
41 section 39.202, Florida Statutes, are amended to read:

42 39.202 Confidentiality of reports and records in cases of
43 child abuse or neglect.—

44 (2) Except as provided in subsection (4), access to such
45 records, excluding the name of, or other identifying information
46 with respect to, the reporter which shall be released only as
47 provided in subsection (5), shall be granted only to the
48 following persons, officials, and agencies:

49 (a) Employees, authorized agents, or contract providers of
50 the department, the Department of Health, the Agency for Persons
51 with Disabilities, the Agency for Health Care Administration,
52 the Office of Early Learning, or county agencies responsible for
53 carrying out:

- 54 1. Child or adult protective investigations;
- 55 2. Ongoing child or adult protective services;
- 56 3. Early intervention and prevention services;
- 57 4. Healthy Start services;
- 58 5. Licensure or approval of adoptive homes, foster homes,
59 child care facilities, facilities licensed under chapters 393
60 and 394 ~~chapter 393~~, family day care homes, providers who
61 receive school readiness funding under part VI of chapter 1002,
62 or other homes used to provide for the care and welfare of
63 children;
- 64 6. Employment screening for employees ~~caregivers~~ in
65 residential group homes licensed by the department, the Agency
66 for Persons with Disabilities, or the Agency for Health Care
67 Administration; or
- 68 7. Services for victims of domestic violence when provided



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69 by certified domestic violence centers working at the
70 department's request as case consultants or with shared clients.

71
72 Also, employees or agents of the Department of Juvenile Justice
73 responsible for the provision of services to children, under
74 ~~pursuant to~~ chapters 984 and 985.

75 (h) Any appropriate official of the department, the Agency
76 for Health Care Administration, or the Agency for Persons with
77 Disabilities who is responsible for:

78 1. Administration or supervision of the department's
79 program for the prevention, investigation, or treatment of child
80 abuse, abandonment, or neglect, or abuse, neglect, or
81 exploitation of a vulnerable adult, when carrying out his or her
82 official function;

83 2. Taking appropriate administrative action concerning an
84 employee of the department or the agency who is alleged to have
85 perpetrated child abuse, abandonment, or neglect, or abuse,
86 neglect, or exploitation of a vulnerable adult; or

87 3. Employing and continuing employment of personnel of the
88 department or the agency.

89 Section 4. Present subsections (6) through (9) of section
90 39.6011, Florida Statutes, are redesignated as subsections (7)
91 through (10), respectively, and a new subsection (6) is added to
92 that section, to read:

93 39.6011 Case plan development.—

94 (6) When a child is placed in a qualified residential
95 treatment program, the case plan must include documentation
96 outlining the most recent assessment for a qualified residential
97 treatment program, the date of the most recent placement in a



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98 qualified residential treatment program, the treatment or
99 service needs of the child, and preparation for the child to
100 return home or be in an out-of-home placement. If a child is
101 placed in a qualified residential treatment program for longer
102 than the timeframes described in s. 409.1676, a copy of the
103 signed approval of such placement by the department must be
104 included in the case plan.

105 Section 5. Paragraph (a) of subsection (1) of section
106 39.6221, Florida Statutes, is amended to read:

107 39.6221 Permanent guardianship of a dependent child.—

108 (1) If a court determines that reunification or adoption is
109 not in the best interest of the child, the court may place the
110 child in a permanent guardianship with a relative or other adult
111 approved by the court if all of the following conditions are
112 met:

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

117 Section 6. Paragraph (a) of subsection (4) of section
118 39.6251, Florida Statutes, is amended to read:

119 39.6251 Continuing care for young adults.—

120 (4) (a) The young adult must reside in a supervised living
121 environment that is approved by the department or a community-
122 based care lead agency. The young adult shall live
123 independently, but in an environment in which he or she is
124 provided supervision, case management, and supportive services
125 by the department or lead agency. Such an environment must offer
126 developmentally appropriate freedom and responsibility to



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127 prepare the young adult for adulthood. For the purposes of this
128 subsection, a supervised living arrangement may include a
129 licensed foster home, licensed group home, college dormitory,
130 shared housing, apartment, or another housing arrangement if the
131 arrangement is approved by the community-based care lead agency
132 and is acceptable to the young adult. A young adult may continue
133 to reside with the same licensed foster family or group care
134 provider with whom he or she was residing at the time he or she
135 reached the age of 18 years. A supervised living arrangement may
136 not include detention facilities, forestry camps, training
137 schools, or any other facility operated primarily for the
138 detention of children or young adults who are determined to be
139 delinquent. A young adult may not reside in any setting in which
140 the young adult is involuntarily placed.

141 Section 7. Paragraph (a) of subsection (1) of section
142 61.30, Florida Statutes, is amended, and paragraph (d) is added
143 to that subsection, to read:

144 61.30 Child support guidelines; retroactive child support.—

145 (1) (a) The child support guideline amount as determined by
146 this section presumptively establishes the amount the trier of
147 fact shall order as child support in an initial proceeding for
148 such support or in a proceeding for modification of an existing
149 order for such support, whether the proceeding arises under this
150 or another chapter, except as provided in paragraph (d). The
151 trier of fact may order payment of child support which varies,
152 plus or minus 5 percent, from the guideline amount, after
153 considering all relevant factors, including the needs of the
154 child or children, age, station in life, standard of living, and
155 the financial status and ability of each parent. The trier of



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156 fact may order payment of child support in an amount which
157 varies more than 5 percent from such guideline amount only upon
158 a written finding explaining why ordering payment of such
159 guideline amount would be unjust or inappropriate.

160 Notwithstanding the variance limitations of this section, the
161 trier of fact shall order payment of child support which varies
162 from the guideline amount as provided in paragraph (11) (b)
163 whenever any of the children are required by court order or
164 mediation agreement to spend a substantial amount of time with
165 either parent. This requirement applies to any living
166 arrangement, whether temporary or permanent.

167 (d) In a proceeding under chapter 39, if the child is in an
168 out-of-home placement, the presumptively correct amount of
169 periodic support is 10 percent of the obligor's actual or
170 imputed gross income. The court may deviate from this
171 presumption as provided in paragraph (a).

172 Section 8. Paragraph (e) of subsection (2) and paragraph
173 (f) of subsection (4) of section 409.145, Florida Statutes, are
174 amended, and paragraph (h) is added to subsection (4) of that
175 section, to read:

176 409.145 Care of children; quality parenting; "reasonable
177 and prudent parent" standard.—The child welfare system of the
178 department shall operate as a coordinated community-based system
179 of care which empowers all caregivers for children in foster
180 care to provide quality parenting, including approving or
181 disapproving a child's participation in activities based on the
182 caregiver's assessment using the "reasonable and prudent parent"
183 standard.

184 (2) QUALITY PARENTING.—A child in foster care shall be



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185 placed only with a caregiver who has the ability to care for the
186 child, is willing to accept responsibility for providing care,
187 and is willing and able to learn about and be respectful of the
188 child's culture, religion and ethnicity, special physical or
189 psychological needs, any circumstances unique to the child, and
190 family relationships. The department, the community-based care
191 lead agency, and other agencies shall provide such caregiver
192 with all available information necessary to assist the caregiver
193 in determining whether he or she is able to appropriately care
194 for a particular child.

195 (e) Employees of Caregivers employed by residential group
196 homes.—All employees, including persons who do not work directly
197 with children, of a residential group home must meet the
198 background screening requirements under s. 39.0138 and the level
199 2 standards for screening under chapter 435 ~~All caregivers in~~
200 ~~residential group homes shall meet the same education, training,~~
201 ~~and background and other screening requirements as foster~~
202 ~~parents.~~

203 (4) FOSTER CARE ROOM AND BOARD RATES.—

204 (f) Excluding level I family foster homes, the amount of
205 the monthly foster care room and board rate may be increased
206 upon agreement among the department, the community-based care
207 lead agency, and the foster parent.

208 (h) All room and board rate increases, excluding increases
209 under paragraph (b), must be outlined in a written agreement
210 between the department and the community-based care lead agency.

211 Section 9. Section 409.1676, Florida Statutes, is amended
212 to read:

213 409.1676 Comprehensive residential group care services ~~to~~



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214 ~~children who have extraordinary needs.-~~

215 (1) It is the intent of the Legislature to provide
216 comprehensive residential group care services, ~~including~~
217 ~~residential care, case management, and other services, to~~
218 ~~children in the child protection system who have extraordinary~~
219 ~~needs.~~ These services are to be provided in a residential group
220 care setting by a not-for-profit corporation or a local
221 government entity under a contract with the Department of
222 Children and Families or by a lead agency as described in s.
223 409.987. These contracts should be designed to provide an
224 identified number of children with access to a full array of
225 services for a fixed price. Further, it is the intent of the
226 Legislature that the Department of Children and Families and the
227 Department of Juvenile Justice establish an interagency
228 agreement ~~by December 1, 2002,~~ which describes respective agency
229 responsibilities for referral, placement, service provision, and
230 service coordination for children under the care and supervision
231 of the department ~~dependent~~ and delinquent youth who are
232 referred to these residential group care facilities. The
233 agreement must require interagency collaboration in the
234 development of terms, conditions, and performance outcomes for
235 residential group care contracts serving the youth referred who
236 are under the care and supervision of the department and
237 delinquent ~~have been adjudicated both dependent and delinquent.~~

238 (2) As used in this section, the term:

239 (a) ~~"Child with extraordinary needs" means a dependent~~
240 ~~child who has serious behavioral problems or who has been~~
241 ~~determined to be without the options of either reunification~~
242 ~~with family or adoption.~~



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243 ~~(b)~~ "Residential group care" means a living environment for
244 children who are under the care and supervision of the
245 department ~~have been adjudicated dependent and are expected to~~
246 ~~be in foster care for at least 6 months~~ with 24-hour-awake staff
247 or live-in group home parents or staff. Each facility must be
248 appropriately licensed in this state as a residential child
249 caring agency as defined in s. 409.175(2)(1) ~~and must be~~
250 ~~accredited by July 1, 2005. A residential group care facility~~
251 ~~servicing children having a serious behavioral problem as defined~~
252 ~~in this section must have available staff or contract personnel~~
253 ~~with the clinical expertise, credentials, and training to~~
254 ~~provide services identified in subsection (4).~~

255 ~~(c)~~ "Serious behavioral problems" means ~~behaviors of~~
256 ~~children who have been assessed by a licensed master's-level~~
257 ~~human-services professional to need at a minimum intensive~~
258 ~~services but who do not meet the criteria of s. 394.492(7). A~~
259 ~~child with an emotional disturbance as defined in s. 394.492(5)~~
260 ~~or (6) may be served in residential group care unless a~~
261 ~~determination is made by a mental health professional that such~~
262 ~~a setting is inappropriate. A child having a serious behavioral~~
263 ~~problem must have been determined in the assessment to have at~~
264 ~~least one of the following risk factors:~~

265 ~~1. An adjudication of delinquency and be on conditional~~
266 ~~release status with the Department of Juvenile Justice.~~

267 ~~2. A history of physical aggression or violent behavior~~
268 ~~toward self or others, animals, or property within the past~~
269 ~~year.~~

270 ~~3. A history of setting fires within the past year.~~

271 ~~4. A history of multiple episodes of running away from home~~



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272 ~~or placements within the past year.~~

273 ~~5. A history of sexual aggression toward other youth.~~

274 (b) "Qualifying assessment" is a department-approved
275 functional assessment administered by a qualified individual to
276 recommend or affirm placement in a qualified residential
277 treatment program.

278 (c) "Qualified individual" means a trained professional
279 with experience working with children or adolescents involved in
280 the child welfare system and who is not employed by the
281 department or lead agency and has no actual or perceived
282 conflict of interest with any placement setting or program.

283 (d) "Qualified residential treatment program" has the same
284 meaning as provided in 42 U.S.C. s. 672.

285 (3) The department, ~~in accordance with a specific~~
286 ~~appropriation for this program,~~ shall contract with a not-for-
287 profit corporation, a local government entity, or the lead
288 agency that has been established in accordance with s. 409.987
289 for the performance of residential group care services described
290 in this section. A lead agency that is currently providing
291 residential care may provide this service directly with the
292 approval of the local community alliance. The department or a
293 lead agency may contract for more than one site in a county if
294 that is determined to be the most effective way to achieve the
295 goals set forth in this section.

296 (4) The lead agency, the contracted not-for-profit
297 corporation, or the local government entity is responsible for a
298 comprehensive assessment, a qualifying assessment, residential
299 care, transportation, access to behavioral health services,
300 recreational activities, clothing, supplies, and miscellaneous



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301 expenses associated with caring for these children; for
302 necessary arrangement for or provision of educational services;
303 and for assuring necessary and appropriate health and dental
304 care.

305 ~~(5) The department may transfer all casework~~
306 ~~responsibilities for children served under this program to the~~
307 ~~entity that provides this service, including case management and~~
308 ~~development and implementation of a case plan in accordance with~~
309 ~~current standards for child protection services. When the~~
310 ~~department establishes this program in a community that has a~~
311 ~~lead agency as described in s. 409.987, the casework~~
312 ~~responsibilities must be transferred to the lead agency.~~

313 (5) ~~(6)~~ This section does not prohibit any provider of these
314 services from appropriately billing Medicaid for services
315 rendered, from contracting with a local school district for
316 educational services, or from earning federal or local funding
317 for services provided, as long as two or more funding sources do
318 not pay for the same specific service that has been provided to
319 a child.

320 (6) ~~(7)~~ The lead agency, not-for-profit corporation, or
321 local government entity has the legal authority for children
322 served under this program, as provided in chapter 39 or this
323 chapter, as appropriate, to enroll the child in school, to sign
324 for a driver license for the child, to cosign loans and
325 insurance for the child, to sign for medical treatment, and to
326 authorize other such activities.

327 (7) For children placed in a qualified residential
328 treatment program, the lead agency shall:

329 (a) Ensure each child receives a qualifying assessment no



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330 later than 30 days after placement in the program.

331 (b) Maintain documentation of a child's placement as
332 specified in s. 39.6011(6).

333 (c) Not place a child in a qualified residential treatment
334 program for more than 12 consecutive months or 18 nonconsecutive
335 months, or if the child is under the age of 13 years, for more
336 than 6 months, whether consecutive or nonconsecutive, without
337 the signed approval of the department for the continued
338 placement.

339 (d) Provide a copy of the qualifying assessment to the
340 department; the guardian ad litem; and, if the child is a member
341 of a Medicaid managed care plan, to the plan that is financially
342 responsible for the child's care in residential treatment.

343 (8) Within 60 days after initial placement, the court must
344 approve or disapprove the placement based on the qualified
345 assessment, determination, and documentation made by the
346 qualified evaluator, as well as any other factors the court
347 deems fit.

348 (9)-(8) The department shall provide technical assistance as
349 requested and contract management services.

350 ~~(9) The provisions of this section shall be implemented to~~
351 ~~the extent of available appropriations contained in the annual~~
352 ~~General Appropriations Act for such purpose.~~

353 (10) The department may adopt rules necessary to administer
354 this section.

355 Section 10. Paragraph (c) of subsection (2) of section
356 409.1678, Florida Statutes, is amended to read:

357 409.1678 Specialized residential options for children who
358 are victims of commercial sexual exploitation.-



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359 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—
360 (c) To be certified, a safe house must hold a license as a
361 residential child-caring agency, as defined in s. 409.175, and a
362 safe foster home must hold a license as a family foster home, as
363 defined in s. 409.175. A safe house or safe foster home must
364 also:
365 1. Use strength-based and trauma-informed approaches to
366 care, to the extent possible and appropriate.
367 2. Serve exclusively one sex.
368 3. Group child victims of commercial sexual exploitation by
369 age or maturity level.
370 4. If a safe house, care for child victims of commercial
371 sexual exploitation ~~in a manner that separates those children~~
372 ~~from children with other needs. Safe houses and Safe foster~~
373 homes may care for other populations if the children who have
374 not experienced commercial sexual exploitation do not interact
375 with children who have experienced commercial sexual
376 exploitation.
377 5. Have awake staff members on duty 24 hours a day, if a
378 safe house.
379 6. Provide appropriate security through facility design,
380 hardware, technology, staffing, and siting, including, but not
381 limited to, external video monitoring or door exit alarms, a
382 high staff-to-client ratio, or being situated in a remote
383 location that is isolated from major transportation centers and
384 common trafficking areas.
385 7. Meet other criteria established by department rule,
386 which may include, but are not limited to, personnel
387 qualifications, staffing ratios, and types of services offered.



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388 Section 11. Section 409.1679, Florida Statutes, is
389 repealed.

390 Section 12. Paragraphs (l) and (m) of subsection (2) of
391 section 409.175, Florida Statutes, are amended to read:

392 409.175 Licensure of family foster homes, residential
393 child-caring agencies, and child-placing agencies; public
394 records exemption.—

395 (2) As used in this section, the term:

396 (1) "Residential child-caring agency" means any person,
397 corporation, or agency, public or private, other than the
398 child's parent or legal guardian, that provides staffed 24-hour
399 care for children in facilities maintained for that purpose,
400 regardless of whether operated for profit or whether a fee is
401 charged. Such residential child-caring agencies include, but are
402 not limited to, maternity homes, runaway shelters, group homes
403 that are administered by an agency, emergency shelters that are
404 not in private residences, qualified residential treatment
405 programs as defined in s. 409.1676, human trafficking safe
406 houses as defined in s. 409.1678, at-risk homes, and wilderness
407 camps. Residential child-caring agencies do not include
408 hospitals, boarding schools, summer or recreation camps, nursing
409 homes, or facilities operated by a governmental agency for the
410 training, treatment, or secure care of delinquent youth, or
411 facilities licensed under s. 393.067 or s. 394.875 or chapter
412 397.

413 (m) "Screening" means the act of assessing the background
414 of personnel or level II through level V family foster homes and
415 includes, but is not limited to, criminal history checks as
416 provided in s. 39.0138 and employment history checks as provided



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417 in chapter 435, using the level 2 standards for screening set
418 forth in that chapter.

419 Section 13. Paragraph (a) of subsection (14) of section
420 39.301, Florida Statutes, is amended to read:

421 39.301 Initiation of protective investigations.-

422 (14) (a) If the department or its agent determines that a
423 child requires immediate or long-term protection through medical
424 or other health care or homemaker care, day care, protective
425 supervision, or other services to stabilize the home
426 environment, including intensive family preservation services
427 through the Intensive Crisis Counseling Program, such services
428 shall first be offered for voluntary acceptance unless:

429 1. There are high-risk factors that may impact the ability
430 of the parents or legal custodians to exercise judgment. Such
431 factors may include the parents' or legal custodians' young age
432 or history of substance abuse, mental illness, or domestic
433 violence; or

434 2. There is a high likelihood of lack of compliance with
435 preventive voluntary services, and such noncompliance would
436 result in the child being unsafe.

437 Section 14. Paragraph (b) of subsection (7) of section
438 39.302, Florida Statutes, is amended to read:

439 39.302 Protective investigations of institutional child
440 abuse, abandonment, or neglect.-

441 (7) When an investigation of institutional abuse, neglect,
442 or abandonment is closed and a person is not identified as a
443 caregiver responsible for the abuse, neglect, or abandonment
444 alleged in the report, the fact that the person is named in some
445 capacity in the report may not be used in any way to adversely



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446 affect the interests of that person. This prohibition applies to
447 any use of the information in employment screening, licensing,
448 child placement, adoption, or any other decisions by a private
449 adoption agency or a state agency or its contracted providers.

450 (b) Likewise, if a person is employed as a caregiver in a
451 residential group home licensed under ~~pursuant to~~ s. 409.175 and
452 is named in any capacity in three or more reports within a 5-
453 year period, the department may review all reports for the
454 purposes of the employment screening required under s.
455 409.175(2)(m) ~~pursuant to s. 409.145(2)(e)~~.

456 Section 15. Subsection (15) of section 39.402, Florida
457 Statutes, is amended to read:

458 39.402 Placement in a shelter.-

459 (15) The department, at the conclusion of the shelter
460 hearing, shall make available to parents or legal custodians
461 seeking preventive ~~voluntary~~ services any referral information
462 necessary for participation in such identified services to allow
463 the parents or legal custodians to begin the services as soon as
464 possible. The parents' or legal custodians' participation in the
465 services may not be considered an admission or other
466 acknowledgment of the allegations in the shelter petition.

467 Section 16. Paragraph (d) of subsection (3) of section
468 39.501, Florida Statutes, is amended to read:

469 39.501 Petition for dependency.-

470 (3)

471 (d) The petitioner must state in the petition, if known,
472 whether:

473 1. A parent or legal custodian named in the petition has
474 previously unsuccessfully participated in preventive ~~voluntary~~



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475 services offered by the department;

476 2. A parent or legal custodian named in the petition has
477 participated in mediation and whether a mediation agreement
478 exists;

479 3. A parent or legal custodian has rejected the preventive
480 ~~voluntary~~ services offered by the department;

481 4. A parent or legal custodian named in the petition has
482 not fully complied with a safety plan; or

483 5. The department has determined that preventive ~~voluntary~~
484 services are not appropriate for the parent or legal custodian
485 and the reasons for such determination.

486

487 If the department is the petitioner, it shall provide all safety
488 plans as defined in s. 39.01 involving the parent or legal
489 custodian to the court.

490 Section 17. Subsection (8) of section 39.6013, Florida
491 Statutes, is amended to read:

492 39.6013 Case plan amendments.—

493 (8) Amendments must include service interventions that are
494 the least intrusive into the life of the parent and child, must
495 focus on clearly defined objectives, and must provide the most
496 efficient path to quick reunification or permanent placement
497 given the circumstances of the case and the child's need for
498 safe and proper care. A copy of the amended plan must be
499 immediately given to the persons identified in s. 39.6011(8)(c)
500 ~~s. 39.6011(7)(c)~~.

501 Section 18. This act shall take effect July 1, 2020.

502

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



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504 And the title is amended as follows:

505 Delete everything before the enacting clause
506 and insert:

507 A bill to be entitled

508 An act relating to child welfare; amending s. 39.01,
509 F.S.; revising definitions; amending s. 39.0135, F.S.;
510 requiring that child support payments be deposited
511 into specified trust funds; amending s. 39.202, F.S.;
512 authorizing the Agency for Health Care Administration
513 to access certain records; amending s. 39.6011, F.S.;
514 requiring certain documentation in the case plan when
515 a child is placed in a qualified residential treatment
516 program; amending s. 39.6221, F.S.; revising the
517 conditions under which a court determines permanent
518 guardian placement for a child; amending s. 39.6251,
519 F.S.; specifying certain facilities that are not
520 considered a supervised living arrangement; requiring
521 a supervised living arrangement to be voluntary;
522 amending s. 61.30, F.S.; providing a presumption for
523 child support in certain proceedings under ch. 39;
524 amending s. 409.145, F.S.; requiring certain screening
525 requirements for residential group home employees;
526 requiring a written agreement to modify foster care
527 room and board rates; providing an exception; amending
528 s. 409.1676, F.S.; revising legislative intent;
529 revising and providing definitions; revising a
530 provision requiring the department to contract with
531 certain entities; revising requirements for lead
532 agencies, not-for-profit corporations, and local



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533 government entities with which the department is
534 contracted; deleting a provision authorizing the
535 department to transfer casework responsibilities for
536 certain children to specified entities; providing
537 responsibilities for lead care agencies; providing
538 placement timeframes for the qualified residential
539 treatment program; deleting a provision requiring that
540 certain provisions be implemented to the extent of
541 available appropriations contained in the annual
542 General Appropriations Act; amending s. 409.1678,
543 F.S.; revising a requirement and an authorization for
544 safe houses; repealing s. 409.1679, F.S., relating to
545 comprehensive residential group care requirements and
546 reimbursement; amending s. 409.175, F.S.; revising
547 definitions; amending ss. 39.301, 39.302, 39.402,
548 39.501, and 39.6013, F.S.; making technical changes
549 and conforming provisions to changes made by the act;
550 providing an effective date.

By Senator Hutson

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1 A bill to be entitled
2 An act relating to child welfare; amending s. 39.01,
3 F.S.; revising definitions; amending s. 39.0135, F.S.;
4 requiring that child support payments be deposited
5 into specified trust funds; amending s. 39.202, F.S.;
6 authorizing the Agency for Health Care Administration
7 to access certain records; amending s. 39.407, F.S.;
8 authorizing the Department of Children and Families to
9 place children in a specified program without court
10 approval; defining the term "qualifying assessment"
11 and revising definitions; providing applicability;
12 requiring an assessment by a specified professional in
13 order to be placed in a program; requiring assessment
14 within a specified timeframe; requiring that an
15 assessment be provided to certain persons; requiring
16 the department to submit a specified report to the
17 court; requiring the court to approve program
18 placement for a child; authorizing the department to
19 adopt rules relating to the program; amending s.
20 39.6011, F.S.; requiring certain documentation in the
21 case plan when a child is placed in a qualified
22 residential treatment program; amending s. 39.6221,
23 F.S.; revising the conditions under which a court
24 determines permanent guardian placement for a child;
25 amending s. 39.6251, F.S.; specifying certain
26 facilities that are not considered a supervised living
27 arrangement; requiring a supervised living arrangement
28 to be voluntary; amending s. 61.30, F.S.; providing a
29 presumption for child support in proceedings under

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30 chapter 39; amending s. 409.145, F.S.; requiring
31 certain screening requirements for residential group
32 home employees and caregivers; requiring a written
33 agreement to modify foster care room and board rates;
34 providing an exception; repealing s. 409.1676, F.S.,
35 relating to comprehensive residential group care
36 services to children who have extraordinary needs;
37 creating s. 409.16765, F.S.; defining the term
38 "qualified residential treatment program"; providing
39 requirements for qualified residential treatment
40 programs; providing responsibilities for community-
41 based care lead agencies; providing placement
42 timeframes for the qualified residential treatment
43 program; requiring the department to adopt rules;
44 amending s. 409.1678, F.S.; revising a requirement and
45 an authorization for safe houses; repealing s.
46 409.1679, F.S., relating to comprehensive residential
47 group care requirements and reimbursement; amending s.
48 409.175, F.S.; revising definitions; amending ss.
49 39.301, 39.302, 39.402, 39.501, and 39.6013, F.S.;
50 making technical and conforming changes; providing an
51 effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Subsections (11) and (67) of section 39.01,
56 Florida Statutes, are amended to read:

57 39.01 Definitions.—When used in this chapter, unless the
58 context otherwise requires:

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59 (11) "Case plan" means a document, as described in s.
60 39.6011, prepared by the department with input from all parties.
61 The case plan follows the child from the provision of preventive
62 ~~voluntary~~ services through any dependency, foster care, or
63 termination of parental rights proceeding or related activity or
64 process.

65 (67) "Preventive services" means social services and other
66 supportive and rehabilitative services provided, either
67 voluntarily or by court order, to the parent or legal custodian
68 of the child and to the child or on behalf of the child for the
69 purpose of averting the removal of the child from the home or
70 disruption of a family which will or could result in the
71 placement of a child in foster care. Social services and other
72 supportive and rehabilitative services shall promote the child's
73 developmental needs and need for physical, mental, and emotional
74 health and a safe, stable, living environment; shall promote
75 family autonomy; and shall strengthen family life, whenever
76 possible.

77 Section 2. Section 39.0135, Florida Statutes, is amended to
78 read:

79 39.0135 Federal Grants and Operations and Maintenance Trust
80 Funds Fund.—The department shall deposit all child support
81 payments made to the department, equaling the cost of care,
82 under pursuant to this chapter into the Federal Grants Trust
83 Fund for Title IV-E eligible children and the Operations and
84 Maintenance Trust Fund for children ineligible for Title IV-E.
85 If the child support payment does not equal the cost of care,
86 the total amount of the payment shall be deposited into the
87 appropriate trust fund. The purpose of this funding is to care

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88 for children who are committed to the temporary legal custody of
89 the department.

90 Section 3. Paragraphs (a) and (h) of subsection (2) of
91 section 39.202, Florida Statutes, are amended to read:

92 39.202 Confidentiality of reports and records in cases of
93 child abuse or neglect.—

94 (2) Except as provided in subsection (4), access to such
95 records, excluding the name of, or other identifying information
96 with respect to, the reporter which shall be released only as
97 provided in subsection (5), shall be granted only to the
98 following persons, officials, and agencies:

99 (a) Employees, authorized agents, or contract providers of
100 the department, the Department of Health, the Agency for Persons
101 with Disabilities, the Agency for Health Care Administration,
102 the Office of Early Learning, or county agencies responsible for
103 carrying out:

- 104 1. Child or adult protective investigations;
- 105 2. Ongoing child or adult protective services;
- 106 3. Early intervention and prevention services;
- 107 4. Healthy Start services;
- 108 5. Licensure or approval of adoptive homes, foster homes,
109 child care facilities, facilities licensed under chapters 393
110 and 394 ~~chapter 393~~, family day care homes, providers who
111 receive school readiness funding under part VI of chapter 1002,
112 or other homes used to provide for the care and welfare of
113 children;
- 114 6. Employment screening for employees ~~caregivers~~ in
115 residential group homes licensed by the department, the Agency
116 for Persons with Disabilities, or the Agency for Health Care

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117 Administration; or

118 7. Services for victims of domestic violence when provided
119 by certified domestic violence centers working at the
120 department's request as case consultants or with shared clients.

121

122 Also, employees or agents of the Department of Juvenile Justice
123 responsible for the provision of services to children, under
124 ~~pursuant to~~ chapters 984 and 985.

125 (h) Any appropriate official of the department, the Agency
126 for Health Care Administration, or the Agency for Persons with
127 Disabilities who is responsible for:

128 1. Administration or supervision of the department's
129 program for the prevention, investigation, or treatment of child
130 abuse, abandonment, or neglect, or abuse, neglect, or
131 exploitation of a vulnerable adult, when carrying out his or her
132 official function;

133 2. Taking appropriate administrative action concerning an
134 employee of the department or the agency who is alleged to have
135 perpetrated child abuse, abandonment, or neglect, or abuse,
136 neglect, or exploitation of a vulnerable adult; or

137 3. Employing and continuing employment of personnel of the
138 department or the agency.

139 Section 4. Subsection (6) of section 39.407, Florida
140 Statutes, is amended to read:

141 39.407 Medical, psychiatric, and psychological examination
142 and treatment of child; physical, mental, or substance abuse
143 examination of person with or requesting child custody.—

144 (6) Children who are in the legal custody of the department
145 may be placed by the department, without prior approval of the

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146 court, in a residential treatment center licensed under s.
147 394.875, a qualified residential treatment program as defined in
148 s. 409.16765, or a hospital licensed under chapter 395 for
149 residential mental health treatment only under ~~pursuant to~~ this
150 section or may be placed by the court in accordance with an
151 order of involuntary examination or involuntary placement
152 entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children
153 placed in a residential treatment program under this subsection
154 must have a guardian ad litem appointed.

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

156 1. "Residential treatment" means placement for observation,
157 diagnosis, or treatment of an emotional disturbance in a
158 residential treatment center licensed under s. 394.875, a
159 qualified residential treatment program defined in s. 409.16765,
160 or a hospital licensed under chapter 395.

161 2. "Least restrictive alternative" means the treatment and
162 conditions of treatment that, separately and in combination, are
163 no more intrusive or restrictive of freedom than reasonably
164 necessary to achieve a substantial therapeutic benefit or to
165 protect the child or adolescent or others from physical injury.

166 3. "Suitable for residential treatment" or "suitability"
167 means a determination concerning a child or adolescent with an
168 emotional disturbance as defined in s. 394.492(5) or a serious
169 emotional disturbance as defined in s. 394.492(6) that each of
170 the following criteria is met:

171 a. The child requires residential treatment.

172 b. The child is in need of a residential treatment program
173 and is expected to benefit from mental health treatment.

174 c. An appropriate, less restrictive alternative to

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175 residential treatment is unavailable.

176 4. "Qualifying assessment" means a determination by a
177 department-approved functional assessment concerning a child or
178 adolescent who has an emotional disturbance or a serious
179 emotional disturbance or mental illness, as those terms are
180 defined in s. 394.492, for recommended placement in a qualified
181 residential treatment program under s. 409.16765.

182 (b)1. If ~~Whenever~~ the department believes that a child in
183 its legal custody is emotionally disturbed and may need
184 residential treatment, an examination and suitability assessment
185 must be conducted by a qualified evaluator who is appointed by
186 the Agency for Health Care Administration. This suitability
187 assessment must be completed before the placement of the child
188 in a residential treatment center for emotionally disturbed
189 children and adolescents or a hospital. The qualified evaluator
190 must be a psychiatrist or a psychologist licensed in Florida who
191 has at least 3 years of experience in the diagnosis and
192 treatment of serious emotional disturbances in children and
193 adolescents and who has no actual or perceived conflict of
194 interest with any inpatient facility or residential treatment
195 center or program. This paragraph does not apply to a child who
196 may need placement in a qualified residential treatment program.

197 2.~~(e)~~ Before a child is admitted under this paragraph
198 ~~subsection~~, the child must ~~shall~~ be assessed for suitability for
199 residential treatment by a qualified evaluator who has conducted
200 a personal examination and assessment of the child and has made
201 written findings that:

202 a.1.~~1.~~ The child appears to have an emotional disturbance
203 serious enough to require residential treatment and is

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204 reasonably likely to benefit from the treatment.

205 ~~b.2.~~ The child has been provided with a clinically
206 appropriate explanation of the nature and purpose of the
207 treatment.

208 ~~c.3.~~ All available modalities of treatment less restrictive
209 than residential treatment have been considered, and a less
210 restrictive alternative that would offer comparable benefits to
211 the child is unavailable.

212 3. A copy of the written findings of the evaluation and
213 suitability assessment must be provided to the department, to
214 the guardian ad litem, and, if the child is a member of a
215 Medicaid managed care plan, to the plan that is financially
216 responsible for the child's care in residential treatment, all
217 of whom must be provided with the opportunity to discuss the
218 findings with the evaluator.

219 (c)1. If the department believes that a child in its legal
220 custody has a serious emotional or behavioral disorder or
221 disturbance and may need placement in a qualified residential
222 treatment program, a qualifying assessment must be conducted by
223 a qualified evaluator who is a trained professional with a
224 master's degree in human services, has at least 3 years'
225 experience working with children or adolescents involved in the
226 child welfare system of care, and has no actual or perceived
227 conflict of interest with any inpatient facility or residential
228 treatment center or program. The qualifying assessment must be
229 completed no later than 30 days after placement of the child in
230 a qualified residential treatment program.

231 2. A copy of the qualifying assessment must be provided to
232 the department; to the guardian ad litem; and, if the child is a

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233 member of a Medicaid managed care plan, to the plan that is
234 financially responsible for the child's care in residential
235 treatment, all of whom must be provided with the opportunity to
236 discuss the placement recommendations with the evaluator.

237 (d) Immediately upon placing a child in a residential
238 treatment program under this section, the department must notify
239 the guardian ad litem and the court having jurisdiction over the
240 child and must provide the guardian ad litem and the court with
241 a copy of the suitability or qualifying assessment by the
242 qualified evaluator.

243 (e) Within 10 days after the admission of a child to a
244 residential treatment program, the director of the residential
245 treatment program or the director's designee must ensure that an
246 individualized plan of treatment has been prepared by the
247 program and has been explained to the child, to the department,
248 and to the guardian ad litem, and submitted to the department.
249 The child must be involved in the preparation of the plan to the
250 maximum feasible extent consistent with his or her ability to
251 understand and participate, and the guardian ad litem and the
252 child's foster parents must be involved to the maximum extent
253 consistent with the child's treatment needs. The plan must
254 include a preliminary plan for residential treatment and
255 aftercare upon completion of residential treatment. The plan
256 must include specific behavioral and emotional goals against
257 which the success of the residential treatment may be measured.
258 A copy of the plan must be provided to the child, to the
259 guardian ad litem, and to the department.

260 (f) Within 30 days after admission, the residential
261 treatment program must review the appropriateness and

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262 suitability of the child's placement in the program. The
263 residential treatment program must determine whether the child
264 is receiving benefit toward the treatment goals and whether the
265 child could be treated in a less restrictive treatment program.
266 The residential treatment program shall prepare a written report
267 of its findings and submit the report to the guardian ad litem
268 and to the department. The department must submit the report to
269 the court. The report must include a discharge plan for the
270 child. The residential treatment program must continue to
271 evaluate the child's treatment progress every 30 days thereafter
272 and must include its findings in a written report submitted to
273 the department and the guardian ad litem. The department must
274 submit the report to the court. The department may not reimburse
275 a facility until the facility has submitted every written report
276 that is due.

277 (g)1. The department must submit, at the beginning of each
278 month, to the court having jurisdiction over the child, a
279 written report regarding the child's progress toward achieving
280 the goals specified in the individualized plan of treatment.

281 2. The court must conduct a hearing to review the status of
282 the child's residential treatment plan no later than 60 days
283 after the child's admission to the residential treatment
284 program. An independent review of the child's progress toward
285 achieving the goals and objectives of the treatment plan must be
286 completed by a qualified evaluator and submitted to the court
287 before its 60-day review.

288 3. For any child in residential treatment at the time a
289 judicial review is held under ~~pursuant to~~ s. 39.701, the child's
290 continued placement in residential treatment must be a subject

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291 of the judicial review.

292 4. If at any time the court determines that the child is
293 not suitable for continued residential treatment, the court
294 shall order the department to place the child in the least
295 restrictive setting that is best suited to meet his or her
296 needs.

297 (h) After the initial 60-day review, the court must conduct
298 a review of the child's residential treatment plan every 90
299 days.

300 (i) In addition to the requirements of paragraphs (g) and
301 (h), within 60 days after initial placement in a qualified
302 residential treatment program, the court must approve or
303 disapprove the placement based on the qualified assessment,
304 determination, and documentation made by the qualified
305 evaluator, as well as any other factors the court deems fit.

306 (j)1.~~(i)~~ The department must adopt rules for implementing
307 timeframes for the completion of suitability and qualifying
308 assessments by qualified evaluators and a procedure that
309 includes timeframes for completing the 60-day independent review
310 by the qualified evaluators of the child's progress toward
311 achieving the goals and objectives of the treatment plan which
312 review must be submitted to the court. The Agency for Health
313 Care Administration must adopt rules for the registration of
314 qualified evaluators, the procedure for selecting the evaluators
315 to conduct the reviews required under this section, and a
316 reasonable, cost-efficient fee schedule for qualified
317 evaluators.

318 2. The department may adopt rules relating to the
319 assessment tool, the placement recommendations from the

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320 assessment, and the training criteria for qualified evaluators
321 in order to administer this section.

322 Section 5. Subsections (6) through (9) of section 39.6011,
323 Florida Statutes, are redesignated as subsections (7) through
324 (10), respectively, and a new subsection (6) is added to that
325 section, to read:

326 39.6011 Case plan development.—

327 (6) When a child is placed in a qualified residential
328 treatment program, the case plan must include documentation
329 outlining the most recent assessment for a qualified residential
330 treatment program, the date of the most recent placement in a
331 qualified residential treatment program, the treatment or
332 service needs of the child, and preparation for the child to
333 return home or be in an out-of-home placement. If a child is
334 placed in a qualified residential treatment program for longer
335 than the timeframes described in s. 409.16765, a copy of the
336 signed approval of such placement by the department must be
337 included in the case plan.

338 Section 6. Paragraph (a) of subsection (1) of section
339 39.6221, Florida Statutes, is amended to read:

340 39.6221 Permanent guardianship of a dependent child.—

341 (1) If a court determines that reunification or adoption is
342 not in the best interest of the child, the court may place the
343 child in a permanent guardianship with a relative or other adult
344 approved by the court if all of the following conditions are
345 met:

346 (a) The child has been in the placement for not less than
347 the preceding 6 months, or the preceding 3 months if the
348 caregiver has been named as the successor guardian on the

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349 child's Guardianship Assistance Agreement.

350 Section 7. Paragraph (a) of subsection (4) of section
351 39.6251, Florida Statutes, is amended to read:

352 39.6251 Continuing care for young adults.—

353 (4) (a) The young adult must reside in a supervised living
354 environment that is approved by the department or a community-
355 based care lead agency. The young adult shall live
356 independently, but in an environment in which he or she is
357 provided supervision, case management, and supportive services
358 by the department or lead agency. Such an environment must offer
359 developmentally appropriate freedom and responsibility to
360 prepare the young adult for adulthood. For the purposes of this
361 subsection, a supervised living arrangement may include a
362 licensed foster home, licensed group home, college dormitory,
363 shared housing, apartment, or another housing arrangement if the
364 arrangement is approved by the community-based care lead agency
365 and is acceptable to the young adult. A young adult may continue
366 to reside with the same licensed foster family or group care
367 provider with whom he or she was residing at the time he or she
368 reached the age of 18 years. A supervised living arrangement may
369 not include detention facilities, forestry camps, training
370 schools, or any other facility operated primarily for the
371 detention of children or young adults who are determined to be
372 delinquent. A young adult may not reside in any setting in which
373 the young adult is involuntarily placed.

374 Section 8. Paragraph (a) of subsection (1) of section
375 61.30, Florida Statutes, is amended, and paragraph (d) is added
376 to that subsection, to read:

377 61.30 Child support guidelines; retroactive child support.—

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378 (1) (a) The child support guideline amount as determined by
379 this section presumptively establishes the amount the trier of
380 fact shall order as child support in an initial proceeding for
381 such support or in a proceeding for modification of an existing
382 order for such support, whether the proceeding arises under this
383 or another chapter, except as provided in paragraph (d). The
384 trier of fact may order payment of child support which varies,
385 plus or minus 5 percent, from the guideline amount, after
386 considering all relevant factors, including the needs of the
387 child or children, age, station in life, standard of living, and
388 the financial status and ability of each parent. The trier of
389 fact may order payment of child support in an amount which
390 varies more than 5 percent from such guideline amount only upon
391 a written finding explaining why ordering payment of such
392 guideline amount would be unjust or inappropriate.

393 Notwithstanding the variance limitations of this section, the
394 trier of fact shall order payment of child support which varies
395 from the guideline amount as provided in paragraph (1)(b)
396 whenever any of the children are required by court order or
397 mediation agreement to spend a substantial amount of time with
398 either parent. This requirement applies to any living
399 arrangement, whether temporary or permanent.

400 (d) In a proceeding under chapter 39, if the child is in an
401 out-of-home placement, the presumptively correct amount of
402 periodic support is 10 percent of the obligor's actual or
403 imputed gross income. The court may deviate from this
404 presumption as provided in paragraph (a).

405 Section 9. Paragraph (e) of subsection (2) and paragraph
406 (f) of subsection (4) of section 409.145, Florida Statutes, are

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407 amended, and a new paragraph (h) is added to subsection (4) of
408 that section, to read:

409 409.145 Care of children; quality parenting; "reasonable
410 and prudent parent" standard.—The child welfare system of the
411 department shall operate as a coordinated community-based system
412 of care which empowers all caregivers for children in foster
413 care to provide quality parenting, including approving or
414 disapproving a child's participation in activities based on the
415 caregiver's assessment using the "reasonable and prudent parent"
416 standard.

417 (2) QUALITY PARENTING.—A child in foster care shall be
418 placed only with a caregiver who has the ability to care for the
419 child, is willing to accept responsibility for providing care,
420 and is willing and able to learn about and be respectful of the
421 child's culture, religion and ethnicity, special physical or
422 psychological needs, any circumstances unique to the child, and
423 family relationships. The department, the community-based care
424 lead agency, and other agencies shall provide such caregiver
425 with all available information necessary to assist the caregiver
426 in determining whether he or she is able to appropriately care
427 for a particular child.

428 (e) Employees ~~caregivers~~ employed by residential group
429 homes.—All employees, including persons who do not work directly
430 with children, of a residential group home must meet the
431 background screening requirements under s. 39.0138 and the level
432 2 standards for screening under chapter 435. All caregivers in
433 residential group homes must ~~shall~~ meet, at a minimum, the same
434 education and, ~~training, and background and other screening~~
435 requirements as foster parents.

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436 (4) FOSTER CARE ROOM AND BOARD RATES.—

437 (f) Excluding level I family foster homes, the amount of
438 the monthly foster care room and board rate may be increased
439 upon agreement among the department, the community-based care
440 lead agency, and the foster parent.

441 (h) All room and board rate increases, excluding increases
442 under paragraph (b), must be outlined in a written agreement
443 between the department and the community-based care lead agency.

444 Section 10. Section 409.1676, Florida Statutes, is
445 repealed.

446 Section 11. Section 409.16765, Florida Statutes, is created
447 to read:

448 409.16765 Qualified residential treatment programs.—

449 (1) As used in this section, the term "qualified
450 residential treatment program" means a residential group home
451 environment that provides care for a child who has an emotional
452 disturbance or a serious emotional disturbance or mental
453 illness, as those terms are defined in s. 394.492.

454 (2) A qualified residential treatment program shall,
455 subject to available resources, meet the following requirements:

456 (a) Provide a safe and therapeutic environment tailored to
457 the needs of children with emotional or behavioral health
458 problems.

459 (b) Use a model of treatment that includes a strength-based
460 and trauma-informed approach.

461 (c) Be licensed as a residential child-caring agency as
462 defined in s. 409.175.

463 (d) Be accredited by an accrediting organization under s.
464 472(k)(4)(g) of the Social Security Act.

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465 (e) Have available, 24 hours a day, registered or licensed
466 nursing and clinical staff based on the child's treatment plan.

467 (f) Provide aftercare services or supports to all children
468 who are discharged from the program.

469 (3) The community-based care lead agency shall:

470 (a) Ensure each child who is placed in a qualified
471 residential treatment program receives a qualifying assessment,
472 as defined in s. 39.407, no later than 30 days after placement
473 in the program.

474 (b) Maintain documentation of a child's placement in a
475 qualified residential treatment program as specified in s.
476 39.6011(6).

477 (c) Not place a child in a qualified residential treatment
478 program for more than 12 consecutive months or 18 nonconsecutive
479 months, or if the child is under the age of 13 years, for more
480 than 6 months, whether consecutive or nonconsecutive, without
481 the signed approval of the department for the continued
482 placement.

483 (4) The department shall adopt rules necessary to
484 administer this section.

485 Section 12. Paragraph (c) of subsection (2) of section
486 409.1678, Florida Statutes, is amended to read:

487 409.1678 Specialized residential options for children who
488 are victims of commercial sexual exploitation.—

489 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

490 (c) To be certified, a safe house must hold a license as a
491 residential child-caring agency, as defined in s. 409.175, and a
492 safe foster home must hold a license as a family foster home, as
493 defined in s. 409.175. A safe house or safe foster home must

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494 also:

- 495 1. Use strength-based and trauma-informed approaches to
496 care, to the extent possible and appropriate.
- 497 2. Serve exclusively one sex.
- 498 3. Group child victims of commercial sexual exploitation by
499 age or maturity level.
- 500 4. If a safe house, care for child victims of commercial
501 sexual exploitation ~~in a manner that separates those children~~
502 ~~from children with other needs. Safe houses and Safe foster~~
503 homes may care for other populations if the children who have
504 not experienced commercial sexual exploitation do not interact
505 with children who have experienced commercial sexual
506 exploitation.
- 507 5. Have awake staff members on duty 24 hours a day, if a
508 safe house.
- 509 6. Provide appropriate security through facility design,
510 hardware, technology, staffing, and siting, including, but not
511 limited to, external video monitoring or door exit alarms, a
512 high staff-to-client ratio, or being situated in a remote
513 location that is isolated from major transportation centers and
514 common trafficking areas.
- 515 7. Meet other criteria established by department rule,
516 which may include, but are not limited to, personnel
517 qualifications, staffing ratios, and types of services offered.

518 Section 13. Section 409.1679, Florida Statutes, is
519 repealed.

520 Section 14. Paragraphs (l) and (m) of subsection (2) of
521 section 409.175, Florida Statutes, are amended to read:

522 409.175 Licensure of family foster homes, residential

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523 child-caring agencies, and child-placing agencies; public
524 records exemption.-

525 (2) As used in this section, the term:

526 (1) "Residential child-caring agency" means any person,
527 corporation, or agency, public or private, other than the
528 child's parent or legal guardian, that provides staffed 24-hour
529 care for children in facilities maintained for that purpose,
530 regardless of whether operated for profit or whether a fee is
531 charged. Such residential child-caring agencies include, but are
532 not limited to, maternity homes, runaway shelters, group homes
533 that are administered by an agency, emergency shelters that are
534 not in private residences, qualified residential treatment
535 programs as defined in s. 409.16765, human trafficking safe
536 houses as defined in s. 409.1678, at-risk homes, and wilderness
537 camps. Residential child-caring agencies do not include
538 hospitals, boarding schools, summer or recreation camps, nursing
539 homes, or facilities operated by a governmental agency for the
540 training, treatment, or secure care of delinquent youth, or
541 facilities licensed under s. 393.067 or s. 394.875 or chapter
542 397.

543 (m) "Screening" means the act of assessing the background
544 of personnel or level II through level V family foster homes and
545 includes, but is not limited to, criminal history checks as
546 provided in s. 39.0138 and employment history checks as provided
547 in chapter 435, using the level 2 standards for screening set
548 forth in that chapter.

549 Section 15. Paragraph (a) of subsection (14) of section
550 39.301, Florida Statutes, is amended to read:

551 39.301 Initiation of protective investigations.-

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552 (14) (a) If the department or its agent determines that a
553 child requires immediate or long-term protection through medical
554 or other health care or homemaker care, day care, protective
555 supervision, or other services to stabilize the home
556 environment, including intensive family preservation services
557 through the Intensive Crisis Counseling Program, such services
558 shall first be offered for voluntary acceptance unless:

559 1. There are high-risk factors that may impact the ability
560 of the parents or legal custodians to exercise judgment. Such
561 factors may include the parents' or legal custodians' young age
562 or history of substance abuse, mental illness, or domestic
563 violence; or

564 2. There is a high likelihood of lack of compliance with
565 preventive ~~voluntary~~ services, and such noncompliance would
566 result in the child being unsafe.

567 Section 16. Paragraph (b) of subsection (7) of section
568 39.302, Florida Statutes, is amended to read:

569 39.302 Protective investigations of institutional child
570 abuse, abandonment, or neglect.—

571 (7) When an investigation of institutional abuse, neglect,
572 or abandonment is closed and a person is not identified as a
573 caregiver responsible for the abuse, neglect, or abandonment
574 alleged in the report, the fact that the person is named in some
575 capacity in the report may not be used in any way to adversely
576 affect the interests of that person. This prohibition applies to
577 any use of the information in employment screening, licensing,
578 child placement, adoption, or any other decisions by a private
579 adoption agency or a state agency or its contracted providers.

580 (b) Likewise, if a person is employed as a caregiver in a

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581 residential group home licensed under ~~pursuant to~~ s. 409.175 and
582 is named in any capacity in three or more reports within a 5-
583 year period, the department may review all reports for the
584 purposes of the employment screening required under s.
585 409.175(2)(m) ~~pursuant to s. 409.145(2)(c)~~.

586 Section 17. Subsection (15) of section 39.402, Florida
587 Statutes, is amended to read:

588 39.402 Placement in a shelter.—

589 (15) The department, at the conclusion of the shelter
590 hearing, shall make available to parents or legal custodians
591 seeking preventive ~~voluntary~~ services any referral information
592 necessary for participation in such identified services to allow
593 the parents or legal custodians to begin the services as soon as
594 possible. The parents' or legal custodians' participation in the
595 services may not be considered an admission or other
596 acknowledgment of the allegations in the shelter petition.

597 Section 18. Paragraph (d) of subsection (3) of section
598 39.501, Florida Statutes, is amended to read:

599 39.501 Petition for dependency.—

600 (3)

601 (d) The petitioner must state in the petition, if known,
602 whether:

603 1. A parent or legal custodian named in the petition has
604 previously unsuccessfully participated in preventive ~~voluntary~~
605 services offered by the department;

606 2. A parent or legal custodian named in the petition has
607 participated in mediation and whether a mediation agreement
608 exists;

609 3. A parent or legal custodian has rejected the preventive

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610 ~~voluntary~~ services offered by the department;

611 4. A parent or legal custodian named in the petition has
612 not fully complied with a safety plan; or

613 5. The department has determined that preventive ~~voluntary~~
614 services are not appropriate for the parent or legal custodian
615 and the reasons for such determination.

616

617 If the department is the petitioner, it shall provide all safety
618 plans as defined in s. 39.01 involving the parent or legal
619 custodian to the court.

620 Section 19. Subsection (8) of section 39.6013, Florida
621 Statutes, is amended to read:

622 39.6013 Case plan amendments.—

623 (8) Amendments must include service interventions that are
624 the least intrusive into the life of the parent and child, must
625 focus on clearly defined objectives, and must provide the most
626 efficient path to quick reunification or permanent placement
627 given the circumstances of the case and the child's need for
628 safe and proper care. A copy of the amended plan must be
629 immediately given to the persons identified in s. 39.6011(8)(c)
630 ~~s. 39.6011(7)(e)~~.

631 Section 20. This act shall take effect July 1, 2020.

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 1886

INTRODUCER: Senator Brandes

SUBJECT: Grandparent Visitation Rights

DATE: February 3, 2020 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Preston | Hendon | CF | Pre-meeting |
| 2. | _____ | _____ | JU | _____ |
| 3. | _____ | _____ | RC | _____ |

I. Summary:

SB 1886 makes a change to Florida law related to grandparent visitation rights to allow a grandparent of a minor child to petition the court for court-ordered visitation if one parent of the minor child is deceased, missing, or in a persistent vegetative state and whose other parent has:

- Been identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent’s murder; or
- Willingly allowed the minor child to be supervised by an individual identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent’s murder.

The bill also removes the requirement that the court must find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child.

The bill has no fiscal impact to the state and has an effective date of July 1, 2020.

II. Present Situation:

History of Grandparent Visitation Rights

Under common law, a grandparent who was forbidden by his or her grandchild's parent from visiting the child was normally without legal recourse.¹ Nonparent visitation statutes which did not exist before the late 1960s, now allow grandparents to petition courts for the right to visit

¹ Kristine L. Roberts, *State Supreme Court Applications of Troxel v. Granville and the Courts’ Reluctance to Declare Grandparent Visitation Statutes Unconstitutional*, 41 FAM. CT. REV. 14, 16 (Jan. 2003). Also see Karin J. McMullen, *The Scarlet “N:” Grandparent Visitation Statutes That Base Standing on Non-Intact Family Status Violate the Equal Protection Clause of the Fourteenth Amendment*, ST. JOHN’S LAW REVIEW, 83 (2009).

their grandchildren. Before the passage of these statutes, grandparents – like all other nonparents – had no right to sue for court-ordered visitation with their grandchildren.²

The common law rule against visitation by nonparents sought to preserve parental autonomy, as a value in and of itself, as a means of protecting children and to serve broader social goals:

- Courts historically expressed reluctance to undermine parents' authority by overruling their decisions regarding visitation and by introducing outsiders into the nuclear family.³ This common law tradition received constitutional protection in the 1920s when the Supreme Court held that a parent's right to direct the upbringing of his or her children was a fundamental liberty interest.⁴
- Under common law, courts presumed that fit parents act in the child's best interests and recognized that conflicts regarding visitation are a source of potential harm to the children involved.⁵
- Common law tradition understood parental authority as the very foundation of social order. Courts generally relied on ties of nature to resolve family disagreements rather than imposing coercive court orders.⁶

In response, states began to enact statutes to permit grandparents and sometimes other nonparents to petition for visitation rights. States passed the first wave of grandparent visitation statutes between 1966 and 1986. By the early 1990s, all states had enacted grandparent visitation laws that expanded grandparents' visitation rights. Today, the statutes generally delineate who may petition the court and under what circumstances and then require the court to determine if visitation is in the child's best interests.⁷

The enactment of grandparent visitation statutes responded primarily to two trends: demographic changes in family composition and an increase in the number of older Americans and the concurrent growth of the senior lobby.⁸ Grandparent visitation resonated with the public as well, who responded to sentimental images of grandparents in the popular media and the conclusions of social scientists who focused on the importance of intergenerational family ties. During the 1990s, many Americans also focused on drug abuse problems of parents, significant poverty levels, and increasing numbers of out-of-wedlock children. Also during this period, Americans looked less to traditional social institutions, such as churches, and more toward the legal system as a way to solve their family problems.⁹

Policy related to grandparent visitation soon led to constitutional concerns because grandparent visitation statutes implicate the Fourteenth Amendment in two ways:

- The substantive due process rights of parents to direct the upbringing of their children in as much as parents' decisions are challenged, and

² *Id.*

³ *Id.*

⁴ See *Meyer v. Nebraska*, 262 U.S. 390 (1923) and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

⁵ Kristine L. Roberts, *State Supreme Court Applications of Troxel v. Granville and the Courts' Reluctance to Declare Grandparent Visitation Statutes Unconstitutional*, 41 FAM. CT. REV. 14, 16 (Jan. 2003).

⁶ *Id.*

⁷ *Id.*

⁸ Karen J. McMullen, *The Scarlet "N:" Grandparent Visitation Statutes That Base Standing on Non-Intact Family Status Violate the Equal Protection Clause of the Fourteenth Amendment*, ST. JOHN'S LAW REVIEW, 83 (2009).

⁹ *Id.*

- The right to equal protection because many grandparent visitation statutes differentiate among parents based upon family status.¹⁰

The pertinent clauses in the Fourteenth Amendment state that a state shall not “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”¹¹ As of 2007, 23 state supreme courts had ruled on the constitutionality of their grandparent visitation statutes, with the majority finding their statutes constitutional; however, courts in several large states, Florida included, have held their grandparent visitation statutes unconstitutional.¹²

Grandparent Visitation Rights in Florida

Until 1978, Florida grandparents did not have any statutory right to visit their grandchild. Currently, provisions relating to grandparents rights to visitation and custody are contained in chs. 752 and 39, F. S. Provisions previously in ch. 61, F.S., have been removed because they were ruled unconstitutional.

Chapter 752, Florida Statutes – Grandparent Visitation

The legislature enacted ch. 752, F.S., titled “Grandparental Visitation Rights,” in 1984, giving grandparents standing to petition the court for visitation in certain situations. At its broadest, s.752.01(1), F.S., required visitation to be granted when the court determined it to be in the best interests of the child and one of the following situations existed:

- One or both of the child’s parents were deceased;
- The parents were divorced;
- One parent had deserted the child;
- The child was born out of wedlock; or
- One or both parents, who were still married, had prohibited the formation of a relationship between the child and the grandparent(s).¹³

Florida courts have considered the constitutionality of s. 752.01, F.S., on numerous occasions and have “consistently held all statutes that have attempted to compel visitation or custody with a grandparent based solely on the best interest of the child standard . . . to be unconstitutional.”¹⁴ The courts’ rulings are premised on the fact that the fundamental right of parenting is a long-standing liberty interest recognized by both the United States and Florida constitutions.¹⁵

¹⁰*Id.*

¹¹ U.S. CONST. amend. XIV, s. 1.

¹² Comm. on Judiciary, The Florida Senate, Grandparent Visitation Rights, (Interim Report 2009-120) (Oct. 2008). available at http://archive.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-120ju.pdf. (last visited January 29, 2020).

¹³ See ch. 93-279, Laws of Fla. (s. 752.01, F.S. (1993)). Subsequent amendments by the Legislature removed some of these criteria. See s. 752.01, F.S. (2008).

¹⁴ *Cranney v. Coronado*, 920 So. 2d 132, 134 (Fla. 2d DCA 2006) (quoting *Sullivan v. Sapp*, 866 So. 2d 28, 37 (Fla. 2004)).

¹⁵ In 1980, Florida’s citizens approved the addition of a privacy provision in the state constitution, which provides greater protection than the federal constitution. Specifically, Florida’s right to privacy provision states: “Every natural person has the right to be let alone and free from governmental intrusion into the person’s private life except as otherwise provided herein.” FLA. CONST. art. I, s. 23.

In 1996, the Florida Supreme Court addressed its first major analysis of s. 752.01, F.S., in *Beagle v. Beagle*, 678 So. 2d 1271 (Fla. 1996). In *Beagle*, the Court determined that s. 752.01(e), F.S., which allowed grandparents to seek visitation when the child's family was intact, was facially unconstitutional. The Court announced the standard of review applicable when deciding whether a state's intrusion into a citizen's private life is constitutional:

The right of privacy is a fundamental right which we believe demands the compelling state interest standard. This test shifts the burden of proof to the state to justify an intrusion on privacy. The burden can be met by demonstrating that the challenged regulation serves a compelling state interest and accomplishes its goal through the use of the least restrictive means.¹⁶

The Court held that “[b]ased upon the privacy provision in the Florida Constitution, . . . the State may not intrude upon the fundamental right of parents to raise their children except in cases where the child is threatened with harm.”¹⁷

In 2015, the Legislature amended ch. 752 of the Florida Statutes to provide that a grandparent of a minor child whose parents are deceased, missing, or in a permanent vegetative state may petition for visitation with a grandchild. If only one parent is deceased, missing or in a permanent vegetative state, the other parent must have been convicted of a felony or a violent offense in order for a grandparent to be able to petition for visitation. The court must also find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child, and if not, must dismiss the petition. If the court finds that there is prima facie evidence that a parent is unfit or that there is danger of significant harm to the child, the bill allows the court to appoint a guardian ad litem for the child and requires the court to order the family to mediation. The law provides a list of factors for the court to consider in assessing best interest of the child and material harm to the parent-child relationship. The bill places a limit on the number of times a grandparent can file an original action for visitation, absent a real, substantial, and unanticipated change of circumstances.¹⁸

Chapter 39, Florida Statutes – Dependent Children

When a child has been adjudicated dependent and is removed from the physical custody of his or her parents, the child's grandparents have the right to unsupervised, reasonable visitation, unless visitation is not in the best interests of the child or would interfere with the goals of the case plan.¹⁹ The court may deny grandparent visitation if it is not in the child's best interest or based on the grandparent's prior criminal history.

When the child is returned to the custody of his or her parent, the visitation rights granted to a grandparent must be terminated.²⁰

¹⁶ *Beagle*, 678 So. 2d at 1276 (quoting *Winfield v. Division of Pari-Mutuel Wagering*, 477 So. 2d 544, 547 (Fla. 1985)).

¹⁷ *Id.*

¹⁸ Chapter 2015-134, F.S.

¹⁹ Section 39.509, F.S.

²⁰ *Id.*

Existing grandparent visitation with a child who has been adjudicated dependent does not automatically terminate if the court enters an order for a termination of parental rights. Grandparent visitation rights will only terminate if the court finds that continued grandparent visitation is not in the best interest of the child or visitation would interfere with DCF goals of permanency planning for the child.²¹ Before the court may terminate parental rights, notice must be provided to certain persons, including any grandparent entitled to priority for purposes of adoption.²²

If the court determines that reunification with a parent and adoption are not in the best interest of the child, the child can be placed with a permanent guardian or with a fit and willing relative. The court must address a number of factors in the order for permanent guardianship or placement with a fit and willing relative, including the frequency and nature of visitation or contact between the child and his or her grandparents.²³

The Effect of Court Ordered Visitation on Children and Their Families

Requests for visitation by third parties over parental objections raise a multitude of issues. Increasing attention appears to be focused on the effects of those requests for visitation on the children involved. In an analysis of *Troxel v. Granville*, one author stated:

I am not suggesting that relationships must be conflict free in order to be viewed as being emotionally beneficial to those participating in them; however, when the relationships between members of the extended family and members of the nuclear family are so strained and when the ability to resolve those disputes is so impaired that one side or the other feels compelled to seek judicial intervention, the possibility that children will benefit from a court-imposed solution is remote. Where, over parental objection, visitation with a third party has been court ordered, the conflict between the parent and the individual whose bid for visitation the court has honored exacts a toll on the child(ren)....²⁴

Another legal scholar has stated that while grandparents can be wonderful resources for children, parents, not courts, should decide with whom their children should spend time and that a court reversal of a parent's decision raises problems:

Allowing courts to overrule parents is not good for children. The best interest of the child standard may sound appealing but, as an untethered guide to deciding where parental autonomy ends and the state's authority begins, it is not, in fact, in the best interest of the

²¹ *Id.*

²² Section 39.801(3)(a), F.S. A grandparent has the right to notice by the court if a child has lived with the grandparent for at least 6 out of 24 months immediately preceding the filing of a petition for termination of parental rights pending adoption. Section 63.0425(1), F.S.

²³ Sections 39.6221(2)(d) and 39.6231(3)(d), F.S.

²⁴ David A. Martindale, *Troxel v. Granville: A Nonjusticiable Dispute*, 41 FAM. CT. REV. 88 (Jan. 2003)

child. The main point here is that parental autonomy is not the enemy of the child; it is the best way this society knows to protect the child's best interest.²⁵

One commentator recognizes that grandparent visitation is a highly sensitive issue, especially in Florida where the senior citizen population is so large. While there are some bad grandparents, the pervasiveness of the stereotype of loving grandparents makes it hard to envision a situation where a child would not benefit from contact with his or her grandparents. For that reason, many courts have succumbed to sentimentality when deciding whether or not to grant grandparents visitation rights.²⁶

A more objective view has been taken by the Florida Supreme Court. Both the Federal and Florida constitutions convey rights of privacy. Among those privacy rights lies the right of parents to raise their child as they see fit. Case law has long addressed this right and, while it may seem unfair or unwise to deny loving grandparents the right to visit their grandchild, based on a long line of federal and state precedent it is clear that the Florida Supreme Court is correct in deciding that, absent some showing of harm to the child, a court cannot override a fit parent's decision. Case law shows that, absent a grandparent proving harm to the child, visitation is rarely granted.²⁷

A statute which demands such a showing of harm, while technically correct because it adheres to judicial rulings, will do little to help grandparents attain visitation with their grandchildren. The better solution would be to shift the focus away from judicial intrusions upon families and instead help families resolve their disputes themselves through mediation and counseling.²⁸

III. Effect of proposed Changes

Section 1 amends s. 752.011, F.S., to allow a grandparent of a minor child to petition the court for court-ordered visitation if one parent of the minor child is deceased, missing, or in a persistent vegetative state and whose other parent has:

- Been identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder; or
- Willingly allowed the minor child to be supervised by an individual identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder.

The bill also removes the requirement that the court find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child.

Section 2 provides an effective date of July 1, 2020.

²⁵ Katharine T. Bartlett, *Grandparent Visitation: Best Interests Test is Not in Child's Best Interest*, WEST VIRGINIA LAW REVIEW. 102:723 (2000).

²⁶ Maegen E. Peek, *Grandparent Visitation Statutes: Do Legislatures Know The Way To Carry The Sleigh Through The Wide And Drifting Law?* FLORIDA LAW REVIEW (Apr. 2001)

²⁷ *Id.*

²⁸ *Id.*

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:

The United States Supreme Court has recognized the fundamental liberty interest parents have in the “care, custody and management” of their children.²⁹ The Florida Supreme Court has likewise recognized that decisions relating to child rearing and education are clearly established as fundamental rights within the Fourteenth Amendment of the United States Constitution and that the fundamental liberty interest in parenting is specifically protected by the privacy provision in the Florida Constitution.³⁰ Consequently, any statute that infringes these rights is subject to the highest level of scrutiny and must serve a compelling state interest through the least intrusive means necessary.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

²⁹ *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982)

³⁰ *Beagle v. Beagle*, 678 So. 2d 1271, 1276 (Fla. 1996).

VII. Related Issues:

Since case law shows that, absent a grandparent proving harm to the child, visitation is rarely granted, it is unclear what effect removing the provision that the court must find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child will have.

VIII. Statutes Affected:

This bill substantially amends s. 752.011 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.



229474

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 72 - 73

and insert:

evidence of one of the conditions in subsection (1) and that a parent is unfit ~~or that there is significant harm to the child,~~

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

And the title is amended as follows:

Delete line 10



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11 and insert:
12 significant harm to the child in

By Senator Brandes

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1 A bill to be entitled
2 An act relating to grandparent visitation rights;
3 amending s. 752.011, F.S.; authorizing a grandparent
4 of a minor child whose parent was the victim of a
5 murder to petition the court for court-ordered
6 visitation with the child under certain circumstances;
7 removing the requirement that a grandparent
8 petitioning the court for court-ordered visitation
9 with a minor child make a prima facie showing of
10 parental unfitness or significant harm to the child in
11 a preliminary hearing on such petition and instead
12 requiring the grandparent to make a prima facie
13 showing of other specified conditions; conforming
14 provisions to changes made by the act; providing an
15 effective date.

16
17 WHEREAS, Florida law permits case-by-case judicial review
18 of grandparent visitation in very limited circumstances under s.
19 752.011, Florida Statutes; however, it does not address review
20 of grandparent visitation in criminal cases, such as when one
21 parent is deceased under violent or criminal circumstances and
22 the surviving parent forbids contact between the deceased's
23 parents and their grandchildren, and

24 WHEREAS, the right to petition courts is no guarantee of
25 access or visitation; rather, it simply allows courts to review
26 the case and determine what is both safe and in the best
27 interest of the child involved, and

28 WHEREAS, in the best interest of a child who is already
29 dealing with complex grief at the loss of a parent and, further,

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30 in the interest of justice under circumstances where criminal
31 proceedings are ongoing or anticipated, courts should have the
32 authority to review grandparent petitions for visitation, and

33 WHEREAS, giving courts the authority to review grandparent
34 petitions for visitation would prevent the separation of
35 children and families while the justice system reviews cases,
36 and could further disincentivize or deter criminal action in
37 divorce and custody cases, NOW, THEREFORE,

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Section 752.011, Florida Statutes, is amended to
42 read:

43 752.011 Petition for grandparent visitation with a minor
44 child.—

45 (1) A grandparent of a minor child may petition the court
46 for court-ordered visitation with the minor child if:

47 (a) The ~~whose~~ parents of the minor child are deceased,
48 missing, or in a persistent vegetative state; ~~;~~ or

49 (b) ~~whose~~ One parent of the minor child is deceased,
50 missing, or in a persistent vegetative state and the ~~whose~~ other
51 parent has:

52 1. Been convicted of a felony or an offense of violence
53 evincing behavior that poses a substantial threat of harm to the
54 minor child's health or welfare;

55 2. Been identified by the state attorney as a person of
56 interest or an unindicted co-conspirator in an open homicide
57 investigation relating to the deceased parent's murder; or

58 3. Willingly allowed the minor child to be supervised by an

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59 individual identified by the state attorney as a person of
60 interest or an unindicted co-conspirator in an open homicide
61 investigation relating to the deceased parent's murder, may
62 ~~petition the court for court-ordered visitation with the~~
63 ~~grandchild under this section.~~

64 (2)~~(1)~~ Upon the filing of a petition by a grandparent for
65 visitation, the court shall hold a preliminary hearing to
66 determine whether the petitioner has made a prima facie showing
67 of one of the conditions in subsection (1) ~~parental unfitness or~~
68 ~~significant harm to the child.~~ Absent such a showing, the court
69 shall dismiss the petition and may award reasonable attorney
70 fees and costs to be paid by the petitioner to the respondent.

71 (3)~~(2)~~ If the court finds that there is prima facie
72 evidence of one of the conditions in subsection (1) ~~that a~~
73 ~~parent is unfit or that there is significant harm to the child,~~
74 the court may appoint a guardian ad litem and shall refer the
75 matter to family mediation as provided in s. 752.015. If family
76 mediation does not successfully resolve the issue of grandparent
77 visitation, the court shall proceed with a final hearing.

78 (4)~~(3)~~ After conducting a final hearing on the issue of
79 visitation, the court may award reasonable visitation to the
80 grandparent with respect to the minor child if the court finds
81 by clear and convincing evidence that a parent is unfit or that
82 there is significant harm to the child, that visitation is in
83 the best interest of the minor child, and that the visitation
84 will not materially harm the parent-child relationship.

85 (5)~~(4)~~ In assessing the best interest of the child under
86 subsection (4) ~~(3)~~, the court shall consider the totality of the
87 circumstances affecting the mental and emotional well-being of

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88 the minor child, including:

89 (a) The love, affection, and other emotional ties existing
90 between the minor child and the grandparent, including those
91 resulting from the relationship that had been previously allowed
92 by the child's parent.

93 (b) The length and quality of the previous relationship
94 between the minor child and the grandparent, including the
95 extent to which the grandparent was involved in providing
96 regular care and support for the child.

97 (c) Whether the grandparent established ongoing personal
98 contact with the minor child before the death of the parent,
99 before the onset of the parent's persistent vegetative state, or
100 before the parent was missing.

101 (d) The reasons cited by the respondent parent in ending
102 contact or visitation between the minor child and the
103 grandparent.

104 (e) Whether there has been significant and demonstrable
105 mental or emotional harm to the minor child as a result of the
106 disruption in the family unit, whether the child derived support
107 and stability from the grandparent, and whether the continuation
108 of such support and stability is likely to prevent further harm.

109 (f) The existence or threat to the minor child of mental
110 injury as defined in s. 39.01.

111 (g) The present mental, physical, and emotional health of
112 the minor child.

113 (h) The present mental, physical, and emotional health of
114 the grandparent.

115 (i) The recommendations of the minor child's guardian ad
116 litem, if one is appointed.

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117 (j) The result of any psychological evaluation of the minor
118 child.

119 (k) The preference of the minor child if the child is
120 determined to be of sufficient maturity to express a preference.

121 (l) A written testamentary statement by the deceased parent
122 regarding visitation with the grandparent. The absence of a
123 testamentary statement is not deemed to provide evidence that
124 the deceased or missing parent or parent in a persistent
125 vegetative state would have objected to the requested
126 visitation.

127 (m) Other factors that the court considers necessary to
128 making its determination.

129 (6)~~(5)~~ In assessing material harm to the parent-child
130 relationship under subsection (4) ~~(3)~~, the court shall consider
131 the totality of the circumstances affecting the parent-child
132 relationship, including:

133 (a) Whether there have been previous disputes between the
134 grandparent and the parent over childrearing or other matters
135 related to the care and upbringing of the minor child.

136 (b) Whether visitation would materially interfere with or
137 compromise parental authority.

138 (c) Whether visitation can be arranged in a manner that
139 does not materially detract from the parent-child relationship,
140 including the quantity of time available for enjoyment of the
141 parent-child relationship and any other consideration related to
142 disruption of the schedule and routine of the parent and the
143 minor child.

144 (d) Whether visitation is being sought for the primary
145 purpose of continuing or establishing a relationship with the

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146 minor child with the intent that the child benefit from the
147 relationship.

148 (e) Whether the requested visitation would expose the minor
149 child to conduct, moral standards, experiences, or other factors
150 that are inconsistent with influences provided by the parent.

151 (f) The nature of the relationship between the child's
152 parent and the grandparent.

153 (g) The reasons cited by the parent in ending contact or
154 visitation between the minor child and the grandparent which was
155 previously allowed by the parent.

156 (h) The psychological toll of visitation disputes on the
157 minor child.

158 (i) Other factors that the court considers necessary in
159 making its determination.

160 (7)~~(6)~~ Part II of chapter 61 applies to actions brought
161 under this section.

162 (8)~~(7)~~ If actions under this section and s. 61.13 are
163 pending concurrently, the courts are strongly encouraged to
164 consolidate the actions in order to minimize the burden of
165 litigation on the minor child and the other parties.

166 (9)~~(8)~~ An order for grandparent visitation may be modified
167 upon a showing by the person petitioning for modification that a
168 substantial change in circumstances has occurred and that
169 modification of visitation is in the best interest of the minor
170 child.

171 (10)~~(9)~~ An original action requesting visitation under this
172 section may be filed by a grandparent only once during any 2-
173 year period, except on good cause shown that the minor child is
174 suffering, or may suffer, significant and demonstrable mental or

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175 emotional harm caused by a parental decision to deny visitation
176 between a minor child and the grandparent, which was not known
177 to the grandparent at the time of filing an earlier action.

178 (11)~~(10)~~ This section does not provide for grandparent
179 visitation with a minor child placed for adoption under chapter
180 63 except as provided in s. 752.071 with respect to adoption by
181 a stepparent or close relative.

182 (12)~~(11)~~ Venue shall be in the county where the minor child
183 primarily resides, unless venue is otherwise governed by chapter
184 39, chapter 61, or chapter 63.

185 Section 2. This act shall take effect July 1, 2020.