

<b>Tab 1</b>	<b>SB 224</b> by <b>Berman</b> ; (Identical to H 00081) Sales Tax Exemption
<b>Tab 2</b>	<b>SB 606</b> by <b>Bean</b> ; (Identical to H 01231) Domestic Violence
<b>Tab 3</b>	<b>SB 794</b> by <b>Bean</b> ; (Identical to H 00427) Independent Living Services
<b>Tab 4</b>	<b>SB 900</b> by <b>Rodriguez</b> ; Child Welfare
<b>Tab 5</b>	<b>SB 948</b> by <b>Book</b> ; (Similar to H 00837) Child Welfare
<b>Tab 6</b>	<b>SB 1582</b> by <b>Rouson</b> ; (Identical to H 01425) Task Force on the Monitoring of Children in Out-of-Home Care
<b>Tab 7</b>	<b>SB 1686</b> by <b>Torres</b> ; (Identical to H 00269) Definition of Developmental Disability
<b>Tab 8</b>	<b>SB 1826</b> by <b>Diaz</b> ; (Compare to H 00523) Human Trafficking
<b>Tab 9</b>	<b>SB 1920</b> by <b>Book</b> ; Child Welfare

163466 D S FAV CF, Book Delete everything after 03/16 03:22 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**

**Senator Book, Chair**  
**Senator Albritton, Vice Chair**

**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Building*

**MEMBERS:** Senator Book, Chair; Senator Albritton, Vice Chair; Senators Brodeur, Garcia, Harrell, Rouson, Torres, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	<b>SB 224</b> Berman (Identical H 81)	Sales Tax Exemption; Exempting from the sales and use tax specified items that assist in independent living; providing applicability, etc.  CF     03/16/2021 Favorable FT AP	Favorable Yeas 8 Nays 0
2	<b>SB 606</b> Bean (Identical H 1231, Linked S 608)	Domestic Violence; Adding nonresidential outreach services to the list of services certified domestic violence centers must provide; revising the program content requirements for batterers' intervention programs; requiring the Department of Children and Families to certify and monitor batterers' intervention programs, etc.  CF     03/16/2021 Favorable AHS AP	Favorable Yeas 8 Nays 0
3	<b>SB 794</b> Bean (Identical H 427)	Independent Living Services; Removing a provision requiring the Florida Independent Living Council to assist the Division of Blind Services of the Department of Education; requiring the council to coordinate with centers for independent living; prohibiting the council from engaging in certain activities; requiring the council to comply with state and federal laws and regulations relating to lobbying; increasing the percentage of certain revenues used to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program, etc.  CF     03/16/2021 Favorable ED AP	Favorable Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Tuesday, March 16, 2021, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 900</b> Rodriguez	Child Welfare; Expanding the list of entities that have access to child abuse records; revising the authority of the Department of Children and Families to review reports for the purpose of employment screening; providing that licensed foster homes are the preferred supervised living arrangements for young adults; requiring assessments to be completed if the total number of children in a family foster home will exceed six, excluding the family's own children, before placement of a child in a family foster home, etc.  CF 03/16/2021 Favorable AHS AP	Favorable Yeas 8 Nays 0
5	<b>SB 948</b> Book (Similar H 837)	Child Welfare; Expanding the list of incidents or injuries that constitute harm to a child's health or welfare; expanding the types of reports which the Department of Children and Families must refer to Child Protection Teams, etc.  CF 03/16/2021 Favorable AHS AP	Favorable Yeas 8 Nays 0
6	<b>SB 1582</b> Rouson (Identical H 1425)	Task Force on the Monitoring of Children in Out-of-Home Care; Creating the Task Force on the Monitoring of Children in Out-of-Home Care for specified purposes; authorizing the task force to conduct meetings through teleconferences; requiring monthly reports to the secretary of the Department of Children and Families; requiring the task force to annually submit certain recommendations to the Governor and Legislature, etc.  CF 03/16/2021 Favorable AHS AP	Favorable Yeas 8 Nays 0
7	<b>SB 1686</b> Torres (Identical H 269)	Definition of Developmental Disability; Citing this act as "Diana's Law"; revising the definition of the term "developmental disability", etc.  CF 03/16/2021 Favorable AHS AP	Favorable Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Tuesday, March 16, 2021, 12:30—3:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 1826</b> Diaz (Compare H 523)	Human Trafficking; Providing the circumstances under which certain communications are confidential; creating a human trafficking victim advocate-victim privilege; providing training requirements for human trafficking victim advocates and trained volunteers; prohibiting a person from engaging in specified criminal acts relating to human trafficking with another person believed to be a child younger than 18 years of age, etc.  CF 03/16/2021 Favorable CJ RC	Favorable Yeas 8 Nays 0
9	<b>SB 1920</b> Book	Child Welfare; Specifying circumstances under which a court is required, on or after a specified date, to appoint a guardian ad litem; renaming the Guardian Ad Litem Qualifications Committee as the Child Well-Being Qualifications Committee; specifying that the executive director of the Statewide Guardian Ad Litem Office may be reappointed; creating the Statewide Office of Child Representation within the Justice Administration Commission; specifying when the court is authorized or required to appoint an attorney for the child, etc.  CF 03/16/2021 Amendment Adopted - Temporarily Postponed ACJ AP	Amendment Adopted - Temporarily Postponed
Other Related Meeting Documents			

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# CourtSmart Tag Report

**Room:** SB 37  
**Caption:** Senate Children, Families, and Elder Affairs

**Case No.:**

**Type:**  
**Judge:**

**Started:** 3/16/2021 12:31:16 PM

**Ends:** 3/16/2021 2:52:25 PM

**Length:** 02:21:10

12:31:15 PM Call to order  
12:31:20 PM Roll Call  
12:31:35 PM Quroum present  
12:31:40 PM Chair comments  
12:32:28 PM Take up Tab 1 - SB 224 Salex Tax Exemption  
12:32:40 PM Senator Berman for explanation  
12:33:34 PM Questions?  
12:33:36 PM Senator Rouson  
12:33:49 PM Senator Berman for a response  
12:34:06 PM Senator Harrell  
12:34:39 PM Senator Berman for a response  
12:35:27 PM Appearance Forms  
12:36:04 PM Debate?  
12:36:09 PM Vice Chair Albritton  
12:36:43 PM Senator Harrell  
12:37:49 PM Senator Berman to close  
12:38:22 PM Roll call vote  
12:38:28 PM SB 224 is reported favorably  
12:38:55 PM Take up Tab 6 - SB 1582--Children Out of Home Care  
12:39:09 PM Senator Rouson for explanation  
12:40:02 PM Questions?  
12:40:11 PM Appearance Cards?  
12:40:30 PM Debate?  
12:40:33 PM Senator Brodeur  
12:40:53 PM Senator Rouson to close  
12:41:15 PM Roll call  
12:41:26 PM SB 1582 reported favorably  
12:41:56 PM Take up Tab 4 - SB 900 Child Welfare  
12:42:11 PM Senator Rodriguez for explanation  
12:42:47 PM Questions?  
12:42:51 PM Appearance Cards  
12:42:55 PM John Paul Fiore waives in support  
12:43:15 PM Debate?  
12:43:20 PM Close  
12:43:33 PM Roll call  
12:43:39 PM SB 900 is reported favorably  
12:44:10 PM Take up Tab 7 - SB 1686--Developmental Disability  
12:44:19 PM Senator Torres for explanation  
12:45:52 PM Questions?  
12:45:55 PM Senator Harrell  
12:47:03 PM Senator Torres for a response  
12:47:59 PM Follow up  
12:48:12 PM Senator Torres for a response  
12:48:34 PM Appearance Cards  
12:49:10 PM Chair responds to Senator Harrells question  
12:49:33 PM Senator Harrell for follow up  
12:49:46 PM Chair will follow up  
12:49:54 PM Senator Torres to close  
12:50:28 PM Roll call  
12:50:36 PM SB 1686 is reported favorably  
12:51:10 PM Vice Chair Albritton takes the Chair  
12:51:28 PM Take up Tab 5--SB 948--Child Welfare

12:51:35 PM Senator Book for an explanation  
12:52:21 PM Questions?  
12:52:25 PM Appearance Cards  
12:52:38 PM Debate?  
12:52:46 PM Seeing none Senator Book to close  
12:52:49 PM Close  
12:52:50 PM Roll call  
12:52:54 PM SB 948 is reported favorably  
12:53:28 PM Take up Tab 9  
12:53:50 PM SB 1920--Child Welfare  
12:54:03 PM Senator Book for an explanation  
12:54:15 PM Take up debate all amendment 163466  
12:54:43 PM Senator Book for explanation  
12:56:32 PM Chair Albritton moves to TP for a few minutes  
12:56:48 PM Chair Book welcomes Senator Bean  
12:57:13 PM Take up Tab 2 - SB 606 - Domestic Violence  
12:57:58 PM Senator Bean for explanation  
12:58:42 PM Questions?  
12:58:52 PM Senator Harrell  
12:59:33 PM Senator Bean for response  
1:00:04 PM Follow up  
1:01:17 PM Senator Bean for a response  
1:02:46 PM For a series of questions and answers  
1:04:17 PM Further questions?  
1:04:21 PM Appearance cards  
1:04:28 PM Alan Abramowitz waives in support  
1:04:37 PM Michael Wickersheim waives in support  
1:04:57 PM Debate?  
1:05:04 PM Senator Harrell in debate  
1:06:19 PM Senator Bean to close  
1:06:55 PM Roll call  
1:06:59 PM SB 606 is reported favorably  
1:07:13 PM Take up Tab 3 - SB 794  
1:07:26 PM Senator Bean for explanation  
1:08:30 PM Questions?  
1:08:44 PM Senator Harrell  
1:09:55 PM Follow up  
1:10:52 PM Senator Wright for a question  
1:11:42 PM Appearance cards  
1:11:50 PM Jane Johnson waives in support  
1:12:01 PM Debate?  
1:12:05 PM Roll call  
1:12:10 PM SB 794 is reported favorably  
1:12:46 PM Senator Brodeur to present for Senator Diaz -SB 1826  
1:13:01 PM Senator Brodeur for an explanation  
1:14:46 PM Questions?  
1:15:33 PM Senator Harrell questions  
1:15:44 PM Staff Director Ryan Cox for an answer  
1:16:31 PM Senator Harrell for further comments  
1:16:42 PM Appearance Cards  
1:16:46 PM Daniel Olson waives in support  
1:16:51 PM John Guard waives in support  
1:17:12 PM Debate?  
1:17:19 PM Senator Wright  
1:17:44 PM Senator Brodeur to close  
1:17:50 PM Roll call  
1:17:51 PM SB 1826 is reported favorably  
1:18:12 PM Chair Book turns chair over to Vice Chair Albritton  
1:18:32 PM Questions  
1:18:33 PM Appearance cards  
1:18:43 PM Alan Abramowitz for comments  
1:19:57 PM Judge Daniel Dawson speaking against the bill

1:26:32 PM Questions?  
1:26:36 PM Senator Book for questions  
1:27:54 PM Judge Dawson for a response  
1:31:12 PM Series of questions and answers  
1:34:45 PM Senator Harrell for a question  
1:35:24 PM Judge Dawson for a response  
1:37:40 PM Senator Harrell for a request to have the Judge stay until the bill is completed  
1:38:34 PM Debate?  
1:38:44 PM Amendment is adopted  
1:38:54 PM Back on the bill as amended  
1:39:17 PM Chair Book for comments on the bill as amended  
1:43:55 PM Chair Book to give detailed comments on what is now in the bill  
1:45:00 PM Office of OCR  
1:48:42 PM Questions?  
1:48:47 PM Senator Harrell  
1:50:23 PM Senator Book for a response  
1:53:47 PM Ryan Cox to answer Senator Harrells question  
1:55:10 PM Senator Harrell for a series of question and answers  
2:03:15 PM Ryan Cox to repond  
2:03:59 PM Continuation of questions by Senator Harrell  
2:05:02 PM Senator Book for a response  
2:06:22 PM Ryan Cox for a response to Senator Harrells question  
2:06:55 PM The questions and answers continue  
2:08:37 PM Senator Harrell wants to know the fiscal  
2:09:45 PM Senator Book responds  
2:09:55 PM Continuation of questions on the specifics of the bill  
2:13:00 PM Senator Harrell requests that Alan Abramowitz, Guardian Ad Litem Program for answers  
2:13:55 PM Senator Book for a question of Mr. Abramowitz  
2:14:40 PM Chair Albritton for a question  
2:14:51 PM Senator Harrell for another question on the bill regarding OCR  
2:15:46 PM Senator Book for a response  
2:16:34 PM Continuation of questions and answers  
2:17:01 PM Senator Rousson for a question  
2:17:26 PM Senator Book for a response  
2:17:56 PM Continuaton of questions and answers  
2:18:38 PM Senator Rousson asks Senator Book to explain Directed Children Representation  
2:19:16 PM Ryan Cox to respond  
2:23:52 PM Senator Albritton for a question  
2:24:43 PM Ryan Cox for a response  
2:25:30 PM Follow up question  
2:25:54 PM Questions?  
2:26:05 PM Senator Albritton has a question for Mr. Abramowitz  
2:26:43 PM Mr. Abramowitz for a response  
2:29:44 PM Judge Dawson for comments  
2:34:50 PM Senator Rousson question  
2:35:16 PM Judge Dawson for a response  
2:39:20 PM Senator Torres for a question  
2:41:28 PM Follow up  
2:42:04 PM Judge Dawson for a response  
2:43:39 PM Debate?  
2:43:45 PM Senator Harrell  
2:46:13 PM Senator Wright  
2:47:11 PM Senator Brodeur  
2:47:54 PM Senator Torres  
2:48:57 PM Senator Book  
2:51:01 PM Senator Book moves to TP SB 1920  
2:51:30 PM Senator Wright moves to record vote on Tab 1 yes, tab 6 yes, tab 4, 900 yes and tab 7 1687  
2:52:01 PM Senator Brodeur mpoves we adjourn  
2:52:08 PM Adjourned

By Senator Berman

31-00070-21

2021224\_\_

1                                   A bill to be entitled  
2           An act relating to a sales tax exemption; amending s.  
3           212.08, F.S.; exempting from the sales and use tax  
4           specified items that assist in independent living;  
5           providing applicability; providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:  
8

9           Section 1. Paragraph (u) is added to subsection (5) of  
10          section 212.08, Florida Statutes, to read:

11           212.08 Sales, rental, use, consumption, distribution, and  
12          storage tax; specified exemptions.—The sale at retail, the  
13          rental, the use, the consumption, the distribution, and the  
14          storage to be used or consumed in this state of the following  
15          are hereby specifically exempt from the tax imposed by this  
16          chapter.

17           (5) EXEMPTIONS; ACCOUNT OF USE.—

18           (u) Items that assist in independent living.—

19           1. The following items, when purchased for noncommercial  
20          home or personal use, are exempt from the tax imposed by this  
21          chapter:

22           a. A bed transfer handle selling for \$60 or less.

23           b. A bed rail selling for \$110 or less.

24           c. A grab bar selling for \$100 or less.

25           d. A shower seat selling for \$100 or less.

26           2. This exemption does not apply to a purchase made by a  
27          business, including, but not limited to, a medical institution  
28          or an assisted living facility.

29           Section 2. This act shall take effect January 1, 2022.



**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 224  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Brodeur						
X		Garcia						
X		Harrell						
X		Rouson						
X		Torres						
X		Wright						
X		Albritton, VICE CHAIR						
X		Book, CHAIR						
8	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 224

INTRODUCER: Senator Berman

SUBJECT: Sales Tax Exemption

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	<b>Favorable</b>
2.			FT	
3.			AP	

## I. Summary:

SB 224 exempts the purchase of certain items that assist individuals in living and aging independently in their homes from the sales and use tax. Specifically, the bill exempts the following items from the collection of the sales and use tax:

- Bed transfer handles selling for \$60 or less;
- Bed rails selling for \$110 or less;
- Grab bars selling for \$100 or less; and
- Shower seats selling for \$100 or less.

The bill specifies that the exemption only applies to purchases of these items made for personal or noncommercial use. The bill also provides that the exemption does not apply to the items listed when purchased by a business, including, but not limited to, medical institutions and assisted living facilities (ALFs).

The Revenue Estimating Conference estimates the bill will reduce both General Revenue Fund receipts and local government revenues during Fiscal Year 2021-2022. See Section V. Fiscal Impact Statement.

The bill has an effective date of January 1, 2022.

## II. Present Situation:

### Independent Living

The term “independent living” is not defined in Florida Statutes. “Independent living” may refer to a living arrangement for people with disabilities who need supportive services.<sup>1</sup> It may also

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<sup>1</sup> The Disability Achievement Center, *What is Independent Living?* available at <http://www.disabilityachievementcenter.org/about-us-2/about-centers-for-independent-living/> (last visited March 10, 2021).

refer to a living arrangement for elderly persons with the physical and mental capacity to live independently but who wants companionship or otherwise needs supportive services.<sup>2</sup>

Independent living communities are communities in which healthy individuals may live on their own without daily assistance.<sup>3</sup> Currently, there are over 400 independent living communities in Florida,<sup>4</sup> many of which offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.<sup>5</sup>

The Federal Rehabilitation Act of 1973, as amended, created a framework for states to obtain funding for independent living programs, known as Centers for Independent Living, which work to support community living and independence for people with disabilities.<sup>6</sup> There are 16 Centers for Independent Living in Florida which together serve all 67 counties.<sup>7</sup> To receive funding, states must develop a State Plan for Independent Living (SPIL), which is a three year plan for providing independent living services in the state, through a designated Statewide Independent Living Council (SILC).<sup>8</sup>

### **Florida Sales and Use Tax**

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,<sup>9</sup> admissions,<sup>10</sup> transient rentals,<sup>11</sup> and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>12</sup> Sales tax receipts accounted for approximately 79 percent of the state's General Revenue in Fiscal Year 2019-2020.<sup>13</sup>

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.<sup>14</sup> A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch.

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<sup>2</sup> aPlaceforMom, *Independent Living in Florida*, available at <https://www.aplaceformom.com/independent-living/florida> (last visited March 10, 2021).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> SeniorLiving.org, *Selecting an Independent Living Community*, February 25, 2021, available at <https://www.seniorliving.org/independent-living/> (last visited March 10, 2021).

<sup>6</sup> Administration for Community Living, *Centers for Independent Living*, available at <https://acl.gov/programs/aging-and-disability-networks/centers-independent-living> (last visited March 10, 2021).

<sup>7</sup> The Department of Education, Division of Vocational Rehabilitation, *Independent Living Program*, available at [http://www.rehabworks.org/indep\\_living.shtml](http://www.rehabworks.org/indep_living.shtml) (last visited March 10, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> Section 212.05(1)(a)1.a, F.S.

<sup>10</sup> Section 212.04(1)(b), F.S.

<sup>11</sup> Section 212.03(1)(a), F.S.

<sup>12</sup> *See* s. 212.07(2), F.S.

<sup>13</sup> The Office of Economic and Demographic Research (EDR), *Florida Tax Handbook*, p. 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited March 10, 2021) (hereinafter cited as "The Handbook").

<sup>14</sup> Section 212.055, F.S.

212, F.S.], and communications services as defined in ch. 202.”<sup>15</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered.<sup>16</sup>

### III. Effect of Proposed Changes:

The bill amends s. 212.08, F.S., to exempt from the sales and use tax the following items when purchased for noncommercial home or personal use:

- Bed transfer handles selling for \$60 or less;
- Bed rails selling for \$110 or less;
- Grab bars selling for \$100 or less; and
- Shower seats selling for \$100 or less.

The exemption does not apply to purchases made by a business, including, but not limited to, a medical institution or an ALF.

The bill has an effective date of January 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of s. 18, Art. VII, Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant fiscal impact<sup>17, 18</sup> which for Fiscal Year 2021-2022, is forecast at approximately \$2.2 million or less.<sup>19</sup>

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<sup>15</sup> Section 212.054(2)(a), F.S.

<sup>16</sup> The Handbook at p. 225.

<sup>17</sup> Fla. Const. art. VII, s. 18(d).

<sup>18</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact at p. 1, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 10, 2021).

<sup>19</sup> Based on the EDR’s Estimating Conference’s April 1, 2021, estimated population adopted on Nov. 13, 2020. The EDR, *Demographic Estimating Conference* at p. T-1, available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 10, 2021).

The Revenue Estimating Conference estimates the bill will reduce local government revenues by \$0.9 million, recurring.<sup>20</sup> Therefore, this bill has an insignificant impact on local governments and the mandate provision does not apply.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

Not applicable. The bill does not create or increase state taxes or fees. Thus, s. 19, of Art. VII of the Florida Constitution does not apply.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$1.2 million for Fiscal Year 2021-2022, with a recurring loss of \$2.9 million.<sup>21</sup> Additionally, the Conference estimates local government revenue will be reduced by \$0.4 million for Fiscal Year 2021-2022, with a recurring loss of \$0.9 million.<sup>22</sup>

**B. Private Sector Impact:**

There may be a positive fiscal impact to the private sector if the tax exemption spurs additional purchases of the items exempted, however the extent of such an impact is unknown.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

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<sup>20</sup> The EDR, *2021 Regular Session Revenue Estimating Conference: Impact Conference Results*, p. 1, March 5, 2021, available at <http://www.edr.state.fl.us/content/conferences/revenueimpact/2021%20Session%20Conference%20Table.pdf> (last visited March 10, 2021).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.08 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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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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By Senator Bean

4-00322-21

2021606\_\_

1                   A bill to be entitled  
2       An act relating to domestic violence; amending s.  
3       39.901, F.S.; revising legislative findings; amending  
4       s. 39.905, F.S.; adding nonresidential outreach  
5       services to the list of services certified domestic  
6       violence centers must provide; revising requirements  
7       for receipt of state funds; authorizing certified  
8       domestic violence centers to carry forward unexpended  
9       state funds in a specified amount from one fiscal year  
10      to the next during the contract period; providing  
11      limitations on and reporting requirements for the use  
12      of such funds; requiring centers to return to the  
13      department any remaining unexpended funds at the end  
14      of the contract period; authorizing certain centers to  
15      carry forward unexpended funds through contract  
16      renewals; amending s. 741.32, F.S.; revising  
17      legislative findings; amending s. 741.325, F.S.;  
18      revising the program content requirements for  
19      batterers' intervention programs; reviving,  
20      reenacting, and amending s. 741.327, F.S., relating to  
21      the certification and monitoring of batterers'  
22      intervention programs; requiring the Department of  
23      Children and Families to certify and monitor  
24      batterers' intervention programs; requiring the  
25      department to adopt certain rules; amending s. 741.30,  
26      F.S.; conforming a provision to changes made by the  
27      act; providing an effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 39.901, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 39.901, F.S., for present text.)  
39.901 Domestic violence centers; legislative findings; requirements.-

(1) The Legislature recognizes that the perpetration of violence by persons against their intimate partners, spouses, ex-spouses, or those with whom they share a child in common poses a significant public health threat that has adverse physical, emotional, and financial impacts on families and communities in this state. The Legislature further finds that it is critical that victims of domestic violence and their dependents have access to safe emergency shelter, advocacy, and crisis intervention services to assist them with the resources necessary to be safe and live free of violence.

(2) To ensure statewide consistency in the provision of confidential, comprehensive, and effective services to victims of domestic violence and their families, the Department of Children and Families shall certify and monitor domestic violence centers. The department and certified domestic violence centers shall serve as partners and together provide a coordinated response to address victim safety, hold batterers accountable, and prevent future violence in this state.

Section 2. Paragraph (c) of subsection (1) and paragraph (b) of subsection (6) of section 39.905, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

39.905 Domestic violence centers.-



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59 (1) Domestic violence centers certified under this part  
60 must:

61 (c) Provide minimum services that include, but are not  
62 limited to, information and referral services, counseling and  
63 case management services, temporary emergency shelter for more  
64 than 24 hours, a 24-hour hotline, nonresidential outreach  
65 services, training for law enforcement personnel, assessment and  
66 appropriate referral of resident children, and educational  
67 services for community awareness relative to the incidence of  
68 domestic violence, the prevention of such violence, and the  
69 services available for persons engaged in or subject to domestic  
70 violence. If a 24-hour hotline, professional training, or  
71 community education is already provided by a certified domestic  
72 violence center within its designated service area, the  
73 department may exempt such certification requirements for a new  
74 center serving the same service area in order to avoid  
75 duplication of services.

76 (6) In order to receive state funds, a center must:

77 (b) Obtain public or private ~~Receive at least 25 percent of~~  
78 ~~its~~ funding from one or more local, municipal, or county  
79 sources, ~~public or private~~ in an amount that equals at least 25  
80 percent of the amount of funding the center receives from the  
81 Domestic Violence Trust Fund established in s. 741.01.

82 Contributions in kind, whether materials, commodities,  
83 transportation, office space, other types of facilities, or  
84 personal services, may be evaluated and counted as part of the  
85 required local funding.

86 (8) A certified domestic violence center may carry forward  
87 from one fiscal year to the next during the contract period

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88 documented unexpended state funds in a cumulative amount that  
89 does not exceed 8 percent of its total contract with the  
90 department.

91 (a) The funds carried forward may not be used in a manner  
92 that would increase future recurring obligations or for any  
93 program or service that is not authorized by the existing  
94 contract.

95 (b) Expenditures of funds carried forward must be  
96 separately reported to the department.

97 (c) Any unexpended funds that remain at the end of the  
98 contract period must be returned to the department.

99 (d) Funds carried forward under this subsection may be  
100 retained through any contract renewals as long as the same  
101 certified domestic violence center is retained by the  
102 department.

103 Section 3. Section 741.32, Florida Statutes, is amended to  
104 read:

105 741.32 Batterers' intervention programs.—The Legislature  
106 finds that the incidence of domestic violence in this state is  
107 disturbingly high and that, despite the efforts of many to curb  
108 this violence, one person dies at the hands of a spouse, ex-  
109 spouse, or cohabitant approximately every 3 days. Further, a  
110 child who witnesses the perpetration of this violence becomes a  
111 victim as he or she hears or sees it occurring. This child is at  
112 high risk of also being the victim of physical abuse by the  
113 parent who is perpetrating the violence and, to a lesser extent,  
114 by the parent who is the victim. These children are also at a  
115 high risk of perpetrating violent crimes as juveniles and,  
116 later, becoming perpetrators of the same violence that they

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117 witnessed as children. The Legislature finds that there should  
118 be standardized programming available to the justice system to  
119 protect victims and their children and to hold the perpetrators  
120 of domestic violence accountable for their acts. To ensure  
121 statewide consistency in such programming, the Department of  
122 Children and Families shall certify and monitor batterers'  
123 intervention programs to be used by the justice system. Finally,  
124 the Legislature recognizes that in order for batterers'  
125 intervention programs to be successful in protecting victims and  
126 their children, all participants in the justice system as well  
127 as social service agencies and local and state governments must  
128 coordinate their efforts at the community level.

129 Section 4. Paragraph (d) of subsection (1) of section  
130 741.325, Florida Statutes, is amended to read:

131 741.325 Requirements for batterers' intervention programs.-

132 (1) A batterers' intervention program must meet the  
133 following requirements:

134 (d) The program content shall be based on a cognitive  
135 behavioral therapy model or psychoeducational model that  
136 addresses tactics of power and control by one person over  
137 another.

138 Section 5. Notwithstanding the repeal of section 741.327,  
139 Florida Statutes, in section 14 of chapter 2012-147, Laws of  
140 Florida, that section is revived, reenacted, and amended to  
141 read:

142 741.327 Certification and monitoring of batterers'  
143 intervention programs; rules fees.-

144 (1) Pursuant to s. 741.32, the Department of Children and  
145 Families shall ~~Family Services is authorized to~~ certify and

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146 monitor batterers' intervention programs ~~assess and collect:~~

147 ~~(a) An annual certification fee not to exceed \$300 for the~~  
148 ~~certification and monitoring of batterers' intervention~~  
149 ~~programs.~~

150 ~~(b) An annual certification fee not to exceed \$200 for the~~  
151 ~~certification and monitoring of assessment personnel providing~~  
152 ~~direct services to persons who:~~

153 ~~1. Are ordered by the court to participate in a domestic~~  
154 ~~violence prevention program;~~

155 ~~2. Are adjudged to have committed an act of domestic~~  
156 ~~violence as defined in s. 741.28;~~

157 ~~3. Have an injunction entered for protection against~~  
158 ~~domestic violence; or~~

159 ~~4. Agree to attend a program as part of a diversion or~~  
160 ~~pretrial intervention agreement by the offender with the state~~  
161 ~~attorney.~~

162 ~~(2) The department shall adopt by rule procedures to~~  
163 ~~administer this section, including, but not limited to,~~  
164 ~~procedures related to the development of criteria for the~~  
165 ~~approval, suspension, or rejection of certification of~~  
166 ~~batterers' intervention programs All persons required by the~~  
167 ~~court to attend domestic violence programs certified by the~~  
168 ~~Department of Children and Family Services' Office for~~  
169 ~~Certification and Monitoring of Batterers' Intervention Programs~~  
170 ~~shall pay an additional \$30 fee for each 29-week program to the~~  
171 ~~Department of Children and Family Services.~~

172 ~~(3) The fees assessed and collected under this section~~  
173 ~~shall be deposited in the Executive Office of the Governor's~~  
174 ~~Domestic Violence Trust Fund established in s. 741.01 and~~

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175 ~~directed to the Department of Children and Family Services to~~  
 176 ~~fund the cost of certifying and monitoring batterers'~~  
 177 ~~intervention programs.~~

178 Section 6. Subsection (3) of section 741.30, Florida  
 179 Statutes, is amended to read:

180 741.30 Domestic violence; injunction; powers and duties of  
 181 court and clerk; petition; notice and hearing; temporary  
 182 injunction; issuance of injunction; statewide verification  
 183 system; enforcement; public records exemption.-

184 (3) (a) The sworn petition must ~~shall~~ allege the existence  
 185 of such domestic violence and must ~~shall~~ include the specific  
 186 facts and circumstances upon the basis of which relief is  
 187 sought.

188 (b) The sworn petition shall be in substantially the  
 189 following form:

191 PETITION FOR  
 192 INJUNCTION FOR PROTECTION  
 193 AGAINST DOMESTIC VIOLENCE

194  
 195 Before me, the undersigned authority, personally appeared  
 196 Petitioner ...(Name)..., who has been sworn and says that the  
 197 following statements are true:

198 (a) Petitioner resides at: ...(address)...

199 (Petitioner may furnish address to the court in a separate  
 200 confidential filing if, for safety reasons, the petitioner  
 201 requires the location of the current residence to be  
 202 confidential.)

203 (b) Respondent resides at: ...(last known address)...

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204 (c) Respondent's last known place of employment: ... (name  
205 of business and address)...

206 (d) Physical description of respondent:....

207 Race....

208 Sex....

209 Date of birth....

210 Height....

211 Weight....

212 Eye color....

213 Hair color....

214 Distinguishing marks or scars....

215 (e) Aliases of respondent:....

216 (f) Respondent is the spouse or former spouse of the  
217 petitioner or is any other person related by blood or marriage  
218 to the petitioner or is any other person who is or was residing  
219 within a single dwelling unit with the petitioner, as if a  
220 family, or is a person with whom the petitioner has a child in  
221 common, regardless of whether the petitioner and respondent are  
222 or were married or residing together, as if a family.

223 (g) The following describes any other cause of action  
224 currently pending between the petitioner and respondent:

225  
226 The petitioner should also describe any previous or pending  
227 attempts by the petitioner to obtain an injunction for  
228 protection against domestic violence in this or any other  
229 circuit, and the results of that attempt:

230  
231 Case numbers should be included if available.

232 (h) Petitioner is either a victim of domestic violence or

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233 has reasonable cause to believe he or she is in imminent danger  
234 of becoming a victim of domestic violence because respondent  
235 has: (mark all sections that apply and describe in the spaces  
236 below the incidents of violence or threats of violence,  
237 specifying when and where they occurred, including, but not  
238 limited to, locations such as a home, school, place of  
239 employment, or visitation exchange)

240

241       ...committed or threatened to commit domestic violence  
242 defined in s. 741.28, Florida Statutes, as any assault,  
243 aggravated assault, battery, aggravated battery, sexual assault,  
244 sexual battery, stalking, aggravated stalking, kidnapping, false  
245 imprisonment, or any criminal offense resulting in physical  
246 injury or death of one family or household member by another.  
247 With the exception of persons who are parents of a child in  
248 common, the family or household members must be currently  
249 residing or have in the past resided together in the same single  
250 dwelling unit.

251       ...previously threatened, harassed, stalked, or physically  
252 abused the petitioner.

253       ...attempted to harm the petitioner or family members or  
254 individuals closely associated with the petitioner.

255       ...threatened to conceal, kidnap, or harm the petitioner's  
256 child or children.

257       ...intentionally injured or killed a family pet.

258       ...used, or has threatened to use, against the petitioner  
259 any weapons such as guns or knives.

260       ...physically restrained the petitioner from leaving the  
261 home or calling law enforcement.

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262       ....a criminal history involving violence or the threat of  
263 violence (if known).

264       ....another order of protection issued against him or her  
265 previously or from another jurisdiction (if known).

266       ....destroyed personal property, including, but not limited  
267 to, telephones or other communication equipment, clothing, or  
268 other items belonging to the petitioner.

269       ....engaged in any other behavior or conduct that leads the  
270 petitioner to have reasonable cause to believe he or she is in  
271 imminent danger of becoming a victim of domestic violence.

272       (i) Petitioner alleges the following additional specific  
273 facts: (mark appropriate sections)

274       ....A minor child or minor children reside with the  
275 petitioner whose names and ages are as follows:

276

277       ....Petitioner needs the exclusive use and possession of  
278 the dwelling that the parties share.

279       ....Petitioner is unable to obtain safe alternative housing  
280 because:

281       ....Petitioner genuinely fears that respondent imminently  
282 will abuse, remove, or hide the minor child or children from  
283 petitioner because:

284

285       (j) Petitioner genuinely fears imminent domestic violence  
286 by respondent.

287       (k) Petitioner seeks an injunction: (mark appropriate  
288 section or sections)

289       ....Immediately restraining the respondent from committing  
290 any acts of domestic violence.



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291       ....Restraining the respondent from committing any acts of  
292 domestic violence.

293       ....Awarding to the petitioner the temporary exclusive use  
294 and possession of the dwelling that the parties share or  
295 excluding the respondent from the residence of the petitioner.

296       ....Providing a temporary parenting plan, including a  
297 temporary time-sharing schedule, with regard to the minor child  
298 or children of the parties which might involve prohibiting or  
299 limiting time-sharing or requiring that it be supervised by a  
300 third party.

301       ....Establishing temporary support for the minor child or  
302 children or the petitioner.

303       ....Directing the respondent to participate in a batterers'  
304 intervention program ~~or other treatment pursuant to s. 39.901,~~  
305 ~~Florida Statutes.~~

306       ....Providing any terms the court deems necessary for the  
307 protection of a victim of domestic violence, or any minor  
308 children of the victim, including any injunctions or directives  
309 to law enforcement agencies.

310       (c)

311       Every petition for an injunction against domestic violence  
312 must ~~shall~~ contain, directly above the signature line, a  
313 statement in all capital letters and bold type not smaller than  
314 the surrounding text, as follows:

315

316       I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND  
317 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT  
318 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE  
319 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN

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320 SECTION 837.02, FLORIDA STATUTES.

321 ... (initials) ...

322 (d) If the sworn petition seeks to determine a parenting  
323 plan and time-sharing schedule with regard to the minor child or  
324 children of the parties, the sworn petition must ~~shall~~ be  
325 accompanied by or must ~~shall~~ incorporate the allegations  
326 required by s. 61.522 of the Uniform Child Custody Jurisdiction  
327 and Enforcement Act.

328 Section 7. This act shall take effect July 1, 2021.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 606  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Brodeur						
X		Garcia						
X		Harrell						
X		Rouson						
X		Torres						
X		Wright						
X		Albritton, VICE CHAIR						
X		Book, CHAIR						
8	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

**CODES:** FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-2

Meeting Date

606

Bill Number (if applicable)

Topic Bath Interim Bill

Amendment Barcode (if applicable)

Name ALAN ABRAMOWITZ

Job Title Executive Director

Address 111 W. MADON ST

Phone 850-241-122

Jupiter FL

Email alan.abramowitz@jupitergov.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/2021

*Meeting Date*

SB 606

*Bill Number (if applicable)*

Topic SB 606 - Domestic Violence

*Amendment Barcode (if applicable)*

Name Michael Wickersheim

Job Title DCF Legislative Affairs Director

Address 1317 Winewood Blvd.

Phone (850) 488-9410

*Street*

Tallahassee

FL

32399

Email \_\_\_\_\_

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Department of Children and Families

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 606

INTRODUCER: Senator Bean

SUBJECT: Domestic Violence

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<b>Favorable</b>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____

**I. Summary:**

The Domestic Violence Program protects adults and their children from domestic violence and helps survivors develop ways to avoid further harm. The Department of Children and Families (DCF) is statutorily responsible for the statewide domestic violence program. The DCF is responsible for receiving and approving or rejecting applications for the certification of domestic violence centers. Florida has 41 certified domestic violence centers. These certified centers provide crisis counseling and support services to survivors of domestic violence and their children.

Batterers' Intervention Programs (BIPs) address the root cause of domestic violence and aim to prevent participants from committing acts of domestic violence in the future. Current law recognizes the needs for a standardized programming for domestic violence BIPs, but does not reference a state agency that certifies and monitors BIPs to ensure compliance with program standards.

The bill amends current law to recognize that domestic violence is a significant public health threat that has adverse physical, emotional, and financial impact on Florida families. The bill also amends current law to add nonresidential outreach services to the list of minimum services a certified domestic violence center must provide. It amends current law to require certified domestic violence centers to obtain public and private funding in an amount of at least 25 percent of the amount of funding the center receives from the Domestic Violence Trust Fund and permits certified domestic violence centers to carry forward, from one fiscal year to the next, unexpended state funds in a cumulative amount not to exceed 8 percent of their total contract with DCF.

The bill revives, reenacts, and amends s. 741.327, F.S., to authorize the DCF to certify and monitor BIPs. The bill also amends current law to permit certified BIPs to use a cognitive behavioral model or a psychoeducational model in its program content.

The bill has an insignificant negative fiscal impact on state government and no fiscal impact on local government.

The bill has an effective date of July 1, 2021.

## II. Present Situation:

### Background

#### *Domestic Violence*

Domestic violence is a pattern of behavior, violence, or threats of violence that a person uses to gain power and control over a current or former intimate partner.<sup>1</sup> The use of threats, intimidation, isolation, and using children as pawns are examples of the tactics domestic violence perpetrators use against victims of domestic violence.

Florida law defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.<sup>2</sup> A family or household member includes spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.<sup>3</sup>

In 2018, 104,914 domestic violence offenses were reported to law enforcement.<sup>4</sup> That same year, 215 individuals died as a result of domestic violence homicide, which equals approximately 19 percent of all homicides in Florida.<sup>5</sup>

#### *Domestic Violence Program*

The Legislature acknowledges that certain perpetrators and victims of domestic violence are in need of treatment and rehabilitation.<sup>6</sup> It is the intent of the Legislature to assist in the development of domestic violence centers for the victims of domestic violence and to provide a place where the parties involved may be separated until they can be properly assisted.<sup>7</sup>

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<sup>1</sup> Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward, Florida's Commitment to Ending Domestic Violence and Saving Lives*, p. 3, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20%20Report.pdf> (last visited March 15, 2021).

<sup>2</sup> Section 741.28(1), F.S.

<sup>3</sup> Section 741.28(2), F.S.

<sup>4</sup> Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward, Florida's Commitment to Ending Domestic Violence and Saving Lives*, p. 4, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20%20Report.pdf> (last visited March 15, 2021).

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

<sup>6</sup> Section 39.901, F.S.

<sup>7</sup> *Id.*

The Domestic Violence Program protects adults and their children from domestic violence and helps survivors develop ways to avoid further harm. The Department of Children and Families (DCF) is statutorily responsible for the statewide domestic violence program and is responsible for performing specified duties and functions with respect to domestic violence. Under s. 39.903, F.S., the DCF must:

- Operate the domestic violence program and coordinate and administer statewide activities;
- Receive and approve or reject applications for initial certification of domestic violence centers, and annually renew the certification thereafter;
- Inspect the premises of domestic violence centers that are applying for an initial certification or facing potential suspension or revocation of certification;
- Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the circuits;
- Coordinate with state agencies that have health, education, or criminal justice responsibilities;
- Cooperate with, assist in and participate in, programs of other properly qualified state agencies;
- Contract with an entity or entities for the delivery and management of services for the state's domestic violence program if it is in the best interest of the state;
- Consider applications from certified domestic violence centers for capital improvement grants and award those grants;
- Adopt rules to administer this section.

### *Domestic Violence Centers*

Domestic violence centers provide services to survivors of domestic violence.<sup>8</sup> Florida has 41 certified domestic violence centers. The certified domestic violence centers provide crisis counseling and support services to victims of domestic violence and their children.<sup>9</sup>

The certified domestic violence centers provide services free of charge, including:

- Emergency shelter.
- A 24-hour crisis and information hotline.
- Safety planning.
- Counseling, case management, and child assessments.
- Education for community awareness.
- Training for law enforcement and other professionals.
- Other ancillary services such as relocation assistance, daycare, and transitional housing.<sup>10</sup>

Certified domestic violence centers also provide nonresidential outreach services.

Current law requires domestic violence centers to be certified by the DCF in order to receive state funding.<sup>11</sup> The DCF sets criteria for certification and minimum standards to ensure the

---

<sup>8</sup> Section 39.902(2), F.S.; Rule 65H-1.011, F.A.C.

<sup>9</sup> Department of Children and Families, *Domestic Violence Overview*, available at <https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml> (last visited March 15, 2021).

<sup>10</sup> *Id.*

<sup>11</sup> Section 39.905(6)(a), F.S.



health and safety of clients served.<sup>12</sup> To be eligible for certification as a domestic violence center, an applicant must apply to the DCF and be a not-for-profit entity.<sup>13</sup> A domestic violence center's primary mission must be to provide services to survivors of domestic violence.

An applicant may seek certification to serve an area that has an existing certified domestic violence center; however, the applicant must show there is an unmet need in the area.<sup>14</sup> One of the minimum criteria that an applicant must meet is that the domestic violence center has been providing services to survivors for 18 consecutive months, including 12 months as an emergency shelter.<sup>15</sup> After the DCF certifies a domestic violence center, the certification is good for one year and automatically expires on June 30. If there is a favorable report from the DCF, it will annually renew a domestic violence center's certification.<sup>16</sup>

Certified domestic violence centers employ staff and rely on volunteers to provide services to survivors. A domestic violence advocate is an employee or a volunteer of a certified center who has 30 hours of training in assisting victims of domestic violence and is an employee or volunteer for a program for survivors of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to survivors of domestic violence.<sup>17</sup> A volunteer is an unpaid staff member who provides direct or indirect services for a certified domestic violence center. All employees and volunteers receive some degree of training on domestic violence.<sup>18</sup>

Section 39.905(6)(b), F.S., requires certified domestic violence centers to obtain at least 25 percent of funding from one or more local, municipal or county sources, public or private. Contributions in kind may be counted toward the 25 percent local funding. When this provision was enacted, centers received funding from the Domestic Violence Trust Fund established in s. 741.01, F.S.

Section 39.905, F.S., currently does not permit certified domestic violence centers to carry forward documented unexpended state funds from one fiscal year to the next. The current annual funding model requires certified domestic violence centers to spend all funds within the fiscal year, potentially creating an incentive for inappropriate use of funds.

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<sup>12</sup> Sections 39.903(9) and 39.905(1), F.S.; Rule 65H-1, F.A.C.

<sup>13</sup> The DCF, *Domestic Violence Center, Application for Certification, Form CF613*, p. 3, January 2015, available at [https://www.myflfamilies.com/service-programs/domestic-violence/docs/CF-613\\_Application-for-Certification.pdf](https://www.myflfamilies.com/service-programs/domestic-violence/docs/CF-613_Application-for-Certification.pdf) (last visited March 15, 2021).

<sup>14</sup> Section 39.905(1)(i), F.S.; Rule 65H-1.012, F.A.C.

<sup>15</sup> Section 39.905(1)(h), F.S.; Rule 65H-1.012, F.A.C.

<sup>16</sup> Section 39.905(3), F.S.; Rule 65H-1.012, F.A.C.

<sup>17</sup> Section 90.5036, F.S.; R. 65H-1.011(9), F.A.C., states "'domestic violence advocate' means an employee or volunteer of a certified domestic violence center who: provides direct services to individuals victimized by domestic violence; has received 30 hours of domestic violence core competency training; and, has been identified by the domestic violence center as an individual who may assert a claim to privileged communications with domestic violence victims under section 39.905, F.S."

<sup>18</sup> Rule 65H-1.011(17), F.A.C., states "'volunteer' means unpaid staff members trained in the dynamics of domestic violence who provide direct and indirect services to those seeking and receiving services from a domestic violence center".

### ***Batterers' Intervention Program***

Batterer intervention programs (BIPs) emerged in the United States in the late 1970's as one component of the social response to domestic violence.<sup>19</sup> BIPs are designed to address the root cause of domestic violence and deter participants from committing acts of domestic violence in the future.<sup>20</sup>

Alleged perpetrators may be ordered, and in some cases must be ordered, by the court to a BIP. An alleged perpetrator may come to the attention of the court after a petition for protection against domestic violence is filed against him or her. This petition may be filed by any person who either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming the victim of domestic violence.<sup>21</sup> The person can file a petition against a current or former spouse, any person related by blood or marriage, any person who is or was residing within a single dwelling unit, or is a person with whom the petitioner had a child.<sup>22</sup> When it appears to the court that the petitioner either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger, the court may order the alleged perpetrator to participate in treatment, intervention, or counseling services.<sup>23</sup> When the court orders the alleged perpetrator to participate in a BIP, the court must provide a list of batterers' intervention programs.<sup>24</sup> If a person is found guilty of, has adjudication withheld, or pleads no contest<sup>25</sup> to an offense defined as domestic violence, the court must order the defendant to complete a BIP as a condition of probation.<sup>26</sup>

Section 741.32, F.S., recognizes the need for standardized programming for domestic violence BIPs, but does not reference any state agency to certify and monitor BIPs to ensure compliance with program standards. The DCF performed this role from 2001 through 2012 under s. 741.325, F.S. However, the General Appropriations Act of 2011-12 eliminated funding for the DCF's BIP certification staff, and the Legislature repealed s. 741.32(2), F.S., which removed the DCF's Office of Certification and Monitoring of Batters' Intervention and repealed the statutory requirement that batterers' intervention programs be certified by the DCF. There has been no state certification or monitoring of BIPs since 2012.

Judges, domestic violence advocates, prosecutors, survivors, and BIP providers have raised concerns that lack of state certification and monitoring has adversely impacted the overall quality of BIPs in their communities.<sup>27</sup>

Section 741.325, F.S., sets requirements for BIPs to meet, including that the:

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<sup>19</sup> Battered Women's Justice Project, *Current Research on Batterer Intervention Programs and Implications for Policy*, p. 1, December 17, 2021, available at <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited March 15, 2021) (hereinafter cited as "Research on BIP and Policy Implications").

<sup>20</sup> *Id.* at pp. 3, 6.

<sup>21</sup> Section 741.30(1)(a), F.S.

<sup>22</sup> Section 741.30(3)(f), F.S.

<sup>23</sup> Section 741(6)(a)5., F.S.

<sup>24</sup> *Id.*

<sup>25</sup> A no contest plea (also referred to as a nolo contendere plea) means a criminal defendant will not dispute the charge.

<sup>26</sup> Section 741.281, F.S.

<sup>27</sup> The DCF, *Agency Analysis for SB 606*, p. 2, January 29, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The DCF Analysis").

- Primary purpose of the program must be the safety of the victim and children, if present;
- Batterer must be held accountable for acts of domestic violence;
- Program must be at least 29 weeks in length and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming;
- Program content must be based on a psychoeducational model that addresses tactics of power and control by one person over another; and
- Program shall be funded by user fees paid by the batterers who attend the program, which allows them to take responsibility for their acts of violence.<sup>28</sup>

Florida is one of 47 states that has BIP laws that require adherence to a psychoeducational type of model, referred to as the Duluth model.<sup>29</sup> The Duluth model, named after a city in Minnesota where it was developed, is a coordinated service approach that require batterers to acknowledge the various forms of violence they use to exert power and control over their intimate partners.<sup>30</sup>

While the Duluth model remains one of the primary BIP models today, BIP programs also utilize or incorporate a cognitive behavioral model, which has been more recently recognized as effective in changing batterer behavior.<sup>31</sup>

### III. Effect of Proposed Changes:

SB 606 updates the legislative intent expressed in s. 39.901, F.S., to reflect the current s. 741.28, F.S., statutory definition of domestic violence that includes as victims spouses, ex-spouses, and those persons who share a child in common. The new language recognizes that domestic violence is a significant public health threat that has adverse physical, emotional, and financial impact on Florida families. It also recognizes the critical need for victims and their dependents to have access to emergency shelter and crisis intervention services to help them live free of violence.

The bill amends language to recognize that the DCF certifies and monitors domestic violence centers to ensure statewide consistency and effective service provision. This new language reflects the 2020 amendments to ch. 39, F.S., that removed references to the Florida Coalition Against Domestic Violence and named the DCF as the agency responsible for certifying and monitoring domestic violence centers.

The bill amends s. 39.905(1)(c), F.S., to add nonresidential outreach services to the list of minimum services that certified domestic violence centers must provide to victims. This change reflects the fact that all 41 certified domestic violence centers currently provide nonresidential outreach services as a core service. The addition of nonresidential outreach services also recognizes that not all victims require emergency shelter services, but they may require critical outreach support services to help them to safely separate from and remain separate from abusers.

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<sup>28</sup> Section 741.325(1)(e), F.S., provides that there is an exception for local, state, or federal programs that are wholly or partly fund batterers' intervention programs.

<sup>29</sup> The DCF Analysis at p. 3.

<sup>30</sup> *Id.*,

<sup>31</sup> *Id.* (citing Research on BIP and Policy Implications).

The bill amends s. 39.905(6)(b), F.S., to specify that to be eligible for state funds, certified domestic violence centers must obtain public and private funding in an amount equal to at least 25 percent of the amount of funding the center receives from the Domestic Violence Trust Fund established in s. 741.01, F.S. This change will reduce the dollar amount of match from other funding sources that certified domestic violence centers must provide to receive state funds.

The bill permits certified domestic violence centers to carry forward, from one fiscal year to the next, unexpended state funds in a cumulative amount not to exceed 8 percent of their total contract with the DCF. Current law allows the carrying forward of funds in the same manner for child welfare community-based care lead agencies. This change will promote a more effective use of state funds for certified domestic violence services. Funds carried forward may not be used in a way that would increase future recurring obligations, and such funds may not be used for any type of program or service that is not authorized by the existing contract. The bill requires the certified domestic violence centers to report expenditures of funds carried forward separately to the DCF, and any unexpended funds that remain at the end of the contract period must be returned to the DCF. Funds carried forward may be retained through any contract renewal so long as the same certified domestic violence center is retained by the DCF.

The bill revives, reenacts, and amends s. 741.327, F.S., to authorize the DCF to certify and monitor BIPs. The bill authorizes the DCF to adopt rules to administer this section, including but not limited to, developing criteria for the approval, suspension, or rejection of certification of BIPs. The bill removes the annual certification fee and user fee amounts from s. 741.327, F.S. It also removes the requirement that such fees assessed and collected from BIPs be deposited in the Executive Office of the Governor's Trust Fund established in s. 741.01, F.S. Finally, the bill removes the requirement for the DCF to fund the costs of certifying and monitoring BIPs.

The bill amends s. 741.325, F.S., to permit certified BIPs to use a cognitive behavioral model or a psychoeducational model in its program content. This change will give BIPs flexibility in their programs and reflects current research that BIPs that utilize a cognitive behavioral model are effective in changing behavior.

The bill amends s. 741.30, F.S., to remove language allowing the court to direct an alleged perpetrator to obtain treatment for domestic violence under s. 39.901, F.S. This deletion was necessary to conform to the changes to s. 39.901, F.S., which removes the reference to "treatment" of perpetrators of domestic violence. The court can still direct the alleged perpetrator to participate in a BIP.

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a negative fiscal impact to BIP providers if the DCF denies an application for certification. If a BIP provider is not certified, it will not be able to conduct business and provide services. Further, a BIP provider will have to go through the ch. 120, F.S., process if it chooses to challenge a denial of certification, which requires legal fees.

The certified domestic violence centers may incur a positive fiscal impact if the bill's provision allowing the centers to carryforward funding is enacted. Certification may be easier for domestic violence centers because the amount of matching funds the center must produce may decrease.

C. Government Sector Impact:

DCF will need to hire two staff positions to certify and monitor BIPs at a cost of \$166,358.85 (\$157,462.85 in recurring and \$8,896 in nonrecurring general revenue).<sup>32</sup>

There is an indeterminate impact on the DCF for legal costs associated with potential Ch. 120 hearings if entities denied BIP certification challenge such denial.<sup>33</sup>

The JAC reports that this bill will have no fiscal impact to that agency.<sup>34</sup>

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<sup>32</sup> The DCF Analysis at pp. 5-6.

<sup>33</sup> *Id.* at p. 6.

<sup>34</sup> The JAC, *Memorandum No. 12-21, Exec, Bill Analysis Response for Senate Bill 606*, February 8, 2021, (on file with the Senate Committee on Children, Families, and Elder Affairs).

The Florida Bar reports that it has not identified any fiscal impact that would result from the proposed legislation.<sup>35</sup>

The State Courts Administrator reports the bill would have a minimum fiscal impact on expenditures of the Court System, if any.<sup>36</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 39.901, 39.905, 741.32, 741.325, 741.327, and 741.30 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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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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<sup>35</sup> The Florida Bar, *Agency Analysis for SB 606*, January 22, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>36</sup> Office of the State Courts Administrator, *2021 Judicial Impact Statement*, March 10, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs).

By Senator Bean

4-00730B-21

2021794\_\_

1                   A bill to be entitled  
2       An act relating to independent living services;  
3       amending s. 413.395, F.S.; removing a provision  
4       requiring the Florida Independent Living Council to  
5       assist the Division of Blind Services of the  
6       Department of Education; revising the membership of  
7       the council; revising the council's duties and  
8       responsibilities; authorizing the council to conduct  
9       certain activities as described in the state plan for  
10      independent living; requiring the council to  
11      coordinate with centers for independent living;  
12      prohibiting the council from engaging in certain  
13      activities; requiring the council to comply with state  
14      and federal laws and regulations relating to lobbying;  
15      amending s. 413.4021, F.S.; increasing the percentage  
16      of certain revenues used to administer the James  
17      Patrick Memorial Work Incentive Personal Attendant  
18      Services and Employment Assistance Program; providing  
19      an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Section 413.395, Florida Statutes, is amended to  
24       read:

25       413.395 Florida Independent Living Council.—

26       (1) There is created the Florida Independent Living Council  
27       to assist the division ~~and the Division of Blind Services of the~~  
28       ~~Department of Education~~, as well as other state agencies and  
29       local planning and administrative entities assisted under Title

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30 VII of the act, in the expansion and development of statewide  
31 independent living policies, programs, and concepts and to  
32 recommend improvements for such programs and services. The  
33 council shall function independently of the division and, unless  
34 the council elects to incorporate as a not-for-profit  
35 corporation, is assigned to the division for administrative  
36 purposes only. The council may elect to be incorporated as a  
37 Florida corporation not for profit and, upon such election,  
38 shall be assisted in the incorporation by the division for the  
39 purposes stated in this section. The appointed members of the  
40 council may constitute the board of directors for the  
41 corporation.

42 (2) The council shall consist of 11 members, including a  
43 minimum of three persons who are employees of a center for  
44 independent living ~~14 members, excluding ex officio, nonvoting~~  
45 ~~members.~~ At least six members of the council must be persons who  
46 have significant disabilities who are not employed by any state  
47 agency or center for independent living. The members of the  
48 council shall be appointed by the Governor after soliciting  
49 recommendations from the council.

50 (3) The council shall include:

51 (a) At least one director of a center for independent  
52 living who is chosen by the directors of the centers for  
53 independent living within the state.

54 (b) As ex officio, nonvoting members:

55 1. A representative from the division.

56 ~~2. A representative from the Division of Blind Services.~~

57 ~~2.3.~~ Representatives from one or more other state agencies  
58 that provide services to persons who have disabilities.



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- 59 (4) The council may include:
- 60 (a) Other representatives from the centers for independent
- 61 living.
- 62 (b) Parents and guardians of persons who have disabilities.
- 63 (c) Advocates of and for persons who have disabilities.
- 64 (d) Representatives from private businesses.
- 65 (e) Representatives from organizations that provide
- 66 services for persons who have disabilities.
- 67 (f) Other appropriate individuals.
- 68 (5) The council shall be composed of members:
- 69 (a) Who provide statewide representation.
- 70 (b) Who represent a broad range of persons who have
- 71 disabilities from diverse backgrounds.
- 72 (c) Who are knowledgeable about the centers for independent
- 73 living and independent living services.
- 74 (d) A majority of whom are:
- 75 1. Persons who have disabilities.
- 76 2. Not employed by any state agency or center for
- 77 independent living.
- 78 (6) The council shall select a chairperson from among the
- 79 voting membership of the council.
- 80 (7) Each member of the council shall serve for a term of 3
- 81 years, except that:
- 82 (a) A member appointed to fill a vacancy occurring before
- 83 ~~prior to~~ the expiration of the term for which the predecessor
- 84 was appointed shall be appointed for the remainder of such term.
- 85 (b) The terms of service of the members initially appointed
- 86 shall be, as specified by the Governor, for such fewer number of
- 87 years as will provide for the expiration of terms on a staggered

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88 basis.

89 (c) ~~A~~ ~~No~~ member of the council may not serve more than two  
90 consecutive full terms.

91 (8) Any vacancy occurring in the membership of the council  
92 shall be filled in the same manner as the original appointment.  
93 A vacancy does not affect the power of the remaining members to  
94 execute the duties of the council.

95 (9) The ~~chairperson of the~~ council shall designate a  
96 representative who shall also serve as a member of the Florida  
97 Rehabilitation Council.

98 (10) The council may meet at the call of the chairperson,  
99 at the ~~joint~~ request of the division ~~and the Division of Blind~~  
100 ~~Services~~, or at such times as may be prescribed by rule, but not  
101 fewer ~~less~~ than twice each calendar year. The council shall make  
102 a report of each meeting, which shall include a record of its  
103 discussions and recommendations. The division ~~and the Division~~  
104 ~~of Blind Services~~ shall make such reports available to the  
105 public.

106 (11) The council shall:

107 (a) Jointly develop and submit, in conjunction with the  
108 directors of the centers for independent living ~~division~~, the  
109 state plan for independent living in accordance with federal  
110 guidelines and after receiving public input from persons who  
111 have disabilities and other stakeholders in the state.

112 (b) Monitor, review, and evaluate the implementation of the  
113 state plan for independent living.

114 (c) Coordinate activities with ~~the Florida Rehabilitation~~  
115 ~~Council and~~ other entities in the state that provide services  
116 similar or complementary to independent living services,

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117 including entities that facilitate the provision of or provide  
118 long-term community-based services and supports ~~councils that~~  
119 ~~address the needs of specific disability populations and issues~~  
120 ~~under other federal law.~~

121 (d) Meet regularly and ensure that all regularly scheduled  
122 meetings of the council are open to the public with sufficient  
123 advance notice.

124 (e) Submit to the administrator ~~Commissioner~~ of the  
125 Administration for Community Living within the United States  
126 Department of Health and Human Services ~~Federal Rehabilitation~~  
127 ~~Administration Services~~ such periodic reports as the  
128 administrator ~~commissioner~~ may reasonably request and keep such  
129 records, and afford access to such records, as the administrator  
130 ~~commissioner~~ finds necessary to verify such reports.

131 (12) (a) The council may conduct the following activities,  
132 as authorized and described in the state plan for independent  
133 living:

134 1. Work with centers for independent living to coordinate  
135 services with public and private entities to improve independent  
136 living services provided to persons who have disabilities.

137 2. Develop resources to support the activities described in  
138 the state plan for independent living and the provision of  
139 independent living services by centers for independent living.

140 3. Other activities consistent with the purpose of this  
141 section and comparable to other activities in this section, as  
142 the council determines to be appropriate and as authorized in  
143 the state plan for independent living.

144 (b) The council:

145 1. Shall coordinate with centers for independent living to

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146 avoid conflicting or overlapping activities within the centers'  
147 established service areas.

148 2. May not engage in activities that constitute the direct  
149 provision of independent living services to persons who have  
150 disabilities, including the independent living core services.

151 3. Shall comply with state and federal laws and regulations  
152 relating to restrictions and prohibitions on lobbying  
153 activities.

154 Section 2. Subsection (1) of section 413.4021, Florida  
155 Statutes, is amended to read:

156 413.4021 Program participant selection; tax collection  
157 enforcement diversion program.—The Department of Revenue, in  
158 coordination with the Florida Association of Centers for  
159 Independent Living and the Florida Prosecuting Attorneys  
160 Association, shall select judicial circuits in which to operate  
161 the program. The association and the state attorneys' offices  
162 shall develop and implement a tax collection enforcement  
163 diversion program, which shall collect revenue due from persons  
164 who have not remitted their collected sales tax. The criteria  
165 for referral to the tax collection enforcement diversion program  
166 shall be determined cooperatively between the state attorneys'  
167 offices and the Department of Revenue.

168 (1) Notwithstanding s. 212.20, 75 ~~50~~ percent of the  
169 revenues collected from the tax collection enforcement diversion  
170 program shall be deposited into the special reserve account of  
171 the Florida Association of Centers for Independent Living, to be  
172 used to administer the James Patrick Memorial Work Incentive  
173 Personal Attendant Services and Employment Assistance Program  
174 and to contract with the state attorneys participating in the

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175 tax collection enforcement diversion program in an amount of not  
176 more than \$75,000 for each state attorney.

177 Section 3. This act shall take effect July 1, 2021.

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 794  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Brodeur						
X		Garcia						
X		Harrell						
X		Rouson						
X		Torres						
X		Wright						
X		Albritton, VICE CHAIR						
X		Book, CHAIR						
8	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

Duplicate

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

03/16/2021

Meeting Date

794

Bill Number (if applicable)

Topic Independent Living Services

Amendment Barcode (if applicable)

Name Jane E. Johnson

Job Title Executive Director

Address 325 John Knox Rd., Bldg. C-132

Phone 850-445-6340

Street

Tallahassee

FL

32303

Email jane@floridacils.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Assn of Centers for Independent Living

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 794

INTRODUCER: Senator Bean

SUBJECT: Independent Living Services

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	<b>Favorable</b>
2.			ED	
3.			AP	

## I. Summary:

SB 794 modifies the membership and responsibilities of the Florida Independent Living Council (FILC). Specifically, the bill removes the Division of Blind Services (the DBS) from the membership of the FILC, and revises the total number of members from 14 to 11. The bill also permits the FILC to choose representative members from a wide range of persons with developmental disabilities from diverse backgrounds.

The bill revises certain required and discretionary tasks of the FILC and prohibits the FILC from engaging in certain prohibited activities related to lobbying.

The bill increases the percentage of total revenues collected from the Tax Collection Enforcement Diversion Program (Diversion Program) used to administer the James Patrick Memorial Work Incentive Personal Attendant Services Program (JPPAS Program) from 50% to 75%.

The bill will have a positive fiscal impact on the JPPAS program by increasing the proportion of funds from the Diversion Program to the JPPAS Program, and a negative fiscal impact on other segments of state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

### Independent Living

The term “independent living” is not defined in Florida Statutes. “Independent living” may refer to an elderly person with the physical and mental capacity to live independently but who wants



companionship or otherwise needs supportive services.<sup>1</sup> It may also encompass a living arrangement for people with disabilities who need supportive services.<sup>2</sup>

The Federal Rehabilitation Act of 1973, as amended, created a framework for states to obtain funding for independent living programs, known as Centers for Independent Living, which work to support community living and independence for people with disabilities.<sup>3</sup> There are 16 Centers for Independent Living in Florida which together serve all 67 counties.<sup>4</sup> To receive funding, states must develop a State Plan for Independent Living (SPIL), which is a three year plan for providing independent living services in the state, through a designated Statewide Independent Living Council (SILC).

Independent living communities are communities in which healthy individuals may live on their own but that do not offer assisted living or nursing services. Independent living communities may offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.<sup>5</sup>

### ***Florida Independent Living Council***

In 1988, the Legislature created the FILC which serves as Florida's SILC.<sup>6</sup> The FILC's responsibilities include jointly developing and submitting the SPIL.<sup>7</sup> The FILC works to ensure that persons with disabilities have an opportunity for input into the development of the SPIL and works for systematic change in the areas that are the biggest barriers to people with disabilities participating fully in their communities.<sup>8</sup> The FILC describes the independent living philosophy as "promot[ing] consumer control of services, self-determination and equal access and participation in every aspect of community life, to the level that individual wishes."<sup>9</sup> The 2017-2019 SPIL, in part, identified the need for safe, affordable, accessible housing as being critical for Florida's Centers for Independent Living and noted a lack of housing is commonly identified as the main barrier to independent living.<sup>10</sup>

Currently, the FILC is comprised of 14 members, including, among other members, directors of independent living centers, a representative from the VR, a representative from the DBS, and various individuals with developmental disabilities.<sup>11</sup> The FILC must coordinate activities with

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<sup>1</sup> aPlaceforMom, *Independent Living in Florida*, available at <https://www.aplaceformom.com/independent-living/florida> (last visited March 13, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> Administration for Community Living, *Centers for Independent Living*, available at <https://acl.gov/programs/aging-and-disability-networks/centers-independent-living> (last visited March 13, 2021).

<sup>4</sup> The Department of Education, Division of Vocational Rehabilitation, *Independent Living Program*, available at [http://www.rehabworks.org/indep\\_living.shtml](http://www.rehabworks.org/indep_living.shtml) (last visited March 13, 2021).

<sup>5</sup> Senior Living.org, *Selecting an Independent Living Community*, available at <https://www.seniorliving.org/independent-living/> (last visited March 13, 2021).

<sup>6</sup> Ch. 88-214, L.O.F.

<sup>7</sup> Section 413.395(1), F.S.

<sup>8</sup> The Florida Independent Living Council (FILC), *About Independent Living*, available at <https://www.floridasilc.org/independent-living/> (last visited March 13, 2021).

<sup>9</sup> *Id.*

<sup>10</sup> The FILC, *State Plan for Independent Living for Florida for 2017-2019*, p. 22, available at [https://www.floridasilc.org/documents/State\\_Plan.pdf](https://www.floridasilc.org/documents/State_Plan.pdf) (last visited March 13, 2021).

<sup>11</sup> Section 413.395(3)-(5), F.S.

the Florida Rehabilitation Council and other councils that address the needs of specific disability populations under federal law.<sup>12</sup> The FILC must also submit periodic reports to the Commissioner of the Federal Rehabilitation Administration Services, and provide access to such records at the request of the Commissioner.<sup>13</sup>

### **The Florida Division of Vocational Rehabilitation**

The Division of Vocational Rehabilitation (the VR) within the Department of Education (DOE) administers the vocational rehabilitation program in Florida.<sup>14</sup> The VR provides services to help individuals with a disability find, advance in, or retain employment, and provides services to youth and students with a disability to aid in the transition from high school to a meaningful career path.<sup>15</sup> In FY 2018-19, the VR served 48,439 individuals, including 26,086 customers who were between the ages of 14 through 21.<sup>16</sup>

An individual with a disability<sup>17</sup> is presumed eligible for vocational rehabilitation services if the person requires rehabilitation services to prepare for, enter, engage in, or retain gainful employment.<sup>18</sup> After determining eligibility, the VR must complete an assessment to determine rehabilitation needs and ensure that an individualized plan for employment (IPE)<sup>19</sup> is prepared.<sup>20</sup> The IPE must be designed to achieve the specific employment outcome of the individual and may include services such as vocational evaluation and planning, career counseling and guidance, job-site assessment and accommodations, job placement, job coaching, and on-the-job training.<sup>21</sup>

### ***Division of Blind Services***

The Division of Blind Services (the DBS) is housed within the DOE.<sup>22</sup> The purpose of the DBS is to ensure the greatest possible efficiency and effectiveness of services to individuals who are blind.<sup>23</sup> It is the intent of the Legislature to establish a coordinated program of services that are available throughout Florida to such individuals.<sup>24</sup> The program must be designed to maximize employment opportunities for individuals who are blind and to increase their independence and

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<sup>12</sup> Section 413.395(11)(c), F.S.

<sup>13</sup> Section 413.395(11)(e), F.S.

<sup>14</sup> The Department of Education (The DOE), Division of Vocational Rehabilitation (VR), *2018-2019 Annual Report* (2019), p. 6, available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf> (last visited March 13, 2021).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at p. 6 and 10.

<sup>17</sup> Section 413.20(7), F.S., defines “disability” to mean “a physical or mental impairment that constitutes or results in a substantial impediment to employment.”

<sup>18</sup> Section 413.30(1), F.S.

<sup>19</sup> An individualized plan for employment includes a “comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services.” Section 413.20(3), F.S.

<sup>20</sup> *See* s. 413.30(4) and (5), F.S.

<sup>21</sup> The DOE, VR, *Frequently Asked Questions*, available at <http://www.rehabworks.org/faq.shtml> (last visited March 13, 2021).

<sup>22</sup> Section 20.15(3)(e), F.S.

<sup>23</sup> *See* s. 413.011(3), F.S.

<sup>24</sup> Section 413.011(2), F.S.

self-sufficiency.<sup>25</sup> The DBS's program of services include a blind babies program, children's program, transition services, independent living program, vocational rehabilitative program, employer services, business enterprises program, rehabilitation center for the blind and visually impaired, and braille and talking books library.<sup>26</sup>

The DBS was administratively housed within the VR upon inception.<sup>27</sup> The DBS has since been established as a separate entity within the DOE and has a separate representative council, known as the Rehabilitative Council for the Blind (RCB).<sup>28</sup> The RCB is an advisory council<sup>29</sup> responsible for assisting the DBS in the planning and development of statewide vocational rehabilitation programs and services pursuant to the Rehabilitative Act of 1973,<sup>30</sup> as amended, to recommend improvements to such programs and services, and to perform specified functions.

### **James Patrick Memorial Work Incentive Personal Attendant Services Program**

The JPPAS Program was created by the Legislature in 2002 as a pilot project.<sup>31</sup> In 2008, it was established in ch. 413.402, F.S., as a statewide program.<sup>32</sup> The administration and financial oversight of the JPPAS Program was originally conducted as a partnership between the Florida Endowment Foundation for Vocational Rehabilitation and FACIL.<sup>33</sup> In 2017, ch. 413.402, F.S. was amended, transferring administration and financial oversight to FACIL.<sup>34</sup>

The JPPAS Program provides a monthly stipend to participants in an effort to offset the cost of the personal care assistance used to help with daily activities such as bathing, dressing, toileting, and eating.<sup>35</sup> As of December 31, 2020, 79 individuals were enrolled in the JPPAS Program.<sup>36</sup>

The JPPAS Program is funded with delinquent sales taxes collected by state attorney's offices in the following eight Florida circuits:

- The Fourth Judicial Circuit (Clay, Duval, Nassau);
- The Sixth Judicial Circuit (Pasco, Pinellas);
- The Ninth Judicial Circuit (Orange, Osceola);
- The Eleventh Judicial Circuit (Miami-Dade);

<sup>25</sup> *Id.*

<sup>26</sup> See The Florida Division of Blind Services, *About Blind Services*, available at <http://dbs.myflorida.com/Information/index.html> (last visited March 10, 2021).

<sup>27</sup> Ch. 88-214, L.O.F.

<sup>28</sup> Section 413.011(8), F.S. Members of the council are appointed by the Governor with the majority being blind or visually impaired. The council membership must include at least 13 members. See also The Florida Division of Blind Services, *Rehabilitation Council*, available at <http://dbs.myflorida.com/Rehab-Council/index.html> (last visited March 1, 2021).

<sup>29</sup> Section 20.03(7), F.S., defines "advisory council" to mean "an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of problems arising in a specified functional area of state government and to provide recommendations and policy alternatives."

<sup>30</sup> 29 U.S.C. § 701(b).

<sup>31</sup> The Florida Association of Centers for Independent Living, *James Patrick Memorial Work Incentive Personal Attendant Services Program Summary July 1, 2019 - June 30, 2020*, p. 1 (On file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The JPPAS Program Summary").

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

- The Thirteenth Judicial Circuit (Hillsborough);
- The Fifteenth Judicial Circuit (Palm Beach); and
- The Seventh Judicial Circuit (Broward).<sup>37</sup>

Persons eligible to participate in the program must:

- Be at least 18 years of age, a legal resident of this state, and be significantly and chronically disabled;
- Require a personal care attendant for assistance with or support for at least two activities of daily living such as bathing and dressing and as defined in s. 429.02, F.S.;
- Require a personal care attendant in order to maintain substantial gainful employment; and
- Be able to acquire and direct a personal care attendant.<sup>38</sup>

### **Tax Collection Enforcement Diversion Program**

The primary source of funding for the JPPAS Program is the Diversion Program.<sup>39</sup> In conjunction with the establishment of the JPPAS program, the DOR was directed, in cooperation with FACIL and state attorneys, to select judicial circuits in which to operate the Diversion Program to collect unpaid sales taxes from delinquent business owners.<sup>40</sup> 50 percent of the collections from the Diversion Program are deposited into the operating account of the ABLE Trust<sup>41</sup> to be used to operate the JPPAS program and to contract with the state attorneys participating in the tax diversion program, and the remaining 50 percent is deposited into General Revenue.<sup>42</sup>

The annual budget for the JPPAS Program is determined by the State Revenue Estimating Conference's estimates of delinquent tax collections and revenue from the Bikers Care special motorcycle license tag.<sup>43</sup> The estimate adopted for the Diversion Program for the 2020-2021 fiscal year is \$3,247,129 in total tax collections.<sup>44</sup> FACIL expects to receive approximately \$70,000 in additional revenue from Florida Bikers Tag license plate sales.<sup>45</sup> This means the estimated budget for the JPPAS Program for Fiscal Year 2020-2021 is approximately \$1,693,565, (50 percent of the total estimated collections (\$1,623,565) plus the additional \$70,000 from Florida Bikers Tag license plate sales).

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<sup>37</sup> *Id.* at p. 1-2.

<sup>38</sup> Section 413.402(1)(a)-(d), F.S.

<sup>39</sup> The JPPAS Program Summary at p. 1.

<sup>40</sup> Section 413.4021, F.S.

<sup>41</sup> The Florida ABLE Program was created in 2015 to encourage and assist the saving of private funds in tax-exempt accounts in order to pay for the qualified expenses of eligible individuals with disabilities. *See* s. 2, ch. 2015-56, L.O.F.

<sup>42</sup> Section 413.4021(1), F.S. The contract amount for each state attorney cannot exceed \$50,000.

<sup>43</sup> The JPPAS Program Summary at p. 2.

<sup>44</sup> The Office of Economic and Demographic Research (EDR), *Tax Collection Enforcement Diversion Program January 5, 2021 Executive Summary* (2021), available at <http://edr.state.fl.us/Content/conferences/generalrevenue/taxcollectiondivprog.pdf> (last visited March 10, 2021) (hereinafter cited as "The EDR Summary").

<sup>45</sup> The JPPAS Program Summary at p. 2.

### III. Effect of Proposed Changes:

The bill amends s. 413.395, F.S., removing a representative of the DBS from the membership of the FILC. The bill also reduces the total number of members on the FILC from 14 members to 11 members, at least three of whom must be employees of a center for independent living. The bill requires that at least six of the members must be persons with significant disabilities who are not employed by any state agency or any center for independent living.

The bill also requires the membership of the FILC to include a broad range of persons with disabilities from diverse backgrounds. Under the bill, the FILC must select a chairperson from among the FILC's voting membership. The bill provides that the FILC must meet at the request of the VR alone, and removes the requirement for a joint request of the VR and the DBS. The bill also removes requirement that both the VR and the DBS make the FILC meeting reports available to the public, and requires only the VR to make such reports available.

The bill revises the duties of the FILC by requiring the FILC to develop and submit a state plan for independent living in conjunction with the directors of independent living centers, rather than with the VR, and by requiring the state plan to be in accordance with federal guidelines following the receipt of public input from individuals with developmental disabilities and other relevant stakeholders throughout the state. The FILC must coordinate activities with state entities which provide services similar to or complementary of independent living services, including entities which offer or facilitate the provision of long-term community-based services and supports. The bill eliminates the current requirement that the FILC coordinate activities with the Florida Rehabilitation Council.

Under the bill the FILC must conduct regular meetings and submit periodic reports to the Administration for Community Living within the United States Department of Health and Human Services, as well as keep access to and provide such reports to the administrator as frequently as is necessary to verify the reports. The bill changes the recipient of the reports from the Commissioner of the Federal Rehabilitation Administration Services to the head of the Administration for Community Living within the United States Department of Health and Human Services.

The bill authorizes the FILC to conduct the following activities described in the state plan for independent living:

- Working with independent living centers to coordinate services with public and private entities in an effort to improve independent living services for developmentally disabled persons;
- Developing resources to augment activities provided in the SPIL and the provision of relevant services by independent living centers; and
- Other activities consistent with and comparable to other enumerated activities as the FILC deems appropriate and as authorized in the SPIL.

The bill also requires the FILC to:

- Coordinate with independent living centers to avoid conflicting or overlapping activities within established service areas;

- Refrain from engaging in the direct provision of independent living services to developmentally disabled individuals, including the independent living core services.
- Comply with state and federal laws and regulations which restrict and prohibit lobbying activities.

The bill amends s. 413.4021, F.S., to direct 75% of the delinquent tax collection revenues to the JPPAS program (instead of 50%).

The bill is effective July 1, 2021.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of s. 18, Art. VII, Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant fiscal impact<sup>46, 47</sup> which for Fiscal Year 2021-2022, is forecast at approximately \$2.2 million or less.<sup>48</sup>

While the bill diverts funding away from General Revenue, the bill does not appear to affect the authority of local governments to raise revenues. Therefore, the local governments mandate provision does not apply.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

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<sup>46</sup> Fla. Const. art. VII, s. 18(d).

<sup>47</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact at p. 1, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 10, 2021).

<sup>48</sup> Based on the EDR's Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The EDR, *Demographic Estimating Conference* at p. T-1, available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 10, 2021).

**D. State Tax or Fee Increases:**

Not applicable. The bill does not create or increase state taxes or fees. Thus, s. 19, of Art. VII of the Florida Constitution does not apply.

**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 January 5, 2021 Revenue Estimating Conference reported that collections for the Diversion Program declined by 3.8% in the 2019-20 fiscal year and are projected to remain flat, at approximately \$3.25 million per year, for the next five years. The bill would create a positive, significant fiscal impact on the JPPAS program by increasing funding levels from 50% of the Diversion Program proceeds to 75%. Increasing funding from 50% of Diversion Program revenues (\$1.62 million) to 75% (\$2.44 million) would result in approximately \$690,000 more annually in each of the next five years for the JPPAS program, and a proportionate increase in years thereafter. The bill would divert an additional 25% of Diversion Program funds away from General Revenue to the JPPAS program, resulting in a negative fiscal impact on other segments of state government.<sup>49</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 413.395 and 413.4021 of the Florida Statutes.

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<sup>49</sup> The EDR Summary.

**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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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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By Senator Rodriguez

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1                   A bill to be entitled  
2       An act relating to child welfare; amending s. 39.01,  
3       F.S.; defining the term "voluntary services"; amending  
4       s. 39.202, F.S.; expanding the list of entities that  
5       have access to child abuse records; amending s.  
6       39.302, F.S.; revising the authority of the Department  
7       of Children and Families to review reports for the  
8       purpose of employment screening; amending s. 39.6251,  
9       F.S.; providing that licensed foster homes are the  
10      preferred supervised living arrangements for young  
11      adults; prohibiting supervised living arrangements  
12      from including specified facilities; prohibiting young  
13      adults from being involuntarily placed in any setting  
14      unless such placement is through a court-appointed  
15      guardian; amending s. 409.1415, F.S.; revising  
16      requirements for certain employees of residential  
17      group homes; amending s. 409.1678, F.S.; revising  
18      certification requirements for safe foster homes;  
19      amending s. 409.175, F.S.; requiring assessments to be  
20      completed if the total number of children in a family  
21      foster home will exceed six, excluding the family's  
22      own children, before placement of a child in a family  
23      foster home; requiring the department to adopt rules  
24      to establish eligibility criteria for requesting a  
25      waiver for such assessments and criteria to approve  
26      such waivers; providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
29

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

32 39.01 Definitions.—When used in this chapter, unless the  
33 context otherwise requires:

34 (88) “Voluntary services” means social services and other  
35 preventive and rehabilitative services provided to the parent or  
36 legal custodian of the child or directly to the child, or  
37 services provided on behalf of the child, when a parent or legal  
38 custodian requests or voluntarily agrees to assistance.

39 Section 2. Paragraphs (a) and (h) of subsection (2) of  
40 section 39.202, Florida Statutes, are amended to read:

41 39.202 Confidentiality of reports and records in cases of  
42 child abuse or neglect.—

43 (2) Except as provided in subsection (4), access to such  
44 records, excluding the name of, or other identifying information  
45 with respect to, the reporter which shall be released only as  
46 provided in subsection (5), shall be granted only to the  
47 following persons, officials, and agencies:

48 (a) Employees, authorized agents, or contract providers of  
49 the department, the Department of Health, the Agency for Persons  
50 with Disabilities, the Agency for Health Care Administration,  
51 the office of Early Learning, or county agencies responsible for  
52 carrying out:

- 53 1. Child or adult protective investigations;
- 54 2. Ongoing child or adult protective services;
- 55 3. Early intervention and prevention services;
- 56 4. Healthy Start services;
- 57 5. Licensure or approval of adoptive homes, foster homes,  
58 child care facilities, facilities licensed under chapters 393

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59 and 394 ~~chapter 393~~, family day care homes, providers who  
60 receive school readiness funding under part VI of chapter 1002,  
61 or other homes used to provide for the care and welfare of  
62 children;

63 6. Employment screening for caregivers in residential group  
64 homes and facilities licensed under chapters 393, 394, and 409;  
65 or

66 7. Services for victims of domestic violence when provided  
67 by certified domestic violence centers working at the  
68 department's request as case consultants or with shared clients.

69  
70 Also, employees or agents of the Department of Juvenile Justice  
71 responsible for the provision of services to children, pursuant  
72 to chapters 984 and 985.

73 (h) Any appropriate official of the department, the Agency  
74 for Health Care Administration, or the Agency for Persons with  
75 Disabilities who is responsible for:

76 1. Administration or supervision of the department's  
77 program for the prevention, investigation, or treatment of child  
78 abuse, abandonment, or neglect, or abuse, neglect, or  
79 exploitation of a vulnerable adult, when carrying out his or her  
80 official function;

81 2. Taking appropriate administrative action concerning an  
82 employee of the department or the agency who is alleged to have  
83 perpetrated child abuse, abandonment, or neglect, or abuse,  
84 neglect, or exploitation of a vulnerable adult; or

85 3. Employing and continuing employment of personnel of the  
86 department or the agency.

87 Section 3. Paragraph (b) of subsection (7) of section

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88 39.302, Florida Statutes, is amended to read:

89 39.302 Protective investigations of institutional child  
90 abuse, abandonment, or neglect.—

91 (7) When an investigation of institutional abuse, neglect,  
92 or abandonment is closed and a person is not identified as a  
93 caregiver responsible for the abuse, neglect, or abandonment  
94 alleged in the report, the fact that the person is named in some  
95 capacity in the report may not be used in any way to adversely  
96 affect the interests of that person. This prohibition applies to  
97 any use of the information in employment screening, licensing,  
98 child placement, adoption, or any other decisions by a private  
99 adoption agency or a state agency or its contracted providers.

100 (b) Likewise, if a person is employed as a caregiver in a  
101 residential group home licensed under s. 409.175 and is named in  
102 any capacity in three or more reports within a 5-year period,  
103 the department may review all reports for the purposes of the  
104 employment screening required under s. 409.175(2)(m) ~~s.~~  
105 ~~409.1415(2)(c)~~.

106 Section 4. Subsection (4) of section 39.6251, Florida  
107 Statutes, is amended to read:

108 39.6251 Continuing care for young adults.—

109 (4) (a) The young adult must reside in a supervised living  
110 environment that is approved by the department or a community-  
111 based care lead agency. The young adult shall live  
112 independently, but in an environment in which he or she is  
113 provided supervision, case management, and supportive services  
114 by the department or lead agency. Such an environment must offer  
115 developmentally appropriate freedom and responsibility to  
116 prepare the young adult for adulthood.

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117       1. For the purposes of this subsection:<sup>7</sup>

118       a. A supervised living arrangement may include a licensed  
119 foster home, licensed group home, college dormitory, shared  
120 housing, apartment, or another housing arrangement if the  
121 arrangement is approved by the community-based care lead agency  
122 and is acceptable to the young adult; however, a licensed foster  
123 home is the preferred arrangement.

124       b. A supervised living arrangement may not include a  
125 detention facility, a forestry camp, a training school, or any  
126 other facility operated primarily for the detention of children  
127 who are determined to be delinquent.

128       2. A young adult may continue to reside with the same  
129 licensed foster family or group care provider with whom he or  
130 she was residing at the time he or she reached the age of 18  
131 years. A young adult may not reside in any setting in which the  
132 young adult is involuntarily placed, unless the placement is  
133 through a court-appointed guardian.

134       (b) Before approving the residential setting in which the  
135 young adult will voluntarily live, the department or community-  
136 based care lead agency must ensure that:

137       1. The young adult will be provided with a level of  
138 supervision consistent with his or her individual education,  
139 health care needs, permanency plan, and independent living goals  
140 as assessed by the department or lead agency with input from the  
141 young adult. Twenty-four hour onsite supervision is not  
142 required; however, 24-hour crisis intervention and support must  
143 be available.

144       2. The young adult will live in an independent living  
145 environment that offers, at a minimum, life skills instruction,

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146 counseling, educational support, employment preparation and  
147 placement, and development of support networks. The  
148 determination of the type and duration of services shall be  
149 based on the young adult's assessed needs, interests, and input  
150 and must be consistent with the goals set in the young adult's  
151 case plan.

152 Section 5. Paragraph (c) of subsection (2) of section  
153 409.1415, Florida Statutes, is amended to read:

154 409.1415 Parenting partnerships for children in out-of-home  
155 care.—

156 (2) PARENTING PARTNERSHIPS.—

157 (c) An employee of a residential group home must meet the  
158 background screening requirements under s. 39.0138 and the level  
159 2 screening standards for screening under chapter 435. An  
160 employee of a residential group home who works directly with a  
161 child as a caregiver must meet, at a minimum, the same  
162 education, and training, ~~background, and other screening~~  
163 requirements as caregivers in family foster homes licensed as  
164 level II under s. 409.175(5).

165 Section 6. Paragraph (c) of subsection (2) of section  
166 409.1678 is amended to read:

167 409.1678 Specialized residential options for children who  
168 are victims of commercial sexual exploitation.—

169 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

170 (c) To be certified, a safe house must hold a license as a  
171 residential child-caring agency, as defined in s. 409.175, and a  
172 safe foster home must hold a license as a family foster home, as  
173 defined in s. 409.175. A safe house or safe foster home must  
174 also:

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- 175           1. Use strength-based and trauma-informed approaches to  
176 care, to the extent possible and appropriate.
- 177           2. Serve exclusively one sex.
- 178           3. Group child victims of commercial sexual exploitation by  
179 age or maturity level.
- 180           4. Care for child victims of commercial sexual exploitation  
181 in a manner that separates those children from children with  
182 other needs; however, this subparagraph does not apply to safe  
183 foster homes. ~~Safe houses and safe foster homes may care for~~  
184 ~~other populations if the children who have not experienced~~  
185 ~~commercial sexual exploitation do not interact with children who~~  
186 ~~have experienced commercial sexual exploitation.~~
- 187           5. Have awake staff members on duty 24 hours a day, if a  
188 safe house.
- 189           6. Provide appropriate security through facility design,  
190 hardware, technology, staffing, and siting, including, but not  
191 limited to, external video monitoring or door exit alarms, a  
192 high staff-to-client ratio, or being situated in a remote  
193 location that is isolated from major transportation centers and  
194 common trafficking areas.
- 195           7. Meet other criteria established by department rule,  
196 which may include, but are not limited to, personnel  
197 qualifications, staffing ratios, and types of services offered.

198           Section 7. Subsection (3) of section 409.175, Florida  
199 Statutes, is amended to read:

200           409.175 Licensure of family foster homes, residential  
201 child-caring agencies, and child-placing agencies; public  
202 records exemption.—

203           (3) (a) The total number of children placed in each family

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204 foster home shall be based on the recommendation of the  
205 department, or the community-based care lead agency where one is  
206 providing foster care and related services, based on the needs  
207 of each child in care, the ability of the foster family to meet  
208 the individual needs of each child, including any adoptive or  
209 biological children or young adults remaining in foster care  
210 living in the home, the amount of safe physical plant space, the  
211 ratio of active and appropriate adult supervision, and the  
212 background, experience, and skill of the family foster parents.

213 (b) If the total number of children in a family foster home  
214 will exceed six, excluding five, ~~including~~ the family's own  
215 children, an assessment of each child to be placed in the home  
216 must be completed by a family services counselor and approved in  
217 writing by the counselor's supervisor prior to placement of any  
218 additional children in the home, except that, if the placement  
219 involves a child whose sibling is already in the home or a child  
220 who has been in placement in the home previously, the assessment  
221 must be completed within 72 hours after placement. The  
222 assessment must assess and document the mental, physical, and  
223 psychosocial needs of the child and recommend the maximum number  
224 of children in a family foster home that will allow the child's  
225 needs to be met.

226 (c) For any licensed family foster home, the  
227 appropriateness of the number of children in the home must be  
228 reassessed annually as part of the relicensure process. For a  
229 home with more than six ~~five~~ children, if it is determined by  
230 the licensure study at the time of relicensure that the total  
231 number of children in the home is appropriate and that there  
232 have been no substantive licensure violations and no indications



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233 of child maltreatment or child-on-child sexual abuse within the  
234 past 12 months, the relicensure of the home may ~~shall~~ not be  
235 denied based on the total number of children in the home.

236 (d) The department shall adopt rules to establish  
237 eligibility criteria for requesting a waiver for assessments  
238 required under this subsection and criteria to approve such  
239 waivers.

240 Section 8. This act shall take effect July 1, 2021.

The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 900  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Brodeur						
X		Garcia						
X		Harrell						
X		Rouson						
X		Torres						
X		Wright						
X		Albritton, VICE CHAIR						
X		Book, CHAIR						
8	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/2021

*Meeting Date*

SB 900

*Bill Number (if applicable)*

Topic SB 900 - Child Welfare

*Amendment Barcode (if applicable)*

Name John Paul Fiore

Job Title DCF Legislative Specialist

Address 1317 Winewood Blvd.

Phone (850) 488-9410

*Street*

Tallahassee

FL

32399

Email \_\_\_\_\_

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Department of Children and Families

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 900

INTRODUCER: Senator Rodriguez

SUBJECT: Child Welfare

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Cox</u>	<u>CF</u>	<b>Favorable</b>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____

**I. Summary:**

The bill makes a number of changes in the laws relating to child welfare that are necessary for the Department of Children and Families (DCF) to be in compliance with new requirements that are the result of the end of the Title IV-E waiver and the upcoming implementation date of the Family First Prevention Services Act (FFPSA). The bill provides a definition for the term “voluntary services” and expands the entities that have access to confidential reports and records in cases of child abuse or neglect to include employees, authorized agents, or contract providers of the Agency for Health Care Administration and the Agency for Persons with Disabilities.

The bill clarifies the Extended Foster Care (EFC) program requirements aligning eligibility with the federal law regarding supervised independent living settings by:

- Specifying that licensed foster homes are the preferred supervised living arrangements for young adults;
- Prohibiting specified living arrangements from being used; and
- Prohibiting involuntary placements for young adults participating in EFC.

The bill also provides that safe houses must care for children who are victims of commercial sexual exploitation in a manner that separates those children with other needs but this does not apply to safe foster homes.

The bill increases the capacity of children that can be placed in a licensed foster home without an additional assessment and provides the DCF with the ability to adopt rules to establish eligibility requirements for requesting a waiver for required over-capacity and criteria necessary to approve those waivers.

The bill is anticipated to have a \$115,600 fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2021.

## II. Present Situation:

### Chapter 39, F.S., Dependency Process - Overview

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports of known or suspected child abuse,<sup>1</sup> abandonment,<sup>2</sup> or neglect,<sup>3</sup> 24 hours a day, seven days a week.<sup>4</sup> Any person who knows or suspects that a child has been abused, abandoned, or neglected must report such knowledge or suspicion to the hotline.<sup>5</sup> A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse, abandonment, or neglect.<sup>6</sup> A child protective investigator investigates the situation either immediately or within 24 hours after the report is received, depending on the nature of the allegation.<sup>7</sup>

If, after conducting an investigation in response to receiving a call to the hotline, the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. The proceeding, known as a shelter hearing, results in a court determining if

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<sup>1</sup> Section 39.01(2), F.S., defines “abuse” to mean any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child also includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

<sup>2</sup> See s. 39.01(1), F.S., which defines “abandonment”, in part, to mean a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. It further defines, “establish or maintain a substantial and positive relationship” to include, but not be limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. The definition specifically provides that marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.

<sup>3</sup> Section 39.01(50), F.S., defines “neglect” to mean when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. Circumstances are not to be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected. Further, a parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian, unless a court orders the following services to be provided, when the health of the child so requires: medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization. The definition further provides that neglect of a child includes acts or omissions.

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

<sup>5</sup> Section 39.201(a), F.S.

<sup>6</sup> Section 39.201(2)(a), F.S.

<sup>7</sup> Section 39.201(5), F.S.

probable cause exists to keep a child in shelter<sup>8</sup> status pending further investigation of the circumstances leading to the detention of a child.<sup>9</sup>

When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.<sup>10</sup> Within 28 days after a child has been sheltered, the court must hold an arraignment hearing on the petition for dependency.<sup>11</sup> If a parent or legal guardian denies an allegation in the petition, the court must hold an adjudicatory hearing within 30 days.<sup>12</sup>

Subsequent to a child being found dependent, a court must hold a disposition hearing to determine a course of treatment and services and placement of the child under protective supervision.<sup>13</sup> The court must first consider placing the child with relatives.<sup>14</sup> If a child cannot safely remain in the original home and no adult relative is available for temporary, legal custody, the child may be placed with an adult willing to care for the child under the protective supervision of the DCF.<sup>15</sup> Placing the child in the temporary, legal custody of the DCF invests the DCF with the rights and responsibilities of a legal custodian.<sup>16</sup>

#### **Title IV-E and Title IV-E Waivers**

Title IV-E of the Social Security Act<sup>17</sup> is the largest federal funding stream for child welfare activities. The funding stream supports foster care, adoption assistance, and guardianship assistance programs. States receive a level of reimbursements from the federal government for eligible claims. Title IV-E also includes the Chafee Foster Care Independence Program, a capped entitlement for which states are entitled to reimbursement for claims it submits to the federal government, up to a certain level, related to preparing children in out-of-home care for self-sufficiency when they transition out.<sup>18</sup>

To be eligible for the Title IV-E Foster Care Program, the vehicle through which states receive Title IV-E funds for children in foster care, children must:

- Be in out-of-home placements;
- Have been removed from families that are considered “needy”;
- Have entered care through a judicial determination or voluntary placement;

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<sup>8</sup> Section 39.01(78), F.S., defines “shelter” to mean a placement with a relative or a nonrelative, or in a licensed home or facility, for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication.

<sup>9</sup> Section 39.01(79), F.S.

<sup>10</sup> See s. 39.01(15), F.S., for the definition of “child who is found to be dependent”.

<sup>11</sup> The purpose of an arraignment hearing is for a parent to admit, deny, or consent to findings of dependency that are alleged in the petition for dependency. If any party has requested a demand for early filing, the court must hold the arraignment hearing within 7 days after the date of filing of the petition. Section 39.506(1), F.S.

<sup>12</sup> Section 39.506(1), F.S.

<sup>13</sup> Section 39.521(1), F.S.

<sup>14</sup> Section 39.507(7)(c), F.S.

<sup>15</sup> Section 39.521(3)(c), F.S.

<sup>16</sup> Section 39.521(3)(d), F.S.

<sup>17</sup> 42 U.S.C. ss. 671-679b.

<sup>18</sup> Child Trends, *A Primer on Title IV-E Funding for Child Welfare*, available at <https://www.childtrends.org/wp-content/uploads/2016/01/2016-04TitleIV-EPrimer.pdf> (last visited March 8, 2021).

- Be in licensed or approved foster care placements.<sup>19</sup>

Title IV-E waivers were first available as an option to states in 1994, when Section 1130 of the Social Security Act gave the U.S. Department of Health and Human Services the authority to approve demonstration projects for which states can waive certain requirements of Title IV-E. These were designed to provide states with opportunities and the flexibility to use federal funds to test innovative approaches to child welfare service delivery and financing.<sup>20</sup>

The DCF participated in the Title IV-E Waiver Demonstration for approximately 13 years. The Florida Title IV-E Waiver Demonstration Project was implemented statewide on October 1, 2006. The purpose of the waiver project was to determine whether increased spending flexibility of Title IV-E funding would support changes in the state's service delivery system, maintain cost neutrality to the federal government, and most importantly, maintain child safety as well as improving permanency and well-being outcomes for children and their families being served within Florida's child welfare system. In exchange, Florida agreed to a capped allocation with annual automatic increases plus triggers to adjust the allocation if actual levels significantly exceeded estimates.<sup>21</sup>

The DCFs claiming of Title IV-E funding returned to the traditional requirements as the expiration of the Title IV-E Waiver Demonstration occurred on September 30, 2019. In order to minimize the potential gap in needed funding, the DCF started implementation of Path Forward in fiscal year (FY) 2018-19 that encompassed four initiatives including: Title IV-E Extended Foster Care, Title IV-E Guardianship Assistance Program (GAP), Foster Care Candidacy, and Title IV-E Eligibility Rates Improvement. Currently, the DCF has implemented all of these initiatives and is monitoring performance closely to ensure the projected goals are met. In addition, the DCF is attempting to ensure that Florida statutes align with federal requirements to enable the DCF to increase federal claiming.<sup>22</sup>

### **Family First Prevention Services Act**

The federal Family First Prevention Services Act (FFPSA), included in the 2018 Bipartisan Budget Act,<sup>23</sup> focuses on evidence-based services to prevent children from entering foster care; limits reimbursement for congregate care; and makes changes affecting adoption subsidies, reunification, and extended foster care supports. The FFPSA reformed the federal child welfare funding streams. Unlike the previous Title IV-E provisions which primarily funded out-of-home care for families with very low incomes, the FFPSA gives states the ability to earn federal Title IV-E matching funds in support of certain prevention services provided on a time-limited basis

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<sup>19</sup> *Id.*

<sup>20</sup> Child Welfare Information Gateway, *Child Welfare Demonstration Waivers*, available at <https://www.childwelfare.gov/topics/management/reform/waivers/> (last visited March 8, 2021).

<sup>21</sup> Armstrong, M.I., Vargo, A.C., Jordan, N., Sharrock, P., Sowell, C, Yampolskaya, S., Kip, S. (2009). *Evaluation brief on the status, activities and findings related to Florida's IV-E waiver demonstration project: Two years post-implementation*. University of South Florida, Louis de la Parte Florida Mental Health Institute, available at [https://www.myflfamilies.com/general-information/publications-forms/docs/APSR/S10-008463\\_Title%20IV-E%20Brief%20%20January2010.pdf](https://www.myflfamilies.com/general-information/publications-forms/docs/APSR/S10-008463_Title%20IV-E%20Brief%20%20January2010.pdf) (last visited March 8, 2021).

<sup>22</sup> The DCF, *2021 Agency Legislative Bill Analysis, SB 900*, January 24, 2021, p. 2 (on file with the Senate Committee on Children, Families and Elder Affairs) (hereinafter cited as "The DCF SB 900 Agency Analysis").

<sup>23</sup> H.R. 1862 of 2018. Pub.L. 115-123

that avoid an out-of-home placement for children without regard to family income. The services that states can be reimbursed for providing to children and their families meeting eligibility requirements address mental health, substance abuse, family counseling, and parent skills training. The FFPSA also introduces new limits on federal funding for placements in group homes.<sup>24</sup>

The Title IV- E Prevention Services Clearinghouse was established by the Administration for Children and Families (ACF) within the U.S. Department of Health and Human Services (HHS) to conduct an objective and transparent review of research on programs and services intended to provide enhanced support to children and families and prevent foster care placements. The Prevention Services Clearinghouse, developed in accordance with the FFPSA as codified in Title IV-E of the Social Security Act, rates programs and services as well-supported, supported, promising, or does not currently meet criteria.<sup>25</sup>

The FFPSA's effective date was October 1, 2018. The FFPSA gave states the opportunity to delay implementation of select provisions of the law.<sup>26</sup> Florida received approval to delay the implementation of the FFPSA until October 1, 2021.<sup>27</sup>

### *Voluntary Services*

Currently, there is no definition for the term “voluntary services” in Florida law, even though it's used either specifically or conceptually in a number of places in ch. 39, F.S., including:

- **Section 39.501(3)(d)1., F.S.**, relating to a petition for dependency, provides whether a parent or legal custodian named in the petition has previously unsuccessfully participated in voluntary services offered by the DCF.
- **Section 39.823, F.S.**, relating to guardian advocates for drug dependent newborns, provides because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. 39.301(14), F.S.

### *Out-of-Home Placement Settings*

When it becomes necessary for the DCF to remove a child from the home, efforts must be made to place the child in the least restrictive placement.<sup>28</sup> The community-based care lead agency (lead agency) is required to complete a comprehensive placement assessment to determine the appropriate level of care.<sup>29</sup> Relatives and non-relatives are considered the least restrictive level of

<sup>24</sup> The DCF, *The Florida Center for Child Welfare FFPSA Updates*, available at <http://centerforchildwelfare.fmhi.usf.edu/FFPSA.shtml>; see also the National Conference of State Legislatures (NCSL), *Family First Prevention Services Act*, available at <https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx> (all sites last visited March 14, 2021).

<sup>25</sup> See the U.S. Department of Health and Human Services, Office of Planning, Research, and Evaluation, *Title IV-E Prevention Services Clearinghouse, 2018 – 2023*, available at <https://www.acf.hhs.gov/opre/project/title-iv-e-prevention-services-clearinghouse-2018-2023> (last visited March 15, 2021).

<sup>26</sup> The NCSL, *Family First Prevention Services Act*, available at <https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx> (last visited March 15, 2021).

<sup>27</sup> The DCF SB 900 Agency Analysis, p. 4.

<sup>28</sup> Section 39.523(1)(a), F.S.

<sup>29</sup> The DCF, *Community-Based Care*, available at <https://www.myflfamilies.com/service-programs/community-basedcare/overview.shtml> (last visited March 15, 2021).



care but should a suitable relative or non-relative not be available, a foster home would be the next appropriate level of care and then a group home setting.<sup>30</sup>

A safe house is one of the FFPSA placement settings currently licensed and certified by the DCF.<sup>31</sup> The DCF currently allows for the placement of victims of or at risk of human trafficking to be placed in the same safe house setting with any other population, as long as the children who have not experienced commercial sexual exploitation do not interact with victims of trafficking.<sup>32</sup> There are ten group homes that wish to transition to a safe house. FFPSA will require that safe houses strictly serve victims of or at risk of human trafficking. Current laws creates a barrier to the DCF's ability to claim Title IV-E as safe house is permitted to serve a victim of or at risk of human trafficking in the same setting with children of any population.<sup>33</sup>

### ***Parenting Partnerships for Children in Out-of-Home Care***

Current law requires all direct caregivers employed by residential group homes to meet the same education, training and background and other screening requirements as foster parents. The current law creates a barrier to group home providers gathering criminal records in a timely manner, thus affecting Title IV-E payments. Additionally, providers are gathering calls to service records to an employee's home, which has no bearing to their hire status.<sup>34</sup>

### ***Foster Home Capacity***

Section 409.175(3), F.S., requires an over-capacity waiver assessment when the number of children in a foster home exceeds five, including the foster parents own children, while the federal language allows for six children to be placed, excluding the foster parents own children, prior to being considered over-capacity assessment.<sup>35</sup> In addition, current language allows for the ability to assess and grant an over capacity waiver for any reason, while federal language only allows for over capacity to allow:

- A parenting youth in foster care to remain with the child of the parenting youth.
- Siblings to remain together.
- A child with an established meaningful relationship with the family to remain with the family.
- A family with special training or skills to provide care to a child who has a severe disability.<sup>36</sup>

### ***Continuing Care for Young Adults – Extended Foster Care (EFC)***

Section 39.6251, F.S., provides conditions pertaining to supervised living environments, requiring an independent living setting, giving some flexibility based on lead agency assessment and approval. The statute does not define independent living for the purposes of supervised living environments, but it does provides that the young adult must reside in a supervised living

<sup>30</sup> Section 39.523(2), F.S.

<sup>31</sup> Section 409.1678(1)(b), F.S., defines the term "safe house" as a group residential placement certified by the DCF to care for sexually exploited

<sup>32</sup> Section 409.1678(2)(b), F.S.

<sup>33</sup> The DCF SB 900 Agency Analysis, p. 6.

<sup>34</sup> Section 409.1415(2)(c), F.S.

<sup>35</sup> 42 U.S.C. s. 672(c)(B).

<sup>36</sup> *Id.*

environment that is approved by the DCF or a lead agency. The young adult must live independently, but in an environment in which he or she is provided supervision, case management, and supportive services by the DCF or lead agency. Such an environment must offer developmentally appropriate freedom and responsibility to prepare the young adult for adulthood.<sup>37</sup>

Such a supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment, or another housing arrangement if the arrangement is approved by the lead agency and is acceptable to the young adult. A young adult may also continue to reside with the same licensed foster family or group care provider with whom he or she was residing at the time he or she reached the age of 18 years.<sup>38</sup>

In addition, current law does not specify any prohibition on involuntary placements nor does the language exclude settings in which delinquent youth or young adults are detained or incarcerated.<sup>39</sup>

### **Confidentiality of Reports and Records**

Currently, in order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, s. 39.202, F.S., provides that all records held by the DCF concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, are confidential and exempt from the provisions of s. 119.07(1), F.S., and must not be disclosed except as specifically authorized by chapter 39, F.S. The exemption also applies to information in the possession of those entities granted access under this section.<sup>40</sup>

Information made confidential and exempt under s. 39.202, F.S., may only be released in a specified manner and to specified individuals.<sup>41</sup> Exceptions to this are provided for in cases involving a child who is missing.<sup>42</sup> Current law does not provide the Agency for Health Care Administration (AHCA) and the Agency for Person with Disability (APD) the capability to complete child abuse and neglect record checks for their employees who work in direct contact with children placed by the DCF in facilities licensed by the AHCA.<sup>43</sup>

### **Protective Investigations of Institutional Child Abuse, Abandonment, or Neglect**

Current law allows the DCF, when a person who is employed as a caregiver in a residential group home licensed pursuant to s. 409.175, F.S., and is named in any capacity in three or more

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<sup>37</sup> Section 39.6251(4)(a), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> Section 39.6251, F.S.

<sup>40</sup> Section 39.202(1), F.S. When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." Custodians of records designated as "exempt" are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record. Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature.

<sup>41</sup> Section 39.202(2), F.S.

<sup>42</sup> *See* s. 39.202(4), F.S.

<sup>43</sup> Section 39.202(2), F.S.

reports within a five-year period, to review all reports for the purposes of the employment screening required in s. 409.145(2)(e), F.S.<sup>44</sup>

Section 409.175(2)(m), F.S., relating to the licensure of family foster homes, residential child-caring agencies, and child-placing agencies, provides that the term “screening” means the act of assessing the background of personnel or level II through level V family foster homes and includes, but is not limited to, employment history checks as provided in chapter 435, using the level 2 standards for screening set forth in that chapter.

Section 39.302, F.S. will need to be amended to update the citation to 409.175(2)(m) instead of 409.145(2)(e).

### **III. Effect of Proposed Changes:**

#### **Title IV-E Waiver**

##### ***Confidentiality of Reports and Records***

The bill amends s. 39.202, F.S., related to confidentiality of reports and records relating to child abuse, neglect, and abandonment, allowing the AHCA and the APD to review child abuse and neglect reports for employees who work in facilities licensed under chs. 393, 394, and 409, F.S., to meet federal requirements for children under the care and supervision of the DCF placed in these facilities.<sup>45</sup> The changes will allow the agencies to ensure children remain safe during their placement through receiving reports related to an employee that indicate safety concerns for the children in such facilities.

When an employee is deemed unsafe and remains in a caregiver role, payments for children placed in these facilities will not be federally reimbursable through Title IV-E. The inability to claim federal funding will result in expending more state general revenue funds on that placement. The DCF projects a potential savings of general revenue by creating a shift in funding from general revenue to federal claiming of \$3 million for children placed in facilities licensed by the AHCA and \$12 million for children placed in facilities licensed by the APD if these entities are able to receive abuse and neglect screenings that comply with the FFPSA requirements.<sup>46</sup>

##### ***Screenings for Employees of Group Homes Parenting for Children in Out-of-Home Care***

The bill amends s. 409.1415(2)(c), F.S., relating to group home employee requirements, removing specific references to background screening and other screening requirements and maintaining the requirement to have the same education and training as licensed foster care placements. The background screening required by the employee is maintained as Level 2 screening as required in s. 39.0138, F.S., and ch. 435, F.S. This will allow the DCF flexibility to

<sup>44</sup> Section 39.302(7)(b), F.S.

<sup>45</sup> Facilities licensed under ch. 393, F.S., care for individuals who have a developmental disability; facilities licensed under ch. 394, F.S., provide care for individuals with mental health issues; and facilities licensed under ch. 409, F.S., provide care for children who are in out-of-home care through the child welfare system.

<sup>46</sup> The DCF SB 900 Agency Analysis, p. 8.

work closely with law enforcement and other background screening units to ensure all checks are completed accurately to avoid costly penalties.

### ***Protective Investigations for Institutional Abuse***

The bill amends s. 39.302(7)(b), F.S., to codify current practice and align with the changes in s. 409.1415(2)(c), F.S., described above allowing the DCF's claiming of Title IV-E funds.<sup>47</sup>

### ***Continuing Care for Young Adults – Extended Foster Care***

The bill amends s. 39.6251, F.S., clarifying that young adults participating in EFC are to reside in *voluntary*, supervised independent living environments. The bill also specifies that a supervised living arrangement may not include a detention facility, a forestry camp, a training school or any other facility operated primarily for the detention of children who are determined to be delinquent.<sup>48</sup> The bill also provides that an involuntary placement is only authorized if a court-appointed guardian has placed the young adult into the placement.

### **Family First Prevention Services Act**

#### ***Voluntary Services***

The bill amends s. 39.01, F.S., creating a new definition of the term “voluntary services” to mean social services and other preventive and rehabilitative services provided to the parent or legal custodian of the child or directly to the child, or services provided on behalf of the child, when a parent or legal custodian requests or voluntarily agrees to assistance. This new definition will align with federal language that says services can be provided to the parent or legal custodian of the child and to the child or on behalf of the child.<sup>49</sup>

The new definition will give the DCF the opportunity to claim Title IV-E for evidence-based prevention services that have been approved through the Federal Clearing House as promising, supported, and well-supported. The amount of increased claiming is currently indeterminate as there is no way to determine how many prevention services statewide will meet the requirements of the Clearinghouse.<sup>50</sup>

#### ***Out-of-Home Placement Settings***

The bill amends s. 409.1678(2), F.S., to exempt safe foster homes and only restrict safe houses to serving only victims of commercial sexual exploitation. The new language will restrict placement of populations who are not victims of commercial sexual exploitation from being placed in a safe house setting. This will align with the FFPSA requirements and the DCF's ability to claim Title IV-E for safe house settings.<sup>51</sup>

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<sup>47</sup> 42 U.S.C. s. 671(a)(20).

<sup>48</sup> Section 39.6251(4), F.S.

<sup>49</sup> 42 U.S.C. ss. 475(13), 471(e), and 474(a)(6).

<sup>50</sup> The DCF SB 900 Agency Analysis, p. 9.

<sup>51</sup> 42 U.S.C. s. 472(k)(2).

***Foster Home Capacity***

The bill amends s. 409.175, F.S., increasing the capacity of children that can be placed in a licensed foster home without an additional assessment from a total of five children, including the families own children to six, not including the families own children. In addition, the increase in capacity provides the DCF the ability to adopt rules that outline reasons that an over-capacity assessment may be requested and approved, which will allow the DCF to align the justifications for over-capacity assessments with federal Title IV-E requirements and definitions.

**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 DCF estimates it will cost \$115,600 for technology updates to implement provisions in the bill.<sup>52</sup>

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<sup>52</sup> The DCF SB 900 Agency Analysis, p. 12-13.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends ss. 39.01, 39.202, 39.302, 39.6251, 409.1415, 409.1678, and 409.175 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 Book

32-00523-21

2021948\_\_

1                   A bill to be entitled  
2       An act relating to child welfare; amending s. 39.01,  
3       F.S.; expanding the list of incidents or injuries that  
4       constitute harm to a child's health or welfare;  
5       amending s. 39.303, F.S.; expanding the types of  
6       reports which the Department of Children and Families  
7       must refer to Child Protection Teams; providing an  
8       effective date.

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

11  
12       Section 1. Paragraphs (m) and (n) are added to subsection  
13       (35) of section 39.01, Florida Statutes, to read:

14       39.01 Definitions.—When used in this chapter, unless the  
15       context otherwise requires:

16       (35) "Harm" to a child's health or welfare can occur when  
17       any person:

18       (m) Violates s. 316.613 or s. 316.614, resulting in the  
19       death of a child or the injury of a child which requires  
20       treatment at a medical facility, if substantiated by a licensed  
21       physician's opinion that the violation exacerbated the child's  
22       injuries or resulted in the child's death.

23       (n) Violates s. 316.6135, resulting in the death of a child  
24       or the injury of a child.

25       Section 2. Paragraphs (j), (k), and (l) are added to  
26       subsection (4) of section 39.303, Florida Statutes, to read:

27       39.303 Child Protection Teams and sexual abuse treatment  
28       programs; services; eligible cases.—

29       (4) The child abuse, abandonment, and neglect reports that

32-00523-21

2021948\_\_

30 must be referred by the department to Child Protection Teams of  
31 the Department of Health for an assessment and other appropriate  
32 available support services as set forth in subsection (3) must  
33 include cases involving:

34 (j) A child who was not properly restrained in a motor  
35 vehicle pursuant to s. 316.613 or s. 316.614 and the improper  
36 restraint exacerbated the child's injuries or resulted in the  
37 child's death.

38 (k) A child who was left unattended or unsupervised in a  
39 motor vehicle pursuant to s. 316.6135 and such action resulted  
40 in an injury to the child or in the child's death.

41 (l) Reports from emergency room physicians.

42 Section 3. This act shall take effect July 1, 2021.



**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 948  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Brodeur						
X		Garcia						
X		Harrell						
X		Rouson						
X		Torres						
X		Wright						
X		Albritton, VICE CHAIR						
X		Book, CHAIR						
8	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 948

INTRODUCER: Senator Book

SUBJECT: Child Welfare

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Cox</u>	<u>CF</u>	<u>Favorable</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____

### I. Summary:

SB 948 makes a number of changes to current law relating to child abuse, abandonment, and neglect. Specifically, the bill:

- Revises the definition of the term “harm” to include a violation of child safety restraints or seat belt usage laws which results in the death or injury of a child that requires treatment at a medical facility, if a licensed physician determines that such violation exacerbated the child’s injuries or resulted in the child’s death;
- Revises the definition of the term “harm” to include a violation of leaving a child unattended or unsupervised in motor vehicle which results in the injury or death of a child.
- Requires the Department of Children and Families (DCF) to refer child abuse, abandonment, and neglect reports to a Child Protection Team (CPT) within the Department of Health (DOH) that involve a child who was not properly restrained in a motor vehicle pursuant to s. 316.613, F.S., or s. 316.614, F.S., or involve a child who was left unattended or unsupervised in a motor vehicle pursuant to s. 316.6135, F.S. and the improper restraint or action resulted in injuries or death to a child.

The bill will have no fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2021.

### II. Present Situation:

#### **Inadequate Supervision of a Child**

Current law defines “abuse” in part as any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired.<sup>1</sup> Florida law specifies that a

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<sup>1</sup> Section 39.01(2), F.S.

child can suffer “harm” to his or her health or welfare in a number of ways. For example, harm can occur when any person allows, encourages, or forces the sexual exploitation of a child; exploits a child, or allows a child to be exploited; or exposes a child to a controlled substance or alcohol.<sup>2</sup> Also included within the definition of harm is “inadequate supervision,” which is defined as a parent or caregiver leaving a child without adult supervision or arrangement appropriate for the child’s age, maturity, developmental level, or mental or physical condition, so that the child is unable to care for his or her own needs or is unable to exercise sufficient judgment in responding to a physical or emotional crisis.<sup>3</sup> In Florida, there is no age in which a child can be left unattended or alone.<sup>4</sup>

Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by any person, whether or not that person is a parent, legal custodian, caregiver or other person responsible for the child’s welfare, or that a child is in need of supervision and care, must immediately report such knowledge or suspicion to the DCF’s hotline.<sup>5</sup> Personnel at the department’s central abuse hotline will determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions must be accepted for a protective investigation.<sup>6</sup>

Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline must notify district staff responsible for protective investigations in sufficient time to allow for an investigation.<sup>7</sup>

If the department or the sheriff providing child protective investigative services determines that the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents or legal custodians, the parent or legal custodian and child may be referred for such care, case management, or other community resources. If it’s determined that the child is in need of protection and supervision, the department may file a petition for dependency.<sup>8</sup>

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<sup>2</sup> See generally s. 39.01(35), F.S.

<sup>3</sup> Section 39.01(35)(a)3., F.S.

<sup>4</sup> Department of Children and Families, Child Welfare, CFOP 170-4, pg. A-29, (September 1, 2020), available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-04,%20Child%20Maltreatment%20Index.pdf> (last visited March 11, 2021).

<sup>5</sup> Section 39.201(1)(a) and (b), F.S.

<sup>6</sup> Section 39.201(2)(a), F.S.

<sup>7</sup> Section 39.301(1)(a), F.S.

<sup>8</sup> Section 39.301(9)(b)1. and 2., F.S.

### **Behavior in Automobiles that May Constitute Abuse, Abandonment, or Neglect**

One example of inadequate supervision is when a parent or legal guardian who is a driver or passenger in a motor vehicle fails to ensure his or her child is properly safeguarded in a legally required child restraint device or seat belt, and this results in either the child's death or the child's suffering of serious injuries requiring treatment at an emergency department or trauma center at a hospital.<sup>9</sup>

Currently, however, administrative rule provides that complaints concerning infants or children in automobiles who are not in legally required child restraint devices do not constitute reports of abuse, neglect, or abandonment unless one or more of the following circumstances are present:

- The parent or legal guardian was charged with driving under the influence of drugs or alcohol.
- The parent or legal guardian received a traffic citation(s) for reckless driving.
- A child was seriously injured or killed during an accident.<sup>10</sup>

If one of the above scenarios is met, then a report of abuse, abandonment, or neglect can be made to the hotline. Each report of abuse, abandonment, or neglect must contain at least one type of maltreatment, which may include inadequate supervision.<sup>11</sup> There are a number of factors to consider in assessing whether there has been maltreatment, which would prompt an investigation by the DCF. Specifically, the following factors are considered if the intake done following an accident alleges failure of a parent or legal guardian to use a child restraint device:

- Was the child transported to the hospital by EMS or other first responders due to the injuries sustained as a result of the accident?
- What statements did the child provide to first responders, the emergency department/trauma center physician/staff, or law enforcement when questioned about being placed in a child restraint seat or having used a seat belt while being transported in the vehicle?
- What is the parent or legal guardian's explanation for a child restraint device not being used at the time of the accident?
- Do statements from the emergency department/trauma center physician or medical records reflect the child suffered injuries that clearly indicate use of a child restraint device?
- Do statements from the attending emergency department/trauma center physician or medical records reflect the child suffered serious injuries that clearly indicate non-use of a child restraint device?
- Does the police report document an injured child was not properly safeguarded in a legally approved child restraint device (car seat or seat belt)?
- What was the location of the alleged child victim when first responders appeared on scene (in the vehicle or ejected from the vehicle)?

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<sup>9</sup> *Id.* A-30.

<sup>10</sup> 65C-29.002(6)(e)3., F.A.C.

<sup>11</sup> Department of Children and Families, Child Welfare, CFOP 170-4, pg. A-29, (September 1, 2020), available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-04,%20Child%20Maltreatment%20Index.pdf> (last visited March 11, 2021). "Maltreatment" means behavior that is harmful and destructive to a child's cognitive, social, emotional, or physical development.

- Attempt to obtain medical opinion on whether the severity of the vehicular accident (head-on collision at high speed, etc.) would have likely resulted in serious injury or death despite the use of a legally required child restraint device.
- Does the parent have a history of traffic citations for failure to use a restraint device?
- When the parent or legal guardian reports the injured child was originally placed in a child restraint device but disconnected the device themselves during transit is/was the child physically capable of disconnecting the device on their own?
- Does the parent or legal guardian report that this was a first time incident or does/did the child have a pattern of disconnecting the device? If a pattern, how did the parent attempt to control this behavior? What other collateral sources can validate this pattern?<sup>12</sup>

### **Child Safety Restraint Laws**

Section 316.613(1)(a), F.S., requires every operator of a motor vehicle,<sup>13</sup> while transporting a child in a motor vehicle operated on the roadways, streets, or highways of the state, to provide protection for a child by properly using a crash-tested, federally approved child restraint device if the child is 5 years or younger. The law also requires children 3 years of age and younger to be restrained by a separate carrier device or a vehicle manufacturer's integrated child seat. A separate carrier, an integrated child seat, or a child booster seat may be used for children aged 4 through 5 years.<sup>14</sup>

Further, current law prohibits the operation of a motor vehicle or an autocycle<sup>15</sup> unless each passenger and the operator of the vehicle or autocycle under the age of 18 years are restrained by a safety belt or by a child restraint device pursuant to s. 316.613, F.S., if applicable. The requirement to use a child restraint device does not apply if a safety belt is used and the child:

- Is being transported gratuitously by an operator who is not a member of the child's immediate family;
- Is being transported in a medical emergency situation involving the child; or
- Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.

### **Leaving a Child Unattended in a Motor Vehicle Laws**

Section 316.6135, F.S., prohibits a parent, legal guardian or other person responsible for a child as defined in s. 39.01, F.S., from leaving a child younger than 6 years of age unattended or unsupervised in a motor vehicle. Penalties are specified for violations.

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<sup>12</sup> *Supra.* N. 5 at A-29-31.

<sup>13</sup> "Motor vehicle" means a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped. Section 316.003(42), F.S.

<sup>14</sup> Section 316.613(1)(a), F.S.

<sup>15</sup> "Autocycle" means a 3-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration. Section 316.003(2), F.S.

Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means are reasonably necessary to protect the minor child and to remove the child from the vehicle. The child is required to be placed in the custody of DCF pursuant to ch. 39, F.S., unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.<sup>16</sup>

### **Child Protection Teams**

A Child Protection Team<sup>17</sup> (CPT) program is a medically directed, multidisciplinary program that works with local Sheriff's offices and the DCF in child abuse and child neglect cases to supplement investigation activities. The CPTs are tasked with the following:

- Providing expertise in evaluating alleged child abuse and neglect;
- Assessing risk and protective factors; and
- Providing recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.<sup>18</sup>

Current law requires the Children's Medical Services Program in the DOH to develop, maintain, and coordinate the services of the CPTs in each of the service districts of the DCF.<sup>19</sup> The role of a CPT is to support activities of the family safety and preservation program of the DCF and provide services deemed by the CPTs to be necessary and appropriate to abused, abandoned, and neglected children upon referral. A CPT must be capable of providing specialized diagnostic assessments, evaluations, coordination, consultation, and other supportive services.<sup>20</sup> Reports of child abuse, abandonment, and neglect made to the DCF that must be referred to CPTs include cases involving:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child 5 years of age or under.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition of a child and failure of a child to thrive.
- Reported medical neglect of a child.
- Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

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<sup>16</sup> Section 316.6135(5)-(7), F.S.

<sup>17</sup> "Child protection team" is a team of professionals established by the DOH to receive referrals from the protective investigators and protective supervision staff of the DCF and to provide specialized and supportive services to the program in processing child abuse, abandonment, or neglect cases. Such team shall provide consultation to other programs of the DCF and other persons regarding child abuse, abandonment, or neglect cases. Section 39.01(13), F.S.

<sup>18</sup> Children's Medical Services, Child Protection Teams, available at [http://www.cms-kids.com/families/child\\_protection\\_safety/child\\_protection\\_teams.html](http://www.cms-kids.com/families/child_protection_safety/child_protection_teams.html) (last visited March 11, 2021).

<sup>19</sup> Section 39.303(1), F.S.

<sup>20</sup> Section 39.303(3), F.S.

- A child who does not live in this state who is currently being evaluated in a medical facility in this state.<sup>21</sup>

### III. Effect of Proposed Changes:

The bill amends the definition of the term “harm” to include a violation of the child safety restraint laws pursuant to s. 316.613, F.S., or the seat belt usage laws pursuant to s. 316.614, F.S., if a licensed physician determines that such violation exacerbated the child’s injuries or resulted in the child’s death.

It also revises the definition of the term “harm” to include a violation of leaving a child unattended or unsupervised in a motor vehicle pursuant to s. 316.6135, F.S., which results in the injury or death of a child.

Either of these violations would now be subject to a call to the department’s central abuse hotline. Personnel at the department’s central abuse hotline will determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions must be accepted for a protective investigation.<sup>22</sup>

The bill requires DCF to refer child abuse, abandonment, and neglect reports to a CPT that involve a child who was not properly restrained in a motor vehicle pursuant to ss. 316.613 or 316.614, F.S., or involve a child who was left unattended or unsupervised in a motor vehicle pursuant to s. 316.6135, F.S. and the improper restraint or action resulted in injuries or death to a child.

The bill has an effective date of July 1, 2021.

### 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.

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<sup>21</sup> Section 39.303(4)(a)-(i), F.S.

<sup>22</sup> Section 39.201(2)(a), F.S.

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 Department of Health may incur an increased workload with the addition of reports that must be referred to CPTs for assessment.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.01 and 39.303.

**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 Rouson

19-01896-21

20211582\_\_

1                   A bill to be entitled  
2           An act relating to the Task Force on the Monitoring of  
3           Children in Out-of-Home Care; creating s. 39.4092,  
4           F.S.; creating the Task Force on the Monitoring of  
5           Children in Out-of-Home Care for specified purposes;  
6           providing for membership; authorizing the task force  
7           to conduct meetings through teleconferences;  
8           prohibiting members from being reimbursed for per diem  
9           or travel expenses; requiring monthly reports to the  
10          secretary of the Department of Children and Families;  
11          requiring the task force to annually submit certain  
12          recommendations to the Governor and Legislature;  
13          providing an effective date.

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

16  
17           Section 1. Section 39.4092, Florida Statutes, is created to  
18           read:

19           39.4092 Task Force on the Monitoring of Children in Out-of-  
20           Home Care.-

21           (1) The Task Force on the Monitoring of Children in Out-of-  
22           Home Care, a task force as defined in s. 20.03(8), is  
23           established within the Department of Children and Families. The  
24           task force shall be composed of 15 members. Five members shall  
25           be appointed by the Governor, five members shall be appointed by  
26           the President of the Senate, and five members shall be appointed  
27           by the Speaker of the House of Representatives. The task force  
28           shall be composed of representatives from the Department of  
29           Children and Families, the Department of Law Enforcement, the

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30 Guardian Ad Litem Program, Safe Kids Florida within the  
31 Department of Health, community-based care lead agencies, and  
32 Child Protection Teams. Each member shall serve at the pleasure  
33 of the appointing official. A vacancy on the task force shall be  
34 filled in the same manner as the original appointment.

35 (2) The task force shall annually elect a chair from among  
36 its members.

37 (3) The task force shall meet as necessary in order to  
38 complete its task. The task force may conduct its meetings  
39 through teleconferences or other similar electronic means.  
40 Members of the task force are not entitled to receive  
41 reimbursement for per diem or travel expenses.

42 (4) The task force shall develop a statewide system for  
43 collecting information on, and monitoring the whereabouts and  
44 safety of, children who have been placed in out-of-home care.  
45 The task force shall explore ways to improve the use of  
46 technology, training, communication, and cooperation among all  
47 entities involved in the child welfare system in order to  
48 improve the quality of care of children placed in out-of-home  
49 care and to identify children who are at risk for being lost.  
50 The task force shall develop statewide uniform guidelines,  
51 standards, and protocols to effectively respond when a child in  
52 out-of-home care is reported missing.

53 (5) The task force shall submit monthly reports on the  
54 number of children who have gone missing, and the reason why, if  
55 known, from out-of-home care to the secretary of the Department  
56 of Children and Families. Beginning January 1, 2022, and every  
57 year thereafter, the task force shall submit its recommendations  
58 for developing a statewide monitoring system and uniform

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59 guidelines as required under subsection (4) to the Governor, the  
60 President of the Senate, and the Speaker of the House of  
61 Representatives.

62 Section 2. This act shall take effect July 1, 2021.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 1582

INTRODUCER: Senator Rouson

SUBJECT: Task Force on the Monitoring of Children in Out-of-Home Care

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Cox	CF	<b>Favorable</b>
2.			AHS	
3.			AP	

**I. Summary:**

SB 1582 creates the Task Force on the Monitoring of Children in Out-of-Home Care for the purpose of developing a statewide system for collecting information on, and monitoring the whereabouts and safety of, children in out-of-home care. The task force is also required to explore ways to improve the use of technology, training, communication, and cooperation among all entities involved in the child welfare system in order to improve the quality of care of these children and identify children who are at risk for being lost.

The task force must also develop statewide uniform guidelines, standards, and protocols to effectively respond when a child in out-of-home care is reported missing.

The bill specifies the task force is to be established within the Department of Children and Families (DCF or department) and authorizes the task force to conduct meetings through teleconferences as often as necessary.

The task force is to be composed of 15 members. Five members shall be appointed by the Governor, five members shall be appointed by the President of the Senate, and five members shall be appointed by the Speaker of the House of Representatives. The task force shall be composed of representatives from the department, the Department of Law Enforcement (FDLE), the Guardian Ad Litem Program (GAL), Safe Kids Florida within the Department of Health (DOH), community-based care lead agencies (CBCs), and Child Protection Teams (CPT).

The bill requires monthly reports to the secretary of the department and requires the task force to annually submit certain recommendations to the Governor and the President of the Senate and the Speaker of the House of Representatives.

The bill will have no fiscal impact on state government.

The bill has an effective date of July 1, 2021.

## II. Present Situation:

### Out-of-home care

Out-of-home care, also known as foster care, is a court-monitored process that includes the placements and services provided to children and families when children are removed from their home due to abuse, abandonment, or neglect. Before a decision is made to remove a child, child welfare staff must make reasonable efforts to safely maintain children with their families by providing a variety of services and supports tailored to each family's needs. If reasonable efforts have been made and safety concerns remain, then the court may order that a child be removed from his or her home and placed into out-of-home care. Once removed, the shelter and daily care for the child are provided by foster or kinship families or group home staff. These caregivers undergo an assessment and licensing or certification process to ensure their suitability as caregivers. While in out-of-home care, services are provided to the child and his or her parents to help improve the problems that led to the removal so that reunification or other permanency options may be reached as quickly as possible.<sup>1</sup>

### *Task forces, councils, commissions*

Section 20.03, F.S., provides definitions related to organizational structure including, but not limited to:

- “Council” or “advisory council” means an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.<sup>2</sup>
- “Committee” or “task force” means an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.<sup>3</sup>
- “Coordinating council” means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.<sup>4</sup>
- “Commission,” unless otherwise required by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.<sup>5</sup>

Florida has had a number of tasks forces established in the past related to child welfare. These have typically been created by either the Governor or the secretary of the department in response

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<sup>1</sup> Child Welfare Information Gateway, *Out-of-Home Care Overview*, available at <https://www.childwelfare.gov/topics/outofhome/overview/#:~:text=Out%2Dof%2Dhome%20care%20is,to%20abuse%20and%20for%20neglect>. (last visited March 13, 2021).

<sup>2</sup> Section 20.03(7), F.S.

<sup>3</sup> Section 20.30(8), F.S.

<sup>4</sup> Section 20.03(9), F.S.

<sup>5</sup> Section 20.03(10), F.S.

to a tragic incident involving a child that has garnered publicity. Examples of these include, in part:

- The Nubia Barahona Report - The Investigative Panel's Findings and Recommendations, March 10, 2011.
- DCF Family Safety Quality Assurance Review of Courtney Alisa Clark - Initial Findings, 2007.
- Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse, May 14, 2010.
- Governor's Blue Ribbon Panel on Child Protection, Nov. 7, 2003 (Rilya Wilson).
- The Governor's Panel and Child Protection Issues: A Review of the Lucas Chambrone Case Final Report, 1995.
- Task Force on Child Protection, October 2007- September 2008.

There is currently no task force that monitors children in out-of-home care.

### *Missing Children*

Florida has had protocols in place since 2008 to effectively address the purpose specified in the bill related to children missing from out-of-home care.<sup>6</sup> A Florida Senate interim project report noted that the disappearance of Rilya Wilson in 2002 raised national awareness of the problem of children who become missing while under the care of the child welfare agencies charged with protecting them. Since then, Florida and many other states studied the issue and enacted legislation and implemented policies intended to improve tracking of children in state care.<sup>7</sup> The report also made a number of recommendations related to changes in Florida law, including:

- The DCF should be given rule-making authority specific to missing children. The department should be directed to promulgate rules that will provide comprehensive, explicit and consistent guidelines to be followed by its employees and contracted providers.
- In addition, the Legislature should consider amending Chapter 39 to require the department and its contracted providers to report a child as missing to the appropriate law enforcement agency, after making reasonable but unsuccessful efforts to locate the child and determining that it is necessary to report the child as missing.
- Section 937.021(1), F.S., should be amended to make it clear that a law enforcement agency must take reports of missing children not only from parents and guardians, but also from the department or its contracted providers.
- Section 787.04(3), F.S., related to removing a child during an investigation or while under protective supervision, should be amended to require that a defendant act knowingly and willfully, rather than with criminal intent, after receiving constructive or actual notice of the pending matter.

All of these recommendations were enacted during the 2008 legislative session.<sup>8</sup>

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<sup>6</sup> Sections 39.0141 and 943.021(4), F.S.

<sup>7</sup> The Florida Senate, The Committee on Children, Families, and Elder Affairs, *Missing Children*, Interim Project Report 2008-106, October 2007, available at <https://www.flsenate.gov/UserContent/Committees/Publications/InterimWorkProgram/2008/pdf/2008-106cf.pdf> (last visited March 12, 2021).

<sup>8</sup> Chapter 2008-245, L.O.F.

The Florida Department of Law Enforcement (FDLE) reports that the FDLE's Missing Endangered Persons Information Clearinghouse (MEPIC)<sup>9</sup> led a multi-agency, statewide effort, titled "Operation Safe Kids." Part of this operation's work was implementation of the now standard procedure, opening missing persons cases for every child discovered missing while under the DCF custody. The DCF, as the custodian of the missing child, makes the initial missing report to the appropriate local law enforcement agency who then enters the case into the Florida Crime Information System (FCIC). This entry ensures all law enforcement and criminal justice professionals nationwide making inquiry regarding a possible missing child similar to the subject of the case are notified of the Florida missing child. Additionally, the DCF creates a record in the Florida Safe Families Network (FSFN), their internal database, concerning the missing episode.<sup>10</sup>

A DCF liaison, co-located within MEPIC, quality controls the information in FSFN using internal DCF information and the missing child's FCIC entry. This information is electronically transferred from the DCF liaison to members of MEPIC who facilitate its entry into MEPIC's Missing Persons Database (MPDB). In addition to populating a variety of Florida systems and access points to the information, MPDB also electronically transfers the information regarding the child to the National Center for Missing and Exploited Children (NCMEC). When fully implemented as an electronic network in February of 2008, this relay process became the first of its kind in the nation, rapidly transferring the missing record of a child in state care, to both state and federal missing persons clearinghouses to help optimize the safe recovery of the child in minimal time.<sup>11</sup>

The co-location and partnership with DCF personnel within MEPIC facilitates the ongoing effectiveness and continued success of this system as well as the facilitation of near immediate agency-to-agency communication and information sharing between state and local partners on all DCF missing child cases. This benefit is particularly valuable with those cases involving the most serious danger for the children and urgency required to insure a safe recovery.<sup>12</sup>

### ***Collection of Information Related to Children in Out-of-home Care***

Federal legislation enacted in 1993 supports states in planning, designing, developing, and implementing a Statewide Automated Child Welfare Information System (SACWIS) system. SACWIS is a comprehensive, automated case management system that helps social workers manage foster care and adoption cases. All states and the District of Columbia collect data on

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<sup>9</sup> The Missing Endangered Persons Information Clearinghouse (MEPIC) is the central repository of information regarding missing endangered persons in Florida. MEPIC assists law enforcement agencies and Florida's citizens in finding missing persons by providing analytical services and engaging the public in the search. As part of these services, MEPIC has worked with partner agencies to develop the Florida AMBER Plan and Florida Silver Alert Plan. Under these plans, MEPIC is responsible for issuing all AMBER Alerts, Missing Child Alerts and State Silver Alerts in Florida, available at: <https://www.fdle.state.fl.us/mcicsearch/>, (last visited March 13, 2021).

<sup>10</sup> Florida Department of Law Enforcement, *2021 FDLE Legislative Bill Analysis SB 1582*, p. 4, March 10, 2021 (on file with the Senate Committee on Children, Families and Elder Affairs).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*



their child welfare cases and activities for entry into a statewide automated system that provides reports for a variety of uses.<sup>13</sup>

The Children's Bureau requires states to include 66 data elements, including demographic information on the child's race, age, gender, and date of entry into care. The SACWIS includes case-related information, such as the reason identified for removing the child and placing him or her into foster care, service goals, number of placements, and availability for adoption. States may include other data elements to meet their needs, including elements that help caseworkers manage their caseloads within the structure of the State child welfare system. States use their SACWIS data to create management and outcome reports.<sup>14</sup>

The DCF's Florida Safe Families Network (FSFN) is the state's SACWIS.<sup>15</sup> FSFN serves as the statewide electronic case record for all child abuse investigations and case management activities in Florida. The amount of data entered into FSFN is extensive and if fully utilized can provide infinite details on the whereabouts and safety of children in out-of-home care.<sup>16</sup>

### III. Effect of Proposed Changes:

There is currently no task force on the monitoring of children in out-of-home care. The task force created by this bill has two purposes:

- To develop a statewide system for collecting information on, and monitoring the whereabouts and safety of, children in out-of-home care.
- To develop statewide uniform guidelines, standards, and protocols to effectively respond when a child in out-of-home care is missing.<sup>17</sup>

The bill creates s. 39.4092, F.S., establishing a Task Force on the Monitoring of Children in Out-of-Home care within the DCF. The task force is to be composed of 15 members. Five members shall be appointed by the Governor, five members shall be appointed by the President of the Senate, and five members shall be appointed by the Speaker of the House of Representatives. The task force shall be composed of representatives from the Department of Children and Families, the Department of Law Enforcement, the Guardian Ad Litem Program, Safe Kids Florida within the Department of Health, community-based care lead agencies, and Child Protection Teams.

The bill provides that a vacancy on the task force will be filled in the same manner as the original appointment. The task force is required to annually elect a chair from among its members. The task force must meet as is necessary in order to complete its task and the task force may conduct its meetings through teleconferences or other similar electronic means.

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<sup>13</sup> Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment and Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Introduction to Cross-System Data Sources in Child Welfare, Alcohol and Other Drug Services, and Courts, HHS Publication No. SMA-11-4630, 2011, available at [https://ncsacw.samhsa.gov/files/DataPrimer\\_508.pdf](https://ncsacw.samhsa.gov/files/DataPrimer_508.pdf) (last visited March 12, 2021).

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

<sup>15</sup> 65C-38.001, F.A.C.

<sup>16</sup> See, for example, A Data Study of Foster Children who Refused Placement in Hillsborough County, R. Latham. University of Miami School of Law, Children and Youth Law Clinic, available at <https://miami.app.box.com/s/tyjphh6uhvutn4wbu5klo2hkvv9dodi5> (last visited March 12, 2021).

<sup>17</sup> As described above, some of these purposes are covered with existing provisions of current law.

Members of the task force are not entitled to receive reimbursement for per diem or travel expenses.

The task force is tasked with developing a statewide system for collecting information and monitoring the whereabouts and safety of, children in out-of-home care, and shall explore ways to improve technology, training, communication and cooperation among the child welfare system to improve the care of such children and to identify children who are at risk for being lost. The task force must also develop statewide uniform guidelines, standards and protocols to effectively respond when a child in out-of-home care is reported missing.

The task force is required to submit monthly reports on the number of children who have gone missing and the reason why, if known, from out-of-home care. Beginning in 2022, the task force is required to submit yearly its recommendations for developing a statewide monitoring system and uniform guidelines as required to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill is effective July 1, 2021.

#### **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 does not specify how the administrative functions of the task force will be handles but if that responsibility lies with the department, it will likely result in a workload issue for the agency.

**VI. Technical Deficiencies:**

Lines 23-32 of the bill provide:

The task force shall be composed of 15 members. Five members shall be appointed by the Governor, five members shall be appointed by the President of the Senate, and five members shall be appointed by the Speaker of the House of Representatives. The task force shall be composed of representatives from the Department of Children and Families, the Department of Law Enforcement, the Guardian Ad Litem Program, Safe Kids Florida within the Department of Health, community-based care lead agencies, and Child Protection Teams.

This implies that the total membership of the task force is 15 members. Those 15 members are filled by the appointments made by the Governor, the President of the Senate and the Speaker of the House of Representatives. The additional representatives from agencies and entities would increase the membership to more than 15.

**VII. Related Issues:**

The term “task force” means an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.<sup>18</sup>

Due to the fact that the bill requires the task force to submit recommendations every year after January 1, 2022, it is unclear whether this task force meets the definition of such. It might more appropriately meet the definition of the term “council” or “advisory council.”<sup>19</sup>

**VIII. Statutes Affected:**

The bill creates s. 39.4092 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.

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<sup>18</sup> Section 20.03(8), F.S.

<sup>19</sup> Section 20.03(7), F.S.

B. Amendments:

None.

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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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By Senator Torres

15-01815-21

20211686\_\_

1                   A bill to be entitled  
2           An act relating to the definition of developmental  
3           disability; providing a short title; amending s.  
4           393.063, F.S.; revising the definition of the term  
5           "developmental disability"; providing an effective  
6           date.

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

9  
10           Section 1. This act may be cited as "Diana's Law."

11           Section 2. Subsection (12) of section 393.063, Florida  
12 Statutes, is amended to read:

13           393.063 Definitions.—For the purposes of this chapter, the  
14 term:

15           (12) "Developmental disability" means a severe, chronic  
16 disability of an individual that:

17           (a) Is attributable to a mental or physical impairment or  
18 combination of mental and physical impairments.

19           (b) Is manifested before the individual attains 22 years of  
20 age.

21           (c) Is likely to continue indefinitely.

22           (d) Results in substantial functional limitations in three  
23 or more of the following areas of major life activity:

24           1. Self-care.

25           2. Receptive and expressive language.

26           3. Learning.

27           4. Mobility.

28           5. Self-direction.

29           6. Capacity for independent living.

15-01815-21

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30       7. Economic self-sufficiency.

31       (e) Reflects the individual's need for a combination and  
32 sequence of special, interdisciplinary or generic services,  
33 individualized supports, or other forms of assistance which are  
34 of lifelong or extended duration and are individually planned  
35 and coordinated.

36  
37 An individual from birth to age 9 years who has a substantial  
38 developmental delay or specific congenital or acquired condition  
39 may be considered to have a developmental disability without  
40 meeting three or more of the criteria described in paragraphs  
41 (a)-(e), if the individual, without services and supports, has a  
42 high probability of meeting such criteria later in life ~~disorder~~  
43 ~~or syndrome that is attributable to intellectual disability,~~  
44 ~~cerebral palsy, autism, spina bifida, Down syndrome, Phelan-~~  
45 ~~McDermid syndrome, or Prader-Willi syndrome; that manifests~~  
46 ~~before the age of 18; and that constitutes a substantial~~  
47 ~~handicap that can reasonably be expected to continue~~  
48 ~~indefinitely.~~

49       Section 3. This act shall take effect July 1, 2021.

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1686  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Brodeur						
X		Garcia						
X		Harrell						
X		Rouson						
X		Torres						
X		Wright						
X		Albritton, VICE CHAIR						
X		Book, CHAIR						
8	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

<b>CODES:</b> FAV=Favorable UNF=Unfavorable -R=Reconsidered	RCS=Replaced by Committee Substitute RE=Replaced by Engrossed Amendment RS=Replaced by Substitute Amendment	TP=Temporarily Postponed VA=Vote After Roll Call VC=Vote Change After Roll Call	WD=Withdrawn OO=Out of Order AV=Abstain from Voting
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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 1686

INTRODUCER: Senator Torres

SUBJECT: Definition of Developmental Disability

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	<b>Favorable</b>
2.			AHS	
3.			AP	

**I. Summary:**

SB 1686, which may be cited as “Diana’s Law”, replaces the current statutory definition of “developmental disability” with the definition of the term currently used in federal law. Specifically, the bill defines a developmental disability as a severe, chronic disability of an individual that:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the individual attains age 22;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in 3 or more of the following areas of major life activity:
  - Self-care.
  - Receptive and expressive language.
  - Learning.
  - Mobility.
  - Self-direction.
  - Capacity for independent living.
  - Economic self-sufficiency; and
- Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

The bill also provides that an individual from birth to age 9 who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the above criteria if the individual, without services and supports, has a high probability of meeting such criteria later in life.



The bill may have an indeterminate, negative fiscal impact on the Agency for Person with Disabilities (the APD) by widening the pool of individuals eligible for Medicaid waiver services. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

### Agency for Persons with Disabilities

The APD is responsible for the provision of services to individuals with developmental disabilities<sup>1</sup> and for administering the Home and Community-Based Services (HCBS) Waiver.<sup>2</sup> Florida has procured waivers of federal Medicaid requirements for the purpose of providing home and community-based services to individuals at risk of institutionalization.<sup>3</sup> The HCBS Waiver provides services to individuals with developmental disabilities that allow them to continue to live in their home or home-like setting and avoid institutionalization.<sup>4</sup> Eligible individuals must meet institutional level of care requirements.<sup>5</sup> The overarching goal for the APD is to prevent or reduce the severity of a developmental disability and implement community-based services that will help individuals with developmental disabilities achieve their greatest potential for independent and productive living in the least restrictive means.<sup>6</sup>

### iBudget Florida Program

The APD administers Florida's individual budget-based HCBS waiver, known as iBudget Florida, for individuals with specified developmental disabilities who meet Medicaid eligibility requirements. These individuals may choose to receive services in the community through iBudget Florida; alternatively, they may choose to live in an institutional setting known as an Intermediate Care Facility for the Developmentally Disabled (ICF/DD)<sup>7</sup> through traditional Medicaid administered by the Agency for Health Care Administration (AHCA).<sup>8</sup>

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<sup>1</sup> Section 393.063(12), F.S., defines "developmental disability" to mean "a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."

<sup>2</sup> See s. 20.197(3), F.S.

<sup>3</sup> Rule 59G-13.080(1), F.A.C.

<sup>4</sup> The Centers for Medicare and Medicaid Services, *Home and Community-Based Services 1915(c)*, available at <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited March 14, 2021).

<sup>5</sup> *Id.*; Rule 59G-13.080(1), F.A.C.

<sup>6</sup> See s. 393.062, F.S.

<sup>7</sup> Section 393.063(25), F.S., defines "intermediate care facility for the developmentally disabled" to mean "a residential facility licensed and certified under part VIII of chapter 400."

<sup>8</sup> Section 393.0662, F.S.

The APD initiated implementation of iBudget Florida on May 1, 2011<sup>9</sup> with the final areas transitioned from the previous tiered waiver system on July 1, 2013.<sup>10</sup> The iBudget Florida program uses an algorithm, or formula, to set individuals' funding allocations for waiver services.<sup>11</sup> The APD administers iBudget Florida pursuant to s. 393.0662, F.S.

The APD serves just over 35,100 individuals through iBudget Florida,<sup>12</sup> contracting with service providers to offer 27 supports and services to assist individuals to live in their community.<sup>13</sup> Examples of waiver services enabling children and adults to live, learn, and work in their communities include residential habilitation, behavioral services, personal supports, adult day training, employment services, and occupational and physical therapy.<sup>14</sup>

### ***Eligibility for iBudget Services***

The application process for individuals wishing to receive services through the iBudget program are detailed in s. 393.065, F.S. The APD must review applications for eligibility within 45 days for children under 6 years of age and within 60 days for all other applicants.<sup>15</sup> Individuals who are determined to be eligible for the waiver program are either given a slot in the program or placed on a wait list. Currently, due to demand exceeding available funding, individuals with developmental disabilities who wish to receive HCBS services from the APD are placed on a wait list for services in priority categories of need, unless they are in crisis.<sup>16</sup> As of February 2021, approximately 22,700 individuals were on the HCBS Waiver wait list.<sup>17</sup>

The needs of the APD clients are classified into seven categories<sup>18</sup> and are prioritized in the following decreasing order of priority:

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Specified children from the child welfare system.<sup>19</sup>
- Category 3 – Includes, but is not limited to, clients:
  - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
  - Who are at substantial risk of incarceration or court commitment without supports;
  - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

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<sup>9</sup> The APD, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: Second Quarter Fiscal Year 2020-21*, at p. 2, February 1, 2021 (on file with the Senate Children, Families, and Elder Affairs Committee) (hereinafter cited as "The Quarterly Report").

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

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

<sup>15</sup> Section 393.065(1), F.S.

<sup>16</sup> Section 393.065, F.S.; *See* Rule 65G-1.047, F.A.C. for crisis status criteria.

<sup>17</sup> The Quarterly Report at p. 2.

<sup>18</sup> Section 393.065(5), F.S.

<sup>19</sup> *See* s. 393.065(5)(b), F.S., for specific criteria.

- Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
- Category 4 – Includes, but not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available;
- Category 5 – Includes, but not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.<sup>20</sup>

## **Definition of Developmental Disability**

### ***Florida Definition***

The Legislature added “developmental disability” to the Florida Statutes in 1977,<sup>21</sup> defining the term to mean a disorder or syndrome attributable to, among other things, cerebral palsy, autism, or epilepsy, originating prior to age 18 and which constitutes a substantial handicap that can reasonably be expected to continue indefinitely.<sup>22</sup>

Currently, s. 393.063(12), F.S., defines “developmental disability” to mean “[A] disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermind syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”

### ***Federal Definition***

Federal law has encompassed a series of legislative definitions of developmental disabilities which have changed over time.<sup>23</sup> The term is currently defined to mean “a severe, chronic disability of an individual that:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the individual attains age 22;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in 3 or more of the following areas of major life activity:
  - Self-care.
  - Receptive and expressive language.
  - Learning.

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<sup>20</sup> Section 393.065(5), F.S.

<sup>21</sup> Ch. 77-335, L.O.F.

<sup>22</sup> *Id.*

<sup>23</sup> The Florida Developmental Disabilities Council (FDDC), *First Steps: A Guide to Your Child's Development*, at p. 26, available at <https://www.fddc.org/sites/default/files/First%20Steps%20Guide%20English%20Print%20%28final%29.pdf> (last visited March 14, 2021).

- Mobility.
- Self-direction.
- Capacity for independent living.
- Economic self-sufficiency; and
- Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.”<sup>24</sup>

The federal definition encompasses those conditions enumerated in Florida law as well as other disabilities that are apparent during childhood.<sup>25</sup>

### III. Effect of Proposed Changes:

The bill provides that the act may be cited as “Diana’s Law”.

The bill amends s. 393.063, F.S., modifying the definition of “developmental disability” to mean “a severe, chronic disability of an individual that:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the individual attains age 22;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in 3 or more of the following areas of major life activity:
  - Self-care.
  - Receptive and expressive language.
  - Learning.
  - Mobility.
  - Self-direction.
  - Capacity for independent living.
  - Economic self-sufficiency; and
- Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.”

The bill clarifies eligibility under these criteria by adding that “an individual from birth to age 9 who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the above criteria if the individual, without services and supports, has a high probability of meeting such criteria later in life.”

The bill is effective July 1, 2021.

<sup>24</sup> 42 USC 15002 § 102 (8).

<sup>25</sup> The FDDC, *Section 2: Launching a Postsecondary Career and Technical Education Program for Students with an Intellectual and Developmental Disability in Florida’s Technical College System: Program Developers Guide*, at p. 48, 2020, available at [https://fcsua.org/docs/Project%20TOPS%20Replication%20Guide/ProjectTOPS\\_Section2-WEB.pdf](https://fcsua.org/docs/Project%20TOPS%20Replication%20Guide/ProjectTOPS_Section2-WEB.pdf) (last visited March 14, 2021).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The APD states that the fiscal impact of SB 532 of the 2020 Regular Session (substantively identical to SB 1686) to the private sector is unknown.<sup>26</sup>

## C. Government Sector Impact:

The bill is likely to have an indeterminate, negative fiscal impact on state government as the revised definition of “developmental disability” broadens the potential population of enrollees eligible for services from the APD. The APD states that the extent of the fiscal impact of the change is unknown as the additional number of clients eligible for services is not currently known.<sup>27</sup> The APD would also need to modify existing technology systems to capture additional diagnoses under the revised definition.<sup>28</sup>

**VI. Technical Deficiencies:**

None.

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<sup>26</sup> The APD, *Agency Analysis of SB 532 (2020)*, p. 4, November 21, 2019 (On file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>27</sup> *Id.* at p. 3.

<sup>28</sup> *Id.* at p. 4.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 393.063 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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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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By Senator Diaz

36-01323B-21

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1                   A bill to be entitled  
2       An act relating to human trafficking; creating s.  
3       90.5034, F.S.; defining terms; providing the  
4       circumstances under which certain communications are  
5       confidential; creating a human trafficking victim  
6       advocate-victim privilege; specifying who may claim  
7       such privilege; providing training requirements for  
8       human trafficking victim advocates and trained  
9       volunteers; amending s. 787.06, F.S.; revising the  
10      definitions of the terms "human trafficking" and  
11      "obtain"; prohibiting a person from engaging in  
12      specified criminal acts relating to human trafficking  
13      with another person believed to be a child younger  
14      than 18 years of age; providing criminal penalties;  
15      reenacting ss. 39.01305(3), 464.013(3)(c),  
16      775.21(4)(a), 943.0435(1)(h), 943.0583(1)(a), and  
17      944.606(1)(f), F.S., relating to appointment of an  
18      attorney for a dependent child with certain special  
19      needs, renewal of license or certificate, the Florida  
20      Sexual Predators Act, sexual offenders required to  
21      register with the department and penalties, human  
22      trafficking victim expunction, and sexual offenders  
23      and notification upon release, respectively, to  
24      incorporate the amendment made to s. 787.06, F.S., in  
25      references thereto; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29       Section 1. Section 90.5034, Florida Statutes, is created to

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30 read:

31 90.5034 Human trafficking victim advocate-victim  
32 privilege.-

33 (1) For purposes of this section:

34 (a) An "anti-trafficking organization" is any public or  
35 private agency that offers assistance to victims of human  
36 trafficking as defined in s. 787.06.

37 (b) A "human trafficking victim advocate" is any employee  
38 of an anti-trafficking organization whose primary purpose is the  
39 provision of advice, counseling, or services to victims of human  
40 trafficking and who complies with the training requirements  
41 under subsection (4).

42 (c) A "trained volunteer" is a person who volunteers with  
43 an anti-trafficking organization and who complies with the  
44 training requirements under subsection (4).

45 (d) A "victim" is a person who consults a human trafficking  
46 victim advocate or a trained volunteer for the purpose of  
47 securing advice, counseling, or services concerning any need  
48 arising from an experience relating to being a victim of human  
49 trafficking.

50 (e) A communication between a human trafficking victim  
51 advocate or trained volunteer and a victim is "confidential" if  
52 it is not intended to be disclosed to third persons other than:

53 1. Those persons present to further the interest of the  
54 victim in the consultation, examination, or interview.

55 2. Those persons necessary for the transmission of the  
56 communication.

57 3. Those persons to whom disclosure is reasonably necessary  
58 to accomplish the purposes for which the human trafficking



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59 victim advocate or trained volunteer is consulted.

60 (2) A victim has a privilege to refuse to disclose, and to  
61 prevent any other person from disclosing, a confidential  
62 communication made by the victim to a human trafficking victim  
63 advocate or trained volunteer or any record made in the course  
64 of advising, counseling, or providing services to the victim.  
65 Such confidential communication or record may be disclosed only  
66 with the prior written consent of the victim. This privilege  
67 includes any advice given by the human trafficking victim  
68 advocate or trained volunteer in the course of that  
69 relationship.

70 (3) The privilege under subsection (2) may be claimed by:

71 (a) The victim or the victim's attorney on his or her  
72 behalf.

73 (b) A guardian or conservator of the victim.

74 (c) The personal representative of a deceased victim.

75 (d) The human trafficking victim advocate or trained  
76 volunteer, but only if claiming such privilege on behalf of the  
77 victim. The authority of a human trafficking victim advocate or  
78 trained volunteer to claim the privilege is presumed in the  
79 absence of evidence to the contrary.

80 (4) A human trafficking victim advocate or a trained  
81 volunteer shall:

82 (a) Complete 24 hours of human trafficking training  
83 delivered by the Office of the Attorney General, the Bureau of  
84 Criminal Justice Programs and Victim Services, and the Florida  
85 Crime Prevention Training Institute; and

86 (b) To maintain his or her designation, complete an 8-hour  
87 Human Trafficking Update course within 3 years after the date of

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88 his or her original designation.

89 Section 2. Paragraphs (d) and (g) of subsection (2) and  
90 paragraphs (a), (c), (e), (f), and (g) of subsection (3) of  
91 section 787.06, Florida Statutes, are amended to read:

92 787.06 Human trafficking.—

93 (2) As used in this section, the term:

94 (d) "Human trafficking" means transporting, soliciting,  
95 recruiting, harboring, providing, enticing, maintaining,  
96 purchasing, patronizing, procuring, or obtaining another person  
97 for the purpose of exploitation of that person.

98 (g) "Obtain" means, in relation to labor, commercial sexual  
99 activity, or services, to receive, take possession of, or take  
100 custody of another person or secure performance thereof.

101 (3) Any person who knowingly, or in reckless disregard of  
102 the facts, engages in human trafficking, or attempts to engage  
103 in human trafficking, or benefits financially by receiving  
104 anything of value from participation in a venture that has  
105 subjected a person to human trafficking:

106 (a)1. For labor or services of any child younger than 18  
107 years of ~~under the age~~ or another person believed by the person  
108 to be a child younger than ~~of~~ 18 years of age commits a felony  
109 of the first degree, punishable as provided in s. 775.082, s.  
110 775.083, or s. 775.084.

111 2. Using coercion for labor or services of an adult commits  
112 a felony of the first degree, punishable as provided in s.  
113 775.082, s. 775.083, or s. 775.084.

114 (c)1. For labor or services of any child younger than 18  
115 years of ~~under the age~~ or another person believed by the person  
116 to be a child younger than ~~of~~ 18 years of age who is an

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117 unauthorized alien commits a felony of the first degree,  
118 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

119 2. Using coercion for labor or services of an adult who is  
120 an unauthorized alien commits a felony of the first degree,  
121 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

122 (e)1. For labor or services who does so by the transfer or  
123 transport of any child younger than 18 years of ~~under the age or~~  
124 another person believed by the person to be a child younger than  
125 of 18 years of age from outside this state to within this ~~the~~  
126 state commits a felony of the first degree, punishable as  
127 provided in s. 775.082, s. 775.083, or s. 775.084.

128 2. Using coercion for labor or services who does so by the  
129 transfer or transport of an adult from outside this state to  
130 within this ~~the~~ state commits a felony of the first degree,  
131 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

132 (f)1. For commercial sexual activity who does so by the  
133 transfer or transport of any child younger than 18 years of  
134 ~~under the age or~~ another person believed by the person to be a  
135 child younger than of 18 years of age from outside this state to  
136 within this ~~the~~ state commits a felony of the first degree,  
137 punishable by imprisonment for a term of years not exceeding  
138 life, or as provided in s. 775.082, s. 775.083, or s. 775.084.

139 2. Using coercion for commercial sexual activity who does  
140 so by the transfer or transport of an adult from outside this  
141 state to within this ~~the~~ state commits a felony of the first  
142 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
143 775.084.

144 (g) For commercial sexual activity in which any child  
145 younger than 18 years of ~~under the age or~~ another person

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146 believed by the person to be a child younger than ~~of~~ 18 years of  
147 age, or in which any person who is mentally defective or  
148 mentally incapacitated as those terms are defined in s.  
149 794.011(1), is involved commits a life felony, punishable as  
150 provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

151

152 For each instance of human trafficking of any individual under  
153 this subsection, a separate crime is committed and a separate  
154 punishment is authorized.

155 Section 3. For the purpose of incorporating the amendment  
156 made by this act to section 787.06, Florida Statutes, in a  
157 reference thereto, subsection (3) of section 39.01305, Florida  
158 Statutes, is reenacted to read:

159 39.01305 Appointment of an attorney for a dependent child  
160 with certain special needs.—

161 (3) An attorney shall be appointed for a dependent child  
162 who:

163 (a) Resides in a skilled nursing facility or is being  
164 considered for placement in a skilled nursing home;

165 (b) Is prescribed a psychotropic medication but declines  
166 assent to the psychotropic medication;

167 (c) Has a diagnosis of a developmental disability as  
168 defined in s. 393.063;

169 (d) Is being placed in a residential treatment center or  
170 being considered for placement in a residential treatment  
171 center; or

172 (e) Is a victim of human trafficking as defined in s.  
173 787.06(2)(d).

174 Section 4. For the purpose of incorporating the amendment

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175 made by this act to section 787.06, Florida Statutes, in a  
176 reference thereto, paragraph (c) of subsection (3) of section  
177 464.013, Florida Statutes, is reenacted to read:

178 464.013 Renewal of license or certificate.—

179 (3) The board shall by rule prescribe up to 30 hours of  
180 continuing education biennially as a condition for renewal of a  
181 license or certificate.

182 (c) Notwithstanding the exemption in paragraph (a), as part  
183 of the maximum biennial continuing education hours required  
184 under this subsection, the board shall require each person  
185 licensed or certified under this chapter to complete a 2-hour  
186 continuing education course on human trafficking, as defined in  
187 s. 787.06(2). The continuing education course must consist of  
188 data and information on the types of human trafficking, such as  
189 labor and sex, and the extent of human trafficking; factors that  
190 place a person at greater risk of being a victim of human  
191 trafficking; public and private social services available for  
192 rescue, food, clothing, and shelter referrals; hotlines for  
193 reporting human trafficking which are maintained by the National  
194 Human Trafficking Resource Center and the United States  
195 Department of Homeland Security; validated assessment tools for  
196 identifying a human trafficking victim and general indicators  
197 that a person may be a victim of human trafficking; procedures  
198 for sharing information related to human trafficking with a  
199 patient; and referral options for legal and social services. All  
200 licensees must complete this course for every biennial licensure  
201 renewal on or after January 1, 2019.

202 Section 5. For the purpose of incorporating the amendment  
203 made by this act to section 787.06, Florida Statutes, in a

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204 reference thereto, paragraph (a) of subsection (4) of section  
205 775.21, Florida Statutes, is reenacted to read:

206 775.21 The Florida Sexual Predators Act.—

207 (4) SEXUAL PREDATOR CRITERIA.—

208 (a) For a current offense committed on or after October 1,  
209 1993, upon conviction, an offender shall be designated as a  
210 "sexual predator" under subsection (5), and subject to  
211 registration under subsection (6) and community and public  
212 notification under subsection (7) if:

213 1. The felony is:

214 a. A capital, life, or first degree felony violation, or  
215 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
216 is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a  
217 violation of a similar law of another jurisdiction; or

218 b. Any felony violation, or any attempt thereof, of s.  
219 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
220 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),  
221 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding  
222 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;  
223 s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s.  
224 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if  
225 the court makes a written finding that the racketeering activity  
226 involved at least one sexual offense listed in this sub-  
227 subparagraph or at least one offense listed in this sub-  
228 subparagraph with sexual intent or motive; s. 916.1075(2); or s.  
229 985.701(1); or a violation of a similar law of another  
230 jurisdiction, and the offender has previously been convicted of  
231 or found to have committed, or has pled nolo contendere or  
232 guilty to, regardless of adjudication, any violation of s.

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233 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
234 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),  
235 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding  
236 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;  
237 s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,  
238 excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court  
239 makes a written finding that the racketeering activity involved  
240 at least one sexual offense listed in this sub-subparagraph or  
241 at least one offense listed in this sub-subparagraph with sexual  
242 intent or motive; s. 916.1075(2); or s. 985.701(1); or a  
243 violation of a similar law of another jurisdiction;

244 2. The offender has not received a pardon for any felony or  
245 similar law of another jurisdiction that is necessary for the  
246 operation of this paragraph; and

247 3. A conviction of a felony or similar law of another  
248 jurisdiction necessary to the operation of this paragraph has  
249 not been set aside in any postconviction proceeding.

250 Section 6. For the purpose of incorporating the amendment  
251 made by this act to section 787.06, Florida Statutes, in  
252 references thereto, paragraph (h) of subsection (1) of section  
253 943.0435, Florida Statutes, is reenacted to read:

254 943.0435 Sexual offenders required to register with the  
255 department; penalty.—

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

257 (h)1. "Sexual offender" means a person who meets the  
258 criteria in sub-subparagraph a., sub-subparagraph b., sub-  
259 subparagraph c., or sub-subparagraph d., as follows:

260 a.(I) Has been convicted of committing, or attempting,  
261 soliciting, or conspiring to commit, any of the criminal

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262 offenses proscribed in the following statutes in this state or  
263 similar offenses in another jurisdiction: s. 393.135(2); s.  
264 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
265 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former  
266 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.  
267 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.  
268 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,  
269 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;  
270 s. 895.03, if the court makes a written finding that the  
271 racketeering activity involved at least one sexual offense  
272 listed in this sub-sub-subparagraph or at least one offense  
273 listed in this sub-sub-subparagraph with sexual intent or  
274 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense  
275 committed in this state which has been redesignated from a  
276 former statute number to one of those listed in this sub-sub-  
277 subparagraph; and

278 (II) Has been released on or after October 1, 1997, from  
279 the sanction imposed for any conviction of an offense described  
280 in sub-sub-subparagraph (I). For purposes of sub-sub-  
281 subparagraph (I), a sanction imposed in this state or in any  
282 other jurisdiction includes, but is not limited to, a fine,  
283 probation, community control, parole, conditional release,  
284 control release, or incarceration in a state prison, federal  
285 prison, private correctional facility, or local detention  
286 facility;

287 b. Establishes or maintains a residence in this state and  
288 who has not been designated as a sexual predator by a court of  
289 this state but who has been designated as a sexual predator, as  
290 a sexually violent predator, or by another sexual offender



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291 designation in another state or jurisdiction and was, as a  
292 result of such designation, subjected to registration or  
293 community or public notification, or both, or would be if the  
294 person were a resident of that state or jurisdiction, without  
295 regard to whether the person otherwise meets the criteria for  
296 registration as a sexual offender;

297 c. Establishes or maintains a residence in this state who  
298 is in the custody or control of, or under the supervision of,  
299 any other state or jurisdiction as a result of a conviction for  
300 committing, or attempting, soliciting, or conspiring to commit,  
301 any of the criminal offenses proscribed in the following  
302 statutes or similar offense in another jurisdiction: s.  
303 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
304 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),  
305 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding  
306 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;  
307 s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;  
308 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;  
309 s. 847.0145; s. 895.03, if the court makes a written finding  
310 that the racketeering activity involved at least one sexual  
311 offense listed in this sub-subparagraph or at least one offense  
312 listed in this sub-subparagraph with sexual intent or motive; s.  
313 916.1075(2); or s. 985.701(1); or any similar offense committed  
314 in this state which has been redesignated from a former statute  
315 number to one of those listed in this sub-subparagraph; or

316 d. On or after July 1, 2007, has been adjudicated  
317 delinquent for committing, or attempting, soliciting, or  
318 conspiring to commit, any of the criminal offenses proscribed in  
319 the following statutes in this state or similar offenses in

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320 another jurisdiction when the juvenile was 14 years of age or  
321 older at the time of the offense:

322 (I) Section 794.011, excluding s. 794.011(10);

323 (II) Section 800.04(4)(a)2. where the victim is under 12  
324 years of age or where the court finds sexual activity by the use  
325 of force or coercion;

326 (III) Section 800.04(5)(c)1. where the court finds  
327 molestation involving unclothed genitals;

328 (IV) Section 800.04(5)(d) where the court finds the use of  
329 force or coercion and unclothed genitals; or

330 (V) Any similar offense committed in this state which has  
331 been redesignated from a former statute number to one of those  
332 listed in this sub-subparagraph.

333 2. For all qualifying offenses listed in sub-subparagraph  
334 1.d., the court shall make a written finding of the age of the  
335 offender at the time of the offense.

336

337 For each violation of a qualifying offense listed in this  
338 subsection, except for a violation of s. 794.011, the court  
339 shall make a written finding of the age of the victim at the  
340 time of the offense. For a violation of s. 800.04(4), the court  
341 shall also make a written finding indicating whether the offense  
342 involved sexual activity and indicating whether the offense  
343 involved force or coercion. For a violation of s. 800.04(5), the  
344 court shall also make a written finding that the offense did or  
345 did not involve unclothed genitals or genital area and that the  
346 offense did or did not involve the use of force or coercion.

347 Section 7. For the purpose of incorporating the amendment  
348 made by this act to section 787.06, Florida Statutes, in a

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349 reference thereto, paragraph (a) of subsection (1) of section  
350 943.0583, Florida Statutes, is reenacted to read:

351 943.0583 Human trafficking victim expunction.—

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

353 (a) "Human trafficking" has the same meaning as provided in  
354 s. 787.06.

355 Section 8. For the purpose of incorporating the amendment  
356 made by this act to section 787.06, Florida Statutes, in a  
357 reference thereto, paragraph (f) of subsection (1) of section  
358 944.606, Florida Statutes, is reenacted to read:

359 944.606 Sexual offenders; notification upon release.—

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

361 (f) "Sexual offender" means a person who has been convicted  
362 of committing, or attempting, soliciting, or conspiring to  
363 commit, any of the criminal offenses proscribed in the following  
364 statutes in this state or similar offenses in another  
365 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.  
366 787.02, or s. 787.025(2)(c), where the victim is a minor; s.  
367 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.  
368 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;  
369 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.  
370 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.  
371 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court  
372 makes a written finding that the racketeering activity involved  
373 at least one sexual offense listed in this paragraph or at least  
374 one offense listed in this paragraph with sexual intent or  
375 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense  
376 committed in this state which has been redesignated from a  
377 former statute number to one of those listed in this subsection,

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378 when the department has received verified information regarding  
379 such conviction; an offender's computerized criminal history  
380 record is not, in and of itself, verified information.

381 Section 9. This act shall take effect July 1, 2021.

### The Florida Senate **COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1826  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Brodeur						
X		Garcia						
X		Harrell						
X		Rouson						
X		Torres						
X		Wright						
X		Albritton, VICE CHAIR						
X		Book, CHAIR						
8	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

**CODES:** FAV=Favorable    RCS=Replaced by Committee Substitute    TP=Temporarily Postponed    WD=Withdrawn  
UNF=Unfavorable    RE=Replaced by Engrossed Amendment    VA=Vote After Roll Call    OO=Out of Order  
-R=Reconsidered    RS=Replaced by Substitute Amendment    VC=Vote Change After Roll Call    AV=Abstain from Voting

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/2021

*Meeting Date*

1826

*Bill Number (if applicable)*

Topic Human Trafficking

*Amendment Barcode (if applicable)*

Name Daniel Olson

Job Title Director of Government Relations

Address 400 S. Monroe St

*Street*

Phone \_\_\_\_\_

Tallahassee

FL

32399

Email \_\_\_\_\_

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Office of the Attorney General

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/16/2021

Meeting Date

1826

Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name John Guard

Job Title Chief Deputy Attorney General

Address 400 S. Monroe St

Street

Phone

Tallahassee

FL

32399

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Office of the Attorney General

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 1826

INTRODUCER: Senator Diaz

SUBJECT: Human Trafficking

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u><b>Favorable</b></u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>RC</u>	_____

**I. Summary:**

SB 1826 expands the definition and scope of human trafficking offenses, and establishes that communication between a human trafficking victim advocate and a victim is privileged.

The bill amends the definitions of “human trafficking” and “obtain,” and expands criminal offenses against a child under 18 to include circumstances where a person who is over 18 years of age is believed to be younger than 18 years of age by the perpetrator.

The bill creates a new section which establishes that communication by a victim to a human trafficking victim advocate or trained volunteer or any record made in the course of advising, counseling, or providing services to the victim is privileged. The terms anti-trafficking victim advocate, human trafficking victim advocate, trained volunteer, and victim are defined. Provisions are made for when communication is “confidential”, when the privileged information may be disclosed, and when the privilege may be claimed. The bill also provides training requirements for human trafficking victim advocates and trained volunteers.

Several sections are reenacted due to the amended definition of human trafficking.

To the extent that the amended definition of human trafficking in the bill results in persons being convicted and sentenced to imprisonment for this first degree felony offense, the bill may result in a positive indeterminate prison bed impact (i.e. an unquantifiable increase of prison beds). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.



## II. Present Situation:

### Human Trafficking

Human trafficking is a form of modern-day slavery.<sup>1</sup> Human trafficking victims are young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.<sup>2</sup> Many human trafficking victims are induced with false promises of financial or emotional security, but are forced or coerced into commercial sex, domestic servitude, or other types of forced labor.<sup>3</sup> Any minor who is younger than 18 years old and who is induced to perform a commercial sex act is a human trafficking victim even if there is no forced fraud or coercion.<sup>4</sup> Increasingly, criminal organizations, such as gangs, are enticing local school children into commercial sexual exploitation or trafficking.<sup>5</sup> The average ages of youth who are trafficked are 11-13 years old.<sup>6</sup>

Congress passed the Victims of Trafficking and Violence Protection Act (Act) of 2000 to combat human trafficking by establishing several methods of prosecuting traffickers, preventing trafficking, and protecting victims.<sup>7</sup> The Act contains severe penalties and mandates restitution for victims of human trafficking.<sup>8</sup>

The U.S. Department of Justice reports that every two minutes a child is trafficked for the purpose of sexual exploitation in the United States.<sup>9</sup> Approximately 24.9 million people are human trafficking victims in the world.<sup>10</sup> There are approximately 2.5 million victims of human trafficking in the United States.<sup>11</sup> The U.S. National Human Trafficking Hotline (NHTH) has received 276,654 reports of human trafficking between 2007 and 2019.<sup>12</sup>

The number of human trafficking cases listed in reports may not accurately reflect the number of actual cases of human trafficking because many traffickers are prosecuted for other crimes.<sup>13</sup> Additionally, prosecutors often have difficulty proving the relationship at issue is one of human trafficking or a victim may be unwilling to testify against his or her trafficker in court.<sup>14</sup>

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<sup>1</sup> Section 787.06(1)(a), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> The Department of Education (the DOE), *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited March 15, 2021) (hereinafter cited as “DOE Human Trafficking”).

<sup>4</sup> *Id.*

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

<sup>6</sup> The DOE, Presentation to the State Board of Education, *Child Trafficking Prevention Education*, p. 3, September 20, 2019, available at <http://www.fldoe.org/core/fileparse.php/5575/urlt/ChildTraffickingPres.pdf> (last visited March 15, 2021) (hereinafter cited as “DOE Trafficking Prevention”).

<sup>7</sup> Pub. L. No. 106-386 (2000).

<sup>8</sup> *Id.*

<sup>9</sup> DOE Human Trafficking.

<sup>10</sup> National Human Trafficking Hotline, *What is Human Trafficking?*, available at <http://www.nhth.org/what-is-human-trafficking/> (last visited March 15, 2021).

<sup>11</sup> DOE Human Trafficking.

<sup>12</sup> NHTH, *Hotline Statistics*, available at <https://humantraffickinghotline.org/states> (last visited March 15, 2021).

<sup>13</sup> Nada Hassanein, *Preying on the vulnerable: Human trafficking prevalent yet elusive in the Big Bend*, Tallahassee Democrat, June 27, 2018, available at <https://www.tallahassee.com/story/news/2019/01/27/preying-vulnerable-human-trafficking-alive-and-well-big-bend/2648630002/> (last visited March 15, 2021).

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

### ***Human Trafficking in Florida***

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,<sup>15</sup> or obtaining<sup>16</sup> another person for the purpose of exploitation of that person.<sup>17</sup> In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking commits the crime.<sup>18</sup> Florida law sets out several circumstances which give rise to specified penalties including, in part:

- Labor<sup>19</sup> or services<sup>20</sup> of any child under the age of 18 commits a first degree felony;<sup>21</sup>
- Labor or services of any child under the age of 18 who is an unauthorized alien<sup>22</sup> commits a first degree felony;<sup>23</sup>
- Labor or services who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;
- Commercial sexual activity<sup>24</sup> who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;<sup>25</sup> or
- Commercial sexual activity<sup>26</sup> in which any child under the age of 18, or in which any person who is mentally defective<sup>27</sup> or mentally incapacitated<sup>28</sup> is involved commits a life felony.<sup>29</sup>

<sup>15</sup> Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

<sup>16</sup> Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor or services, to secure performance thereof.

<sup>17</sup> Section 787.06(2)(d), F.S.

<sup>18</sup> Section 787.06(3), F.S.

<sup>19</sup> Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

<sup>20</sup> Section 787.06(2)(h), F.S., provides “services” means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

<sup>21</sup> Section 787.06(3)(a)1., F.S. A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

<sup>22</sup> Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

<sup>23</sup> Section 787.06(3)(c)1., F.S.

<sup>24</sup> Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines “sexual explicit performance” as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

<sup>25</sup> Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

<sup>26</sup> Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines “sexual explicit performance” as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

<sup>27</sup> Section 794.011(1)(b), F.S., defines “mentally defective” as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

<sup>28</sup> Section 794.011(1)(c), F.S., defines “mental incapacitated” as temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

<sup>29</sup> A life felony is punishable by a term of life imprisonment, \$15,000 fine, or both as provided in s. 775.082(3)(a)6., F.S., s. 775.083, F.S., or s. 775.084, F.S.

The above-mentioned first degree felonies are reclassified as a life felony if a person causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense.<sup>30</sup> Ignorance of the victim's age, the victim's misrepresentation of his or her age, or a bona fide belief of the victim's age cannot be raised as a defense by a defendant.<sup>31</sup>

Florida is ranked the third highest state of reported human trafficking cases in the United States.<sup>32</sup> In 2018, Florida received 767 reports of human trafficking cases of which 149 were minors.<sup>33</sup> In November 2018, an investigation in Polk County lead to the arrest of 103 people for charges including prostitution and human trafficking.<sup>34</sup> Similarly, in January 2019, a two month-long investigation lead to the arrest of a 36-year-old male in Tallahassee on prostitution and sex trafficking charges involving a 14-year old girl. At the time of his arrest, the male was already facing charges for sex trafficking a child in 2014.<sup>35</sup>

### **Privileged Communications in the Evidence Code**

The Florida Evidence Code (Code) specifies what types of evidence and testimony are admissible in court.<sup>36</sup> The Code makes certain communications privileged, meaning their disclosure generally cannot be compelled, even in legal proceedings.<sup>37</sup> Privileged communication is an interaction between two parties in which the law recognizes a private, protected relationship.<sup>38</sup>

Typically, such communication only loses its privileged status if the person who made the original disclosure of such information waives the privilege, thus permitting the communication to be subject to general rules of evidence. A person is deemed to have waived the privilege if he or she voluntarily discloses the communication, makes it when he or she does not have a reasonable expectation of privacy, or consents to the disclosure of, any significant part of the communication.<sup>39</sup>

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<sup>30</sup> Section 787.06(8)(b), F.S.

<sup>31</sup> Section 787.06(9), F.S.

<sup>32</sup> DOE Trafficking Prevention at p. 3.

<sup>33</sup> DOE Trafficking Prevention.

<sup>34</sup> Daniel Dahm and Brianna Volz, *Orlando-area doctor among 103 arrested in Polk County sex sting, sheriff says*, ClickOrlando.com, (December 3, 2018), available at <https://www.clickorlando.com/news/103-arrested-in-polk-county-sex-sting> (last visited March 15, 2021).

<sup>35</sup> WTXL, *Human trafficking suspect accused of sex-trafficking child in Tallahassee*, (January 26, 2019), available at [http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article\\_9748879c-21a4-11e9-b768-5bb68f906ecc.html](http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article_9748879c-21a4-11e9-b768-5bb68f906ecc.html) (last visited March 15, 2021).

<sup>36</sup> Chapter 90, F.S.

<sup>37</sup> See ss. 90.5035, 90.5036, and 90.502, F.S.; U.S. Legal, *Privileged Communications Law and Legal Definition*, available at <https://definitions.uslegal.com/p/privileged-communications/> (last visited March 15, 2021).

<sup>38</sup> Will Kenton, Investopedia, *Privileged Communication*, February 21, 2018, available at <https://www.investopedia.com/terms/p/privileged-communication.asp> (last visited March 15, 2021).

<sup>39</sup> Section 90.507, F.S.

Some examples of generally privileged communications include those occurring between a sexual assault counselor and victim<sup>40</sup> and a domestic violence advocate and victim.<sup>41, 42</sup>

### ***Sexual Assault Counselor and Victim***

A victim<sup>43</sup> may refuse to disclose, and prevent anyone else from disclosing, a confidential communication made by the victim to a sexual assault counselor<sup>44</sup> or trained volunteer<sup>45</sup> or any record made in the course of advising, counseling, or assisting the victim.<sup>46</sup> This includes any advice given by the sexual assault counselor or trained volunteer to the victim during the course of their relationship.<sup>47</sup> Communication is “confidential” if it is not intended to be disclosed to third persons other than:

- Persons present to further the interest of the victim in the consultation, examination, or interview;
- Persons necessary for the transmission of the communication; or
- Persons to whom disclosure is reasonably necessary to accomplish the purposes for which the sexual assault counselor or the trained volunteer is consulted.<sup>48</sup>

Communication and records which are confidential as provided for under this section may only be disclosed with prior written consent of the victim.<sup>49</sup> The privilege may be claimed by:

- The victim or the victim’s attorney on his or her behalf;
- A guardian or conservator of the victim;
- The personal representative of a deceased victim;
- The sexual assault counselor or trained volunteer, but only on behalf of the victim.<sup>50</sup>

A sexual assault counselor’s or trained volunteer’s authority to claim the privilege is presumed unless there is evidence to the contrary.<sup>51</sup>

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<sup>40</sup> Section 90.5035, F.S.

<sup>41</sup> Section 90.5036, F.S.

<sup>42</sup> Florida law provides for privileged communication amongst several other groups of individuals, including journalists under s. 90.5015, F.S., lawyer and client under s. 90.502, F.S., fiduciary lawyer and client under s. 90.5021, F.S., psychotherapist and patient under s. 90.503, F.S., husband and wife under s. 90.504, F.S., clergy under s. 90.505, F.S., accountant and client under s. 90.5055, F.S., and trade secrets under s. 90.506, F.S.

<sup>43</sup> Section 90.5035(1)(d), F.S., defines “victim” as a person who consults a sexual assault counselor or a trained volunteer for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault or sexual battery, an alleged sexual assault or sexual battery, or an attempted sexual assault or sexual battery.

<sup>44</sup> Section 90.5035(1)(b), F.S., defines “sexual assault counselor” as any employee of a rape crisis center whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault or sexual battery. Section 90.5035(1)(a), F.S., defines “rape crisis center” as any public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.

<sup>45</sup> Section 90.5035(1)(c), F.S., defines “trained volunteer” as a person who volunteers at a rape crises center, has completed 30 hours of training in assisting victims of sexual violence and related topics provided by the rape crisis center, is supervised by members of the staff of the rape crisis center, and is included on a list of volunteers that is maintained by the rape crisis center.

<sup>46</sup> Section 90.5035(2), F.S.

<sup>47</sup> *Id.*

<sup>48</sup> Section 90.5035(1)(e), F.S.

<sup>49</sup> *Id.*

<sup>50</sup> Section 90.5035(3), F.S.

<sup>51</sup> Section 90.5035(3)(d), F.S.

### ***Domestic Violence Advocate and Victim***

Similar to communication with a sexual abuse counselor, a victim<sup>52</sup> may refuse to disclose, and prevent anyone else from disclosing, a confidential communication made by the victim to a domestic violence advocate<sup>53</sup> or any record made in the course of advising, counseling, or assisting the victim.<sup>54</sup> This privilege applies only if the advocate is registered under s. 39.905, F.S., at the time the communication is made, and includes any advice given by the domestic violence advocate to the victim during the course of their relationship.<sup>55</sup> Communication is “confidential” if it relates to the incident of domestic violence for which assistance is sought and if it is not intended to be disclosed to third persons other than:

- Persons present to further the interest of the victim in the consultation, assessment, or interview; or
- Persons to whom disclosure is reasonably necessary to accomplish the purpose for which the domestic violence advocate is consulted.<sup>56</sup>

The privilege may be claimed by:

- The victim or the victim’s attorney on behalf of the victim;
- A guardian or conservator of the victim;
- The personal representative of a deceased victim;
- The domestic violence advocate, but only on behalf of the victim.<sup>57</sup>

A domestic violence advocate’s authority to claim the privilege is presumed unless there is evidence to the contrary.<sup>58</sup>

### **III. Effect of Proposed Changes:**

#### ***Human Trafficking***

The bill amends the definition of “human trafficking” to include purchasing, patronizing, or procuring another person for the purpose of exploitation of that person. The definition of “obtain” is also amended to mean, in relation to labor, *commercial sexual activity*, or services, to *receive, take possession of, or take custody of another person or secure performance thereof*.

All of the first degree felony or life felony offenses of human trafficking described above committed against a child under the age of 18 are expanded to include if the person committing the offense of human trafficking believed the person he or she trafficked is a child younger than 18 years of age.

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<sup>52</sup> Section 90.5036(1)(c), F.S., defines “victim” as a person who consults a domestic violence advocate for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by an act of domestic violence, an alleged act of domestic violence, or an attempted act of domestic violence.

<sup>53</sup> Section 90.5036(1)(b), F.S., defines “domestic violence advocate” as any employee or volunteer who has 30 hours of training in assisting victims of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to victims of domestic violence.

<sup>54</sup> Section 90.5036(2), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Section 90.5036(1)(d), F.S.

<sup>57</sup> Section 90.5036(3), F.S.

<sup>58</sup> Section 90.5036(3)(d), F.S.

### *Privilege*

The bill also creates s. 90.5034, F.S., to establish a communication privilege between human trafficking victim advocates and victims similar to the sexual assault counselor-victim privilege and the domestic violence advocate-victim privilege described above. The bill provides a number of definitions, including:

- An “anti-trafficking organization”, which is defined as any public or private agency that offers assistance to victims of human trafficking as defined in s. 787.06, F.S.
- A “human trafficking advocate”, which is defined as any employee of an anti-trafficking organization whose primary purpose is the provision of advice, counseling, or services to victims of human trafficking and who complies with the training requirements.
- A “trained volunteer”, which is defined as a person who volunteers with an anti-trafficking organization and who complies with the training requirements provision of the bill.
- A “victim”, which is defined as a person who consults a human trafficking victim advocate or a trained volunteer for the purpose of securing advice, counseling, or services concerning any need arising from an experience relating to being a victim of human trafficking.

A victim may refuse to disclose, and prevent any other person from disclosing, a confidential communication made by the victim to a human trafficking victim advocate or trained volunteer or any record made in the course of advising, counseling, or providing services to the victim. This includes any advice given by the human trafficking victim advocate or trained volunteer to the victim during the course of their relationship. Communication is “confidential” if it is not intended to be disclosed to third persons other than:

- Persons present to further the interest of the victim in the consultation, examination, or interview;
- Persons necessary for the transmission of the communication; or
- Persons to whom disclosure is reasonably necessary to accomplish the purposes for which the sexual assault counselor or the trained volunteer is consulted.

Communication and records which are confidential as provided for under this new section may only be disclosed with prior written consent of the victim. The privilege may be claimed by:

- The victim or the victim’s attorney on his or her behalf;
- A guardian or conservator of the victim;
- The personal representative of a deceased victim;
- The human trafficking victim advocate or trained volunteer, but only on behalf of the victim.<sup>59</sup>

A human trafficking victim advocate’s or trained volunteer’s authority to claim the privilege is presumed unless there is evidence to the contrary.

A human trafficking victim advocate or a trained volunteer must complete:

- Twenty-four hours of human trafficking training delivered by the Office of the Attorney General, the Bureau of Criminal Justice Programs and Victim Services, and the Florida Crime Prevention Training Institute; and

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<sup>59</sup> Section 90.5035(3), F.S.

- An 8-hour Human Trafficking Update course within 3 years after the date of his or her initial designation in order to maintain his or her designation.

Sections 39.01305(3), 464.013(3)(c), 775.21(4)(a), 943.0435(1)(h), 943.0583(1)(a), and 944.606(1)(f), F.S., are reenacted due to the amended definition of human trafficking.

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

##### **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 Criminal Justice Impact Conference with the Office of Economic and Demographic Research has not yet met and determined the impact of the bill. However, the bill expands certain definitions related to the offense of human trafficking. To the extent that the amended scope of the human trafficking offense in the bill results in persons being

convicted and sentenced to imprisonment, the bill may result in a positive indeterminate prison bed impact (i.e. an unquantifiable increase of prison beds).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 787.06 of the Florida Statutes.

This bill creates section 90.5034 of the Florida Statutes.

This bill reenacts sections 39.01305, 464.013, 775.21, 943.0435, 943.0583, and 944.606 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	.	House
Comm: FAV	.	
03/16/2021	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Present subsections (9) through (87) of section 39.01, Florida Statutes, are redesignated as subsections (10) through (88), respectively, a new subsection (9) is added to that section, and present subsections (10) and (37) are amended, to read:

39.01 Definitions.—When used in this chapter, unless the



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11 context otherwise requires:

12 (9) "Attorney for the child" means an attorney providing  
13 direct representation to the child, which may include the  
14 appointment of the Office of Child Representation, an attorney  
15 provided by an entity contracted through the Office of Child  
16 Representation to provide direct representation, any privately  
17 retained counsel or pro bono counsel, or any other attorney who  
18 represents the child under this chapter.

19 (11)~~(10)~~ "Caregiver" means the parent, legal custodian,  
20 permanent guardian, adult household member, or other person  
21 responsible for a child's welfare as defined in subsection (55)  
22 ~~(54)~~.

23 (38)~~(37)~~ "Institutional child abuse or neglect" means  
24 situations of known or suspected child abuse or neglect in which  
25 the person allegedly perpetrating the child abuse or neglect is  
26 an employee of a public or private school, public or private day  
27 care center, residential home, institution, facility, or agency  
28 or any other person at such institution responsible for the  
29 child's welfare as defined in subsection (55) ~~(54)~~.

30 Section 2. Subsection (13) is added to that section, to  
31 read:

32 39.013 Procedures and jurisdiction; right to counsel.-

33 (13) The court shall appoint an attorney for the child  
34 pursuant to s. 39.831.

35 Section 3. Present subsections (6) through (9) are  
36 redesignated as subsections (5) through (8), respectively, and  
37 subsections (4) and (5) of section 39.01305, Florida Statutes,  
38 are amended to read:

39 39.01305 Appointment of an attorney for a dependent child



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40 with certain special needs.-

41 (4) An attorney for the child appointed under this section  
42 shall be made in accordance with s. 39.831. ~~(a) Before a court~~  
43 ~~may appoint an attorney, who may be compensated pursuant to this~~  
44 ~~section, the court must request a recommendation from the~~  
45 ~~Statewide Guardian Ad Litem Office for an attorney who is~~  
46 ~~willing to represent a child without additional compensation. If~~  
47 ~~such an attorney is available within 15 days after the court's~~  
48 ~~request, the court must appoint that attorney. However, the~~  
49 ~~court may appoint a compensated attorney within the 15-day~~  
50 ~~period if the Statewide Guardian Ad Litem Office informs the~~  
51 ~~court that it will not be able to recommend an attorney within~~  
52 ~~that time period.~~

53 ~~(b) After an attorney is appointed, the appointment~~  
54 ~~continues in effect until the attorney is allowed to withdraw or~~  
55 ~~is discharged by the court or until the case is dismissed. An~~  
56 ~~attorney who is appointed under this section to represent the~~  
57 ~~child shall provide the complete range of legal services, from~~  
58 ~~the removal from home or from the initial appointment through~~  
59 ~~all available appellate proceedings. With the permission of the~~  
60 ~~court, the attorney for the dependent child may arrange for~~  
61 ~~supplemental or separate counsel to represent the child in~~  
62 ~~appellate proceedings. A court order appointing an attorney~~  
63 ~~under this section must be in writing.~~

64 ~~(5) Unless the attorney has agreed to provide pro bono~~  
65 ~~services, an appointed attorney or organization must be~~  
66 ~~adequately compensated. All appointed attorneys and~~  
67 ~~organizations, including pro bono attorneys, must be provided~~  
68 ~~with access to funding for expert witnesses, depositions, and~~



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69 ~~other due process costs of litigation. Payment of attorney fees~~  
70 ~~and case-related due process costs are subject to appropriations~~  
71 ~~and review by the Justice Administrative Commission for~~  
72 ~~reasonableness. The Justice Administrative Commission shall~~  
73 ~~contract with attorneys appointed by the court. Attorney fees~~  
74 ~~may not exceed \$1,000 per child per year.~~

75 Section 3. Part XI of chapter 39, Florida Statutes,  
76 entitled "GUARDIANS AD LITEM AND GUARDIAN ADVOCATES," is renamed  
77 "GUARDIANS AD LITEM, GUARDIAN ADVOCATES, AND ATTORNEY FOR THE  
78 CHILD."

79 Section 4. Subsection (3) is added to section 39.820,  
80 Florida Statutes, to read:

81 39.820 Definitions.—As used in this chapter, the term:

82 (3) "Related adoption proceeding" means an adoption  
83 proceeding under chapter 63 which arises from dependency  
84 proceedings under this chapter.

85 Section 5. Section 39.822, Florida Statutes, is amended to  
86 read:

87 39.822 Appointment of guardian ad litem for abused,  
88 abandoned, or neglected child.—

89 (1)(a) Before July 1, 2022, a guardian ad litem must shall  
90 be appointed by the court at the earliest possible time to  
91 represent a the child in any child abuse, abandonment, or  
92 neglect judicial proceeding, whether civil or criminal.

93 (b) On or after July 1, 2022, a guardian ad litem must be  
94 appointed by the court at the earliest possible time to  
95 represent a child under the following circumstances:

96 1. The child is younger than 10 years of age and is the  
97 subject of a dependency proceeding under this chapter or a



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98 related adoption proceeding;

99 2. The child is the subject of a dependency proceeding  
100 under this chapter or a related adoption proceeding and a  
101 criminal proceeding;

102 3. The child is the subject of a termination of parental  
103 rights proceeding under part X; or

104 4. The child is a dependent child as described in s.  
105 39.01305(3).

106 (2) On or after July 1, 2022, the court shall discharge the  
107 guardian ad litem program, if appointed, within 60 days after  
108 such child reaches 10 years of age unless:

109 (a) The child meets a criterion specified in subparagraph  
110 (1)(b)2., 3., or 4.; or

111 (b) The child expresses that he or she wishes to remain  
112 with the guardian ad litem and the court determines that the  
113 expression is voluntary and knowing and that the child is of an  
114 appropriate age and maturity to make such expression.

115 (3) Upon request by a child who is subject to a dependency  
116 proceeding under this chapter or a related adoption proceeding,  
117 who is 10 years of age or older, and who has a guardian ad litem  
118 assigned, or upon any party presenting evidence that there is  
119 reasonable cause to suspect the assigned guardian ad litem has a  
120 conflict of interest as defined in s. 39.8296(2)(b)9., the court  
121 may:

122 (a) Order that a new guardian ad litem be assigned; or

123 (b) Discharge the child's current guardian ad litem and  
124 appoint an attorney for the child if one is not appointed.

125 (4) Any person participating in a civil or criminal  
126 judicial proceeding resulting from such appointment shall be



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127 presumed prima facie to be acting in good faith and in so doing  
128 shall be immune from any liability, civil or criminal, that  
129 otherwise might be incurred or imposed.

130 (5)~~(2)~~ In those cases in which the parents are financially  
131 able, the parent or parents of the child shall reimburse the  
132 court, in part or in whole, for the cost of provision of  
133 guardian ad litem services. Reimbursement to the individual  
134 providing guardian ad litem services may ~~shall~~ not be contingent  
135 upon successful collection by the court from the parent or  
136 parents.

137 (6)~~(3)~~ Upon presentation by a guardian ad litem of a court  
138 order appointing the guardian ad litem:

139 (a) An agency, as defined in chapter 119, shall allow the  
140 guardian ad litem to inspect and copy records related to the  
141 best interests of the child who is the subject of the  
142 appointment, including, but not limited to, records made  
143 confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of  
144 the State Constitution. The guardian ad litem shall maintain the  
145 confidential or exempt status of any records shared by an agency  
146 under this paragraph.

147 (b) A person or organization, other than an agency under  
148 paragraph (a), shall allow the guardian ad litem to inspect and  
149 copy any records related to the best interests of the child who  
150 is the subject of the appointment, including, but not limited  
151 to, confidential records.

152  
153 For the purposes of this subsection, the term "records related  
154 to the best interests of the child" includes, but is not limited  
155 to, medical, mental health, substance abuse, child care,



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156 education, law enforcement, court, social services, and  
157 financial records.

158 (7)~~(4)~~ The guardian ad litem or the program representative  
159 shall review all disposition recommendations and changes in  
160 placements, and must be present at all critical stages of the  
161 dependency proceeding or submit a written report of  
162 recommendations to the court. Written reports must be filed with  
163 the court and served on all parties whose whereabouts are known  
164 at least 72 hours before ~~prior to~~ the hearing.

165 Section 6. Subsection (2) of section 39.8296, Florida  
166 Statutes, is amended to read:

167 39.8296 Statewide Guardian Ad Litem Office; legislative  
168 findings and intent; creation; appointment of executive  
169 director; duties of office.—

170 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a  
171 Statewide Guardian Ad Litem Office within the Justice  
172 Administrative Commission. The Justice Administrative Commission  
173 shall provide administrative support and service to the office  
174 to the extent requested by the executive director within the  
175 available resources of the commission. The Statewide Guardian Ad  
176 Litem Office is not subject to control, supervision, or  
177 direction by the Justice Administrative Commission in the  
178 performance of its duties, but the employees of the office are  
179 governed by the classification plan and salary and benefits plan  
180 approved by the Justice Administrative Commission.

181 (a) The head of the Statewide Guardian Ad Litem Office is  
182 the executive director, who shall be appointed by the Governor  
183 from a list of a minimum of three eligible applicants submitted  
184 by the Child Well-Being a-Guardian-Ad-Litem Qualifications



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185 Committee. The Child Well-Being Guardian Ad Litem Qualifications  
186 Committee shall be composed of five persons, two persons  
187 appointed by the Governor, two persons appointed by the Chief  
188 Justice of the Supreme Court, and one person appointed by the  
189 Statewide Guardian Ad Litem Association. The committee shall  
190 provide for statewide advertisement and the receiving of  
191 applications for the position of executive director. The  
192 Governor shall appoint an executive director from among the  
193 recommendations, or the Governor may reject the nominations and  
194 request the submission of new nominees. The executive director  
195 must have knowledge in dependency law and knowledge of social  
196 service delivery systems available to meet the needs of children  
197 who are abused, neglected, or abandoned. The executive director  
198 shall serve on a full-time basis and shall personally, or  
199 through representatives of the office, carry out the purposes  
200 and functions of the Statewide Guardian Ad Litem Office in  
201 accordance with state and federal law. The executive director  
202 shall report to the Governor. The executive director shall serve  
203 a 3-year term, subject to removal for cause by the Governor. Any  
204 person appointed to serve as the executive director may be  
205 reappointed ~~permitted~~ to serve more than one term in accordance  
206 with the process provided for in this paragraph. Every second or  
207 subsequent appointment shall be for a term of 3 years.

208 (b) The Statewide Guardian Ad Litem Office shall, within  
209 available resources, have oversight responsibilities for and  
210 provide technical assistance to all guardian ad litem and  
211 attorney ad litem programs located within the judicial circuits.

212 1. The office shall identify the resources required to  
213 implement methods of collecting, reporting, and tracking





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214 reliable and consistent case data.

215         2. The office shall review the current guardian ad litem  
216 programs in Florida and other states.

217         3. The office, in consultation with local guardian ad litem  
218 offices, shall develop statewide performance measures and  
219 standards.

220         4. The office shall develop a guardian ad litem training  
221 program, which shall include, but is not limited to, training on  
222 the recognition of and responses to head trauma and brain injury  
223 in a child under 6 years of age. The office shall establish a  
224 curriculum committee to develop the training program specified  
225 in this subparagraph. The curriculum committee shall include,  
226 but not be limited to, dependency judges, directors of circuit  
227 guardian ad litem programs, active certified guardians ad litem,  
228 a mental health professional who specializes in the treatment of  
229 children, a member of a child advocacy group, a representative  
230 of a domestic violence advocacy group, an individual with a  
231 degree in social work, and a social worker experienced in  
232 working with victims and perpetrators of child abuse.

233         5. The office shall review the various methods of funding  
234 guardian ad litem programs, maximize the use of those funding  
235 sources to the extent possible, and review the kinds of services  
236 being provided by circuit guardian ad litem programs.

237         6. The office shall determine the feasibility or  
238 desirability of new concepts of organization, administration,  
239 financing, or service delivery designed to preserve the civil  
240 and constitutional rights and fulfill other needs of dependent  
241 children.

242         7. In an effort to promote normalcy and establish trust



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243 between a court-appointed volunteer guardian ad litem and a  
244 child alleged to be abused, abandoned, or neglected under this  
245 chapter, a guardian ad litem may transport a child. However, a  
246 guardian ad litem volunteer may not be required or directed by  
247 the program or a court to transport a child.

248 8. The office shall submit to the Governor, the President  
249 of the Senate, the Speaker of the House of Representatives, and  
250 the Chief Justice of the Supreme Court an interim report  
251 describing the progress of the office in meeting the goals as  
252 described in this section. The office shall submit to the  
253 Governor, the President of the Senate, the Speaker of the House  
254 of Representatives, and the Chief Justice of the Supreme Court a  
255 proposed plan including alternatives for meeting the state's  
256 guardian ad litem and attorney ad litem needs. This plan may  
257 include recommendations for less than the entire state, may  
258 include a phase-in system, and shall include estimates of the  
259 cost of each of the alternatives. Each year the office shall  
260 provide a status report and provide further recommendations to  
261 address the need for guardian ad litem services and related  
262 issues.

263 9. The office shall develop guidelines to identify any  
264 possible conflicts of interest of a guardian ad litem when he or  
265 she is being considered for assignment to a child's case. The  
266 office must not assign a guardian ad litem for whom a conflict  
267 of interest has been identified to a child's case. For purposes  
268 of this subparagraph, the term "conflicts of interest" means the  
269 guardian ad litem:

270 a. Has a personal relationship that could influence a  
271 recommendation regarding a child whom he or she is serving as a



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272 guardian ad litem;

273 b. Is in a position to derive a personal benefit from his  
274 or her role as a guardian ad litem; or

275 c. Has a particular factor or circumstance, including  
276 personal bias or prejudice against a protected class of the  
277 child or the child's family, that prevents or substantially  
278 impairs his or her ability to fairly and fully discharge the  
279 duties of the guardian ad litem.

280 (c) The Statewide Guardian Ad Litem Office shall identify  
281 any guardian ad litem who is experiencing an issue with his or  
282 her physical or mental health or who appears to present a danger  
283 to any child to whom the guardian ad litem is assigned. As soon  
284 as possible after identification, the office must remove such  
285 guardian ad litem from all assigned cases, terminate his or her  
286 volunteer services with the Guardian Ad Litem Program, and  
287 disclose such action to the appropriate circuit court.

288 Section 7. Section 39.83, Florida Statutes, is created to  
289 read:

290 39.83 Statewide Office of Child Representation;  
291 qualifications, appointment, and duties of executive director  
292 and attorney for the child.—

293 (1) STATEWIDE OFFICE OF CHILD REPRESENTATION.—

294 (a) There is created a Statewide Office of Child  
295 Representation within the Justice Administrative Commission. The  
296 Justice Administrative Commission shall provide administrative  
297 support and services to the statewide office as directed by the  
298 executive director within the available resources of the  
299 commission. The statewide office is not subject to control,  
300 supervision, or direction by the Justice Administrative



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301 Commission in the performance of its duties, but the employees  
302 of the office are governed by the classification plan and salary  
303 and benefits plan approved by the Justice Administrative  
304 Commission.

305 (b) The head of the Statewide Office of Child  
306 Representation is the executive director who must be a member of  
307 The Florida Bar in good standing for at least 5 years and have  
308 knowledge of dependency law and the social service delivery  
309 systems available to meet the needs of children who are abused,  
310 neglected, or abandoned. The executive director shall be  
311 appointed in accordance with the process, and serve in  
312 accordance with the terms and requirements, provided in s.  
313 39.8296(2) (a) for the head of the Statewide Guardian Ad Litem  
314 Office. The appointment for the initial executive director must  
315 be completed by January 1, 2022.

316 (c) The Statewide Office of Child Representation, within  
317 available resources of the Justice Administrative Commission, is  
318 responsible for oversight of, and for providing technical  
319 assistance to, all offices of child representation in this  
320 state. The statewide office:

321 1. Shall identify the resources required to implement  
322 methods of collecting, reporting, and tracking reliable and  
323 consistent case data;

324 2. Shall review and collect information relating to offices  
325 of child representation and other models of attorney  
326 representation of children in other states;

327 3. In consultation with the regional offices of child  
328 representation established under subsection (2), shall develop  
329 statewide performance measures and standards;



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330       4. Shall develop a training program for each attorney for  
331 the child. To that end, the statewide office shall establish a  
332 curriculum committee composed of members including, but not  
333 limited to, a dependency judge, a director of circuit guardian  
334 ad litem programs, an active certified guardian ad litem, a  
335 mental health professional who specializes in the treatment of  
336 children, a member of a child advocacy group, a representative  
337 of a domestic violence advocacy group, an individual with at  
338 least a Master of Social Work degree, and a social worker  
339 experienced in working with victims and perpetrators of child  
340 abuse;

341       5. Shall develop protocols that must be implemented to  
342 assist children who are represented by the Statewide Office of  
343 Child Representation, regional offices, or its contracted local  
344 agencies in meeting eligibility requirements to receive all  
345 available federal funding. This subparagraph may not be  
346 construed to mean that the protocols may interfere with zealous  
347 and effective representation of the children;

348       6. Shall review the various methods of funding the regional  
349 offices, maximize the use of those funding sources to the extent  
350 possible, and review the kinds of services being provided by the  
351 regional offices;

352       7. Shall determine the feasibility or desirability of new  
353 concepts of organization, administration, financing, or service  
354 delivery designed to preserve the civil and constitutional  
355 rights of, and fulfill other needs of, dependent children 10  
356 years of age and older;

357       8. Shall submit to the Governor, the President of the  
358 Senate, the Speaker of the House of Representatives, and the



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359 Chief Justice of the Supreme Court:

360 a. An interim report describing the progress of the  
361 statewide office in meeting the responsibilities described in  
362 this paragraph.

363 b. A proposed plan that includes alternatives for meeting  
364 the representation needs of children in this state. The plan may  
365 include recommendations for implementation in only a portion of  
366 this state or phased-in statewide implementation and must  
367 include an estimate of the cost of each such alternative.

368 c. An annual status report that includes any additional  
369 recommendations for addressing the representation needs of  
370 children in this state and related issues.

371 (d) The department or community-based care lead agency  
372 shall take any steps necessary to obtain all available federal  
373 funding and maintain compliance with eligibility requirements.

374 (e) The office may contract with a local nonprofit agency  
375 to provide direct attorney representation to a child if the  
376 office determines that the contract is the most efficient method  
377 to satisfy its statutory duties and if federal funding has been  
378 approved for this purpose. The office must ensure that  
379 reimbursement of any Title IV-E funds is properly documented.

380 (2) REGIONAL OFFICES OF CHILD REPRESENTATION.—

381 (a) An office of child representation is created within the  
382 area served by each of the five district courts of appeal. The  
383 offices shall commence fulfilling their statutory purpose and  
384 duties on July 1, 2022.

385 (b) Each office of child representation is assigned to the  
386 Justice Administrative Commission for administrative purposes.  
387 The commission shall provide administrative support and service



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388 to the offices within the available resources of the commission.  
389 The offices are not subject to control, supervision, or  
390 direction by the commission in the performance of their duties,  
391 but the employees of the offices are governed by the  
392 classification plan and the salary and benefits plan for the  
393 commission.

394 (3) CHILD REPRESENTATION COUNSEL; DUTIES.—The child  
395 representation counsel shall serve on a full-time basis and may  
396 not engage in the private practice of law while holding office.  
397 Each assistant child representation counsel shall give priority  
398 and preference to his or her duties as assistant child  
399 representation counsel and may not otherwise engage in the  
400 practice of dependency law. However, a part-time child  
401 representation counsel may practice dependency law for private  
402 payment so long as the representation does not result in a legal  
403 or ethical conflict of interest with a case in which the office  
404 of child representation is providing representation.

405 Section 8. Section 39.831, Florida Statutes, is created to  
406 read:

407 39.831 Attorney for the child.—

408 (1) APPOINTMENT.—

409 (a) Attorney for the child:

410 1. Shall be appointed by the court as provided in s.  
411 39.01305(3);

412 2. Shall be appointed by the court for any child who  
413 reaches 10 years of age or older on or after July 1, 2022, and  
414 who is the subject of a dependency proceeding under this chapter  
415 or a related adoption proceeding; or

416 3. May be appointed at the court's discretion upon a



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417 finding that circumstances exist which require the appointment.

418 (b) The court shall appoint the Statewide Office of Child  
419 Representation unless the child is otherwise represented by  
420 counsel.

421 (c) Unless the attorney has agreed to provide pro bono  
422 services, an appointed attorney or organization must be  
423 adequately compensated. All appointed attorneys and  
424 organizations, including pro bono attorneys, must be provided  
425 with access to funding for expert witnesses, depositions, and  
426 other due process costs of litigation. Payment of attorney fees  
427 and case-related due process costs are subject to appropriations  
428 and review by the Justice Administrative Commission for  
429 reasonableness. The Justice Administrative Commission shall  
430 contract with attorneys appointed by the court. Attorney fees  
431 may not exceed \$1,000 per child per year.

432 (d) In cases in which one or both parents are financially  
433 able, the parent or parents, as applicable, of the child shall  
434 reimburse the court, in whole or in part, for the cost of  
435 services provided under this section; however, reimbursement for  
436 services provided by the attorney for the child may not be  
437 contingent upon successful collection by the court of  
438 reimbursement from the parent or parents.

439 (e) Once an attorney for the child is appointed, the  
440 appointment continues in effect until the attorney for the child  
441 is allowed to withdraw or is discharged by the court or until  
442 the case is dismissed. An attorney for the child who is  
443 appointed under this section to represent a child shall provide  
444 all required legal services from the time of the child's removal  
445 from home or of the attorney for the child's initial appointment





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446 through all appellate proceedings. With the permission of the  
447 court, the appointed attorney for the child may arrange for  
448 supplemental or separate counsel to represent the child in  
449 appellate proceedings. A court order appointing an attorney for  
450 the child under this section must be in writing.

451 (2) ACCESS TO RECORDS.—Upon presentation of a court order  
452 appointing an attorney for the child:

453 (a) An agency as defined in chapter 119 must allow the  
454 attorney for the child to inspect and copy records related to  
455 the child who is the subject of the appointment, including, but  
456 not limited to, records made confidential or exempt from s.  
457 119.07(1) or s. 24(a), Art. I of the State Constitution. The  
458 attorney for the child shall maintain the confidential or exempt  
459 status of any records shared by an agency under this paragraph.

460 (b) A person or an organization, other than an agency under  
461 paragraph (a), must allow the attorney for the child to inspect  
462 and copy any records related to the child who is the subject of  
463 the appointment, including, but not limited to, confidential  
464 records.

465  
466 For the purposes of this subsection, the term “records”  
467 includes, but is not limited to, medical, mental health,  
468 substance abuse, child care, education, law enforcement, court,  
469 social services, and financial records.

470 (3) COURT HEARINGS.—The attorney for the child shall review  
471 all disposition recommendations and changes in placements and  
472 file all appropriate motions on behalf of the child at least 72  
473 hours before the hearing.

474 (4) PROCEDURES.—The department shall develop procedures to



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475 request that a court appoint an attorney for the child.

476 (5) RULEMAKING.—The department may adopt rules to implement  
477 this section.

478 Section 9. Subsection (1) of section 28.345, Florida  
479 Statutes, is amended to read:

480 28.345 State access to records; exemption from court-  
481 related fees and charges.—

482 (1) Notwithstanding any other provision of law, the clerk  
483 of the circuit court shall, upon request, provide access to  
484 public records without charge to the state attorney, public  
485 defender, guardian ad litem, public guardian, ~~attorney ad litem,~~  
486 criminal conflict and civil regional counsel, court-appointed  
487 attorney for the child, ~~and private court-appointed counsel paid~~  
488 ~~by the state~~, and to authorized staff acting on their behalf.  
489 The clerk of court may provide the requested public record in an  
490 electronic format in lieu of a paper format if the requesting  
491 entity is capable of accessing such public record  
492 electronically.

493 Section 10. Paragraph (j) of subsection (3) and paragraph  
494 (a) of subsection (10) of section 39.001, Florida Statutes, are  
495 amended to read:

496 39.001 Purposes and intent; personnel standards and  
497 screening.—

498 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of  
499 the Legislature that the children of this state be provided with  
500 the following protections:

501 (j) The ability to contact their guardian ad litem or  
502 attorney for the child ~~attorney ad litem~~, if appointed, by  
503 having that individual's name entered on all orders of the



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504 court.

505 (10) PLAN FOR COMPREHENSIVE APPROACH.—

506 (a) The office shall develop a state plan for the promotion  
507 of adoption, support of adoptive families, and prevention of  
508 abuse, abandonment, and neglect of children. The Department of  
509 Children and Families, the Department of Corrections, the  
510 Department of Education, the Department of Health, the  
511 Department of Juvenile Justice, the Department of Law  
512 Enforcement, and the Agency for Persons with Disabilities shall  
513 participate and fully cooperate in the development of the state  
514 plan at both the state and local levels. Furthermore,  
515 appropriate local agencies and organizations shall be provided  
516 an opportunity to participate in the development of the state  
517 plan at the local level. Appropriate local groups and  
518 organizations shall include, but not be limited to, community  
519 mental health centers; guardian ad litem programs for children  
520 under the circuit court; child representation counsel regional  
521 offices; the school boards of the local school districts; the  
522 Florida local advocacy councils; community-based care lead  
523 agencies; private or public organizations or programs with  
524 recognized expertise in working with child abuse prevention  
525 programs for children and families; private or public  
526 organizations or programs with recognized expertise in working  
527 with children who are sexually abused, physically abused,  
528 emotionally abused, abandoned, or neglected and with expertise  
529 in working with the families of such children; private or public  
530 programs or organizations with expertise in maternal and infant  
531 health care; multidisciplinary Child Protection Teams; child day  
532 care centers; law enforcement agencies; and the circuit courts,



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533 when guardian ad litem programs and attorney for the child are  
534 not available in the local area. The state plan to be provided  
535 to the Legislature and the Governor shall include, as a minimum,  
536 the information required of the various groups in paragraph (b).

537 Section 11. Subsections (2) and (4) of 39.00145, Florida  
538 Statutes, are amended to read:

539 39.00145 Records concerning children.-

540 (2) Notwithstanding any other provision of this chapter,  
541 all records in a child's case record must be made available for  
542 inspection, upon request, to the child who is the subject of the  
543 case record and to the child's caregiver, guardian ad litem, or  
544 attorney for the child ~~attorney~~.

545 (a) A complete and accurate copy of any record in a child's  
546 case record must be provided, upon request and at no cost, to  
547 the child who is the subject of the case record and to the  
548 child's caregiver, guardian ad litem, or attorney.

549 (b) The department shall release the information in a  
550 manner and setting that are appropriate to the age and maturity  
551 of the child and the nature of the information being released,  
552 which may include the release of information in a therapeutic  
553 setting, if appropriate. This paragraph does not deny the child  
554 access to his or her records.

555 (c) If a child or the child's caregiver, guardian ad litem,  
556 or attorney for the child ~~attorney~~ requests access to the  
557 child's case record, any person or entity that fails to provide  
558 any record in the case record under assertion of a claim of  
559 exemption from the public records requirements of chapter 119,  
560 or fails to provide access within a reasonable time, is subject  
561 to sanctions and penalties under s. 119.10.



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562 (d) For the purposes of this subsection, the term  
563 "caregiver" is limited to parents, legal custodians, permanent  
564 guardians, or foster parents; employees of a residential home,  
565 institution, facility, or agency at which the child resides; and  
566 other individuals legally responsible for a child's welfare in a  
567 residential setting.

568 (4) Notwithstanding any other provision of law, all state  
569 and local agencies and programs that provide services to  
570 children or that are responsible for a child's safety, including  
571 the Department of Juvenile Justice, the Department of Health,  
572 the Agency for Health Care Administration, the Agency for  
573 Persons with Disabilities, the Department of Education, the  
574 Department of Revenue, the school districts, the Statewide  
575 Guardian Ad Litem Office, the Statewide Office of Child  
576 Representation, and any provider contracting with such agencies,  
577 may share with each other confidential records or information  
578 that are confidential or exempt from disclosure under chapter  
579 119 if the records or information are reasonably necessary to  
580 ensure access to appropriate services for the child, including  
581 child support enforcement services, or for the safety of the  
582 child. However:

583 (a) Records or information made confidential by federal law  
584 may not be shared.

585 (b) This subsection does not apply to information  
586 concerning clients and records of certified domestic violence  
587 centers, which are confidential under s. 39.908 and privileged  
588 under s. 90.5036.

589 Section 12. Subsections (3) and (4) of section 39.0132,  
590 Florida Statutes, are amended to read:



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591 39.0132 Oaths, records, and confidential information.—

592 (3) The clerk shall keep all court records required by this  
593 chapter separate from other records of the circuit court. All  
594 court records required by this chapter shall not be open to  
595 inspection by the public. All records shall be inspected only  
596 upon order of the court by persons deemed by the court to have a  
597 proper interest therein, except that, subject to the provisions  
598 of s. 63.162, a child, ~~and~~ the parents of the child and their  
599 attorneys, guardian ad litem, attorney for the child, law  
600 enforcement agencies, and the department and its designees shall  
601 always have the right to inspect and copy any official record  
602 pertaining to the child. The Justice Administrative Commission  
603 may inspect court dockets required by this chapter as necessary  
604 to audit compensation of court-appointed attorneys. If the  
605 docket is insufficient for purposes of the audit, the commission  
606 may petition the court for additional documentation as necessary  
607 and appropriate. The court may permit authorized representatives  
608 of recognized organizations compiling statistics for proper  
609 purposes to inspect and make abstracts from official records,  
610 under whatever conditions upon their use and disposition the  
611 court may deem proper, and may punish by contempt proceedings  
612 any violation of those conditions.

613 (4) (a) 1. All information obtained pursuant to this part in  
614 the discharge of official duty by any judge, employee of the  
615 court, authorized agent of the department, correctional  
616 probation officer, or law enforcement agent is confidential and  
617 exempt from s. 119.07(1) and may not be disclosed to anyone  
618 other than the authorized personnel of the court, the department  
619 and its designees, correctional probation officers, law



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620 enforcement agents, guardian ad litem, attorney for the child,  
621 and others entitled under this chapter to receive that  
622 information, except upon order of the court.

623 2.a. The following information held by a guardian ad litem  
624 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
625 I of the State Constitution:

626 (I) Medical, mental health, substance abuse, child care,  
627 education, law enforcement, court, social services, and  
628 financial records.

629 (II) Any other information maintained by a guardian ad  
630 litem which is identified as confidential information under this  
631 chapter.

632 b. Such confidential and exempt information may not be  
633 disclosed to anyone other than the authorized personnel of the  
634 court, the department and its designees, correctional probation  
635 officers, law enforcement agents, guardians ad litem, and others  
636 entitled under this chapter to receive that information, except  
637 upon order of the court.

638 (b) The department shall disclose to the school  
639 superintendent the presence of any child in the care and custody  
640 or under the jurisdiction or supervision of the department who  
641 has a known history of criminal sexual behavior with other  
642 juveniles; is an alleged juvenile sex offender, as defined in s.  
643 39.01; or has pled guilty or nolo contendere to, or has been  
644 found to have committed, a violation of chapter 794, chapter  
645 796, chapter 800, s. 827.071, or s. 847.0133, regardless of  
646 adjudication. Any employee of a district school board who  
647 knowingly and willfully discloses such information to an  
648 unauthorized person commits a misdemeanor of the second degree,



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649 punishable as provided in s. 775.082 or s. 775.083.

650 Section 13. Paragraphs (a) and (b) of subsection (4) of  
651 section 39.0139, Florida Statutes, are amended to read:

652 39.0139 Visitation or other contact; restrictions.—

653 (4) HEARINGS.—A person who meets any of the criteria set  
654 forth in paragraph (3) (a) who seeks to begin or resume contact  
655 with the child victim shall have the right to an evidentiary  
656 hearing to determine whether contact is appropriate.

657 (a) Before ~~Prior to~~ the hearing, the court shall appoint an  
658 attorney for the child ~~an attorney ad litem~~ or a guardian ad  
659 litem, as appropriate, for the child if one has not already been  
660 appointed. Any attorney for the child ~~attorney ad litem~~ or  
661 guardian ad litem appointed shall have special training in the  
662 dynamics of child sexual abuse.

663 (b) At the hearing, the court may receive and rely upon any  
664 relevant and material evidence submitted to the extent of its  
665 probative value, including written and oral reports or  
666 recommendations from the Child Protection Team, the child's  
667 therapist, or the child's guardian ad litem, ~~or the child's~~  
668 ~~attorney ad litem,~~ even if these reports, recommendations, and  
669 evidence may not be admissible under the rules of evidence.

670 Section 14. Paragraphs (k) and (t) of subsection (2) of  
671 section 39.202, Florida Statutes, are amended to read:

672 39.202 Confidentiality of reports and records in cases of  
673 child abuse or neglect.—

674 (2) Except as provided in subsection (4), access to such  
675 records, excluding the name of, or other identifying information  
676 with respect to, the reporter which shall be released only as  
677 provided in subsection (5), shall be granted only to the





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678 following persons, officials, and agencies:

679 (k) Any appropriate official of a Florida advocacy council  
680 investigating a report of known or suspected child abuse,  
681 abandonment, or neglect; the Auditor General or the Office of  
682 Program Policy Analysis and Government Accountability for the  
683 purpose of conducting audits or examinations pursuant to law; or  
684 the child's guardian ad litem or attorney for the child ~~for the~~  
685 ~~child.~~

686 (t) Persons with whom the department is seeking to place  
687 the child or to whom placement has been granted, including  
688 foster parents for whom an approved home study has been  
689 conducted, the designee of a licensed child-caring agency as  
690 defined in s. 39.01(42) ~~s. 39.01(41)~~, an approved relative or  
691 nonrelative with whom a child is placed pursuant to s. 39.402,  
692 preadoptive parents for whom a favorable preliminary adoptive  
693 home study has been conducted, adoptive parents, or an adoption  
694 entity acting on behalf of preadoptive or adoptive parents.

695 Section 15. Subsection (1) of section 39.302, Florida  
696 Statutes, is amended to read:

697 39.302 Protective investigations of institutional child  
698 abuse, abandonment, or neglect.—

699 (1) The department shall conduct a child protective  
700 investigation of each report of institutional child abuse,  
701 abandonment, or neglect. Upon receipt of a report that alleges  
702 that an employee or agent of the department, or any other entity  
703 or person covered by s. 39.01(38) or (55) ~~s. 39.01(37) or (54)~~,  
704 acting in an official capacity, has committed an act of child  
705 abuse, abandonment, or neglect, the department shall initiate a  
706 child protective investigation within the timeframe established



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707 under s. 39.201(5) and notify the appropriate state attorney,  
708 law enforcement agency, and licensing agency, which shall  
709 immediately conduct a joint investigation, unless independent  
710 investigations are more feasible. When conducting investigations  
711 or having face-to-face interviews with the child, investigation  
712 visits shall be unannounced unless it is determined by the  
713 department or its agent that unannounced visits threaten the  
714 safety of the child. If a facility is exempt from licensing, the  
715 department shall inform the owner or operator of the facility of  
716 the report. Each agency conducting a joint investigation is  
717 entitled to full access to the information gathered by the  
718 department in the course of the investigation. A protective  
719 investigation must include an interview with the child's parent  
720 or legal guardian. The department shall make a full written  
721 report to the state attorney within 3 working days after making  
722 the oral report. A criminal investigation shall be coordinated,  
723 whenever possible, with the child protective investigation of  
724 the department. Any interested person who has information  
725 regarding the offenses described in this subsection may forward  
726 a statement to the state attorney as to whether prosecution is  
727 warranted and appropriate. Within 15 days after the completion  
728 of the investigation, the state attorney shall report the  
729 findings to the department and shall include in the report a  
730 determination of whether or not prosecution is justified and  
731 appropriate in view of the circumstances of the specific case.

732 Section 16. Paragraph (c) of subsection (8) and paragraph  
733 (a) of subsection (14) of section 39.402, Florida Statutes, are  
734 amended to read:

735 39.402 Placement in a shelter.—



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736 (8)  
737 (c) At the shelter hearing, the court shall:  
738 1. Appoint a guardian ad litem to represent the best  
739 interest of the child or an attorney for the child to provide  
740 direct representation as provided in part XI, unless the court  
741 finds that such representation is unnecessary;  
742 2. Inform the parents or legal custodians of their right to  
743 counsel to represent them at the shelter hearing and at each  
744 subsequent hearing or proceeding, and the right of the parents  
745 to appointed counsel, pursuant to the procedures set forth in s.  
746 39.013;  
747 3. Give the parents or legal custodians an opportunity to  
748 be heard and to present evidence; and  
749 4. Inquire of those present at the shelter hearing as to  
750 the identity and location of the legal father. In determining  
751 who the legal father of the child may be, the court shall  
752 inquire under oath of those present at the shelter hearing  
753 whether they have any of the following information:  
754 a. Whether the mother of the child was married at the  
755 probable time of conception of the child or at the time of birth  
756 of the child.  
757 b. Whether the mother was cohabiting with a male at the  
758 probable time of conception of the child.  
759 c. Whether the mother has received payments or promises of  
760 support with respect to the child or because of her pregnancy  
761 from a man who claims to be the father.  
762 d. Whether the mother has named any man as the father on  
763 the birth certificate of the child or in connection with  
764 applying for or receiving public assistance.



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765 e. Whether any man has acknowledged or claimed paternity of  
766 the child in a jurisdiction in which the mother resided at the  
767 time of or since conception of the child or in which the child  
768 has resided or resides.

769 f. Whether a man is named on the birth certificate of the  
770 child pursuant to s. 382.013(2).

771 g. Whether a man has been determined by a court order to be  
772 the father of the child.

773 h. Whether a man has been determined to be the father of  
774 the child by the Department of Revenue as provided in s.  
775 409.256.

776 (14) The time limitations in this section do not include:

777 (a) Periods of delay resulting from a continuance granted  
778 at the request or with the consent of the attorney for the child  
779 or the child's counsel or the child's guardian ad litem, if one  
780 has been appointed by the court, or, if the child is of  
781 sufficient capacity to express reasonable consent, at the  
782 request or with the consent of the attorney for the child  
783 ~~child's attorney~~ or the child's guardian ad litem, ~~if one has~~  
784 ~~been appointed by the court,~~ and the child.

785 Section 17. Paragraphs (e) and (f) of subsection (3) and  
786 subsection (6) of section 39.407, Florida Statutes, are amended  
787 to read:

788 39.407 Medical, psychiatric, and psychological examination  
789 and treatment of child; physical, mental, or substance abuse  
790 examination of person with or requesting child custody.—

791 (3)

792 (e)1. If the child's prescribing physician or psychiatric  
793 nurse, as defined in s. 394.455, certifies in the signed medical



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794 report required in paragraph (c) that delay in providing a  
795 prescribed psychotropic medication would more likely than not  
796 cause significant harm to the child, the medication may be  
797 provided in advance of the issuance of a court order. In such  
798 event, the medical report must provide the specific reasons why  
799 the child may experience significant harm and the nature and the  
800 extent of the potential harm. The department must submit a  
801 motion seeking continuation of the medication and the  
802 physician's or psychiatric nurse's medical report to the court,  
803 the child's guardian ad litem or the attorney for the child, and  
804 all other parties within 3 working days after the department  
805 commences providing the medication to the child. The department  
806 shall seek the order at the next regularly scheduled court  
807 hearing required under this chapter, or within 30 days after the  
808 date of the prescription, whichever occurs sooner. If any party  
809 objects to the department's motion, the court shall hold a  
810 hearing within 7 days.

811 2. Psychotropic medications may be administered in advance  
812 of a court order in hospitals, crisis stabilization units, and  
813 in statewide inpatient psychiatric programs. Within 3 working  
814 days after the medication is begun, the department must seek  
815 court authorization as described in paragraph (c).

816 (f)1. The department shall fully inform the court of the  
817 child's medical and behavioral status as part of the social  
818 services report prepared for each judicial review hearing held  
819 for a child for whom psychotropic medication has been prescribed  
820 or provided under this subsection. As a part of the information  
821 provided to the court, the department shall furnish copies of  
822 all pertinent medical records concerning the child which have



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823 been generated since the previous hearing. On its own motion or  
824 on good cause shown by any party, including any guardian ad  
825 litem, or the child attorney, or attorney ad litem who has been  
826 ~~appointed to represent the child or the child's interests,~~ the  
827 court may review the status more frequently than required in  
828 this subsection.

829         2. The court may, in the best interests of the child, order  
830 the department to obtain a medical opinion addressing whether  
831 the continued use of the medication under the circumstances is  
832 safe and medically appropriate.

833         (6) Children who are in the legal custody of the department  
834 may be placed by the department, without prior approval of the  
835 court, in a residential treatment center licensed under s.  
836 394.875 or a hospital licensed under chapter 395 for residential  
837 mental health treatment only pursuant to this section or may be  
838 placed by the court in accordance with an order of involuntary  
839 examination or involuntary placement entered pursuant to s.  
840 394.463 or s. 394.467. All children placed in a residential  
841 treatment program under this subsection must be appointed ~~have~~ a  
842 guardian ad litem and an attorney for the child ~~appointed~~.

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

844         1. "Residential treatment" means placement for observation,  
845 diagnosis, or treatment of an emotional disturbance in a  
846 residential treatment center licensed under s. 394.875 or a  
847 hospital licensed under chapter 395.

848         2. "Least restrictive alternative" means the treatment and  
849 conditions of treatment that, separately and in combination, are  
850 no more intrusive or restrictive of freedom than reasonably  
851 necessary to achieve a substantial therapeutic benefit or to



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852 protect the child or adolescent or others from physical injury.

853         3. "Suitable for residential treatment" or "suitability"  
854 means a determination concerning a child or adolescent with an  
855 emotional disturbance as defined in s. 394.492(5) or a serious  
856 emotional disturbance as defined in s. 394.492(6) that each of  
857 the following criteria is met:

858             a. The child requires residential treatment.

859             b. The child is in need of a residential treatment program  
860 and is expected to benefit from mental health treatment.

861             c. An appropriate, less restrictive alternative to  
862 residential treatment is unavailable.

863             (b) Whenever the department believes that a child in its  
864 legal custody is emotionally disturbed and may need residential  
865 treatment, an examination and suitability assessment must be  
866 conducted by a qualified evaluator who is appointed by the  
867 Agency for Health Care Administration. This suitability  
868 assessment must be completed before the placement of the child  
869 in a residential treatment center for emotionally disturbed  
870 children and adolescents or a hospital. The qualified evaluator  
871 must be a psychiatrist or a psychologist licensed in Florida who  
872 has at least 3 years of experience in the diagnosis and  
873 treatment of serious emotional disturbances in children and  
874 adolescents and who has no actual or perceived conflict of  
875 interest with any inpatient facility or residential treatment  
876 center or program.

877             (c) Before a child is admitted under this subsection, the  
878 child shall be assessed for suitability for residential  
879 treatment by a qualified evaluator who has conducted a personal  
880 examination and assessment of the child and has made written



881 findings that:

882 1. The child appears to have an emotional disturbance  
883 serious enough to require residential treatment and is  
884 reasonably likely to benefit from the treatment.

885 2. The child has been provided with a clinically  
886 appropriate explanation of the nature and purpose of the  
887 treatment.

888 3. All available modalities of treatment less restrictive  
889 than residential treatment have been considered, and a less  
890 restrictive alternative that would offer comparable benefits to  
891 the child is unavailable.

892  
893 A copy of the written findings of the evaluation and suitability  
894 assessment must be provided to the department, to the guardian  
895 ad litem and attorney for the child, and, if the child is a  
896 member of a Medicaid managed care plan, to the plan that is  
897 financially responsible for the child's care in residential  
898 treatment, all of whom must be provided with the opportunity to  
899 discuss the findings with the evaluator.

900 (d) Immediately upon placing a child in a residential  
901 treatment program under this section, the department must notify  
902 the guardian ad litem, the attorney for the child, and the court  
903 having jurisdiction over the child and must provide the guardian  
904 ad litem, the attorney for the child, and the court with a copy  
905 of the assessment by the qualified evaluator.

906 (e) Within 10 days after the admission of a child to a  
907 residential treatment program, the director of the residential  
908 treatment program or the director's designee must ensure that an  
909 individualized plan of treatment has been prepared by the





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910 program and has been explained to the child, to the department,  
911 ~~and~~ to the guardian ad litem, and to the attorney for the child,  
912 and submitted to the department. The child must be involved in  
913 the preparation of the plan to the maximum feasible extent  
914 consistent with his or her ability to understand and  
915 participate, and the guardian ad litem, the attorney for the  
916 child, and the child's foster parents must be involved to the  
917 maximum extent consistent with the child's treatment needs. The  
918 plan must include a preliminary plan for residential treatment  
919 and aftercare upon completion of residential treatment. The plan  
920 must include specific behavioral and emotional goals against  
921 which the success of the residential treatment may be measured.  
922 A copy of the plan must be provided to the child, to the  
923 guardian ad litem, to the attorney for the child, and to the  
924 department.

925 (f) Within 30 days after admission, the residential  
926 treatment program must review the appropriateness and  
927 suitability of the child's placement in the program. The  
928 residential treatment program must determine whether the child  
929 is receiving benefit toward the treatment goals and whether the  
930 child could be treated in a less restrictive treatment program.  
931 The residential treatment program shall prepare a written report  
932 of its findings and submit the report to the guardian ad litem,  
933 to the attorney for the child, and to the department. The  
934 department must submit the report to the court. The report must  
935 include a discharge plan for the child. The residential  
936 treatment program must continue to evaluate the child's  
937 treatment progress every 30 days thereafter and must include its  
938 findings in a written report submitted to the department. The



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939 department may not reimburse a facility until the facility has  
940 submitted every written report that is due.

941 (g)1. The department must submit, at the beginning of each  
942 month, to the court having jurisdiction over the child, a  
943 written report regarding the child's progress toward achieving  
944 the goals specified in the individualized plan of treatment.

945 2. The court must conduct a hearing to review the status of  
946 the child's residential treatment plan no later than 60 days  
947 after the child's admission to the residential treatment  
948 program. An independent review of the child's progress toward  
949 achieving the goals and objectives of the treatment plan must be  
950 completed by a qualified evaluator and submitted to the court  
951 before its 60-day review.

952 3. For any child in residential treatment at the time a  
953 judicial review is held pursuant to s. 39.701, the child's  
954 continued placement in residential treatment must be a subject  
955 of the judicial review.

956 4. If at any time the court determines that the child is  
957 not suitable for continued residential treatment, the court  
958 shall order the department to place the child in the least  
959 restrictive setting that is best suited to meet his or her  
960 needs.

961 (h) After the initial 60-day review, the court must conduct  
962 a review of the child's residential treatment plan every 90  
963 days.

964 (i) The department must adopt rules for implementing  
965 timeframes for the completion of suitability assessments by  
966 qualified evaluators and a procedure that includes timeframes  
967 for completing the 60-day independent review by the qualified



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968 evaluators of the child's progress toward achieving the goals  
969 and objectives of the treatment plan which review must be  
970 submitted to the court. The Agency for Health Care  
971 Administration must adopt rules for the registration of  
972 qualified evaluators, the procedure for selecting the evaluators  
973 to conduct the reviews required under this section, and a  
974 reasonable, cost-efficient fee schedule for qualified  
975 evaluators.

976 Section 18. Subsections (20) and (21) of section 39.4085,  
977 Florida Statutes, are amended to read:

978 39.4085 Legislative findings and declaration of intent for  
979 goals for dependent children.—The Legislature finds and declares  
980 that the design and delivery of child welfare services should be  
981 directed by the principle that the health and safety of children  
982 should be of paramount concern and, therefore, establishes the  
983 following goals for children in shelter or foster care:

984 (20) To have a guardian ad litem appointed to represent,  
985 within reason, their best interests; and, as appropriate, have  
986 an attorney for the child ~~and, where appropriate, an attorney ad~~  
987 ~~litem~~ appointed to represent their legal interests. ~~;~~ The  
988 guardian ad litem and attorney for the child ~~attorney ad litem~~  
989 shall have immediate and unlimited access to the children they  
990 represent.

991 (21) To have all their records available for review by  
992 their guardian ad litem or attorney for the child, as  
993 applicable, ~~and attorney ad litem~~ if they deem such review  
994 necessary.

995  
996 The provisions of this section establish goals and not rights.



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997 Nothing in this section shall be interpreted as requiring the  
998 delivery of any particular service or level of service in excess  
999 of existing appropriations. No person shall have a cause of  
1000 action against the state or any of its subdivisions, agencies,  
1001 contractors, subcontractors, or agents, based upon the adoption  
1002 of or failure to provide adequate funding for the achievement of  
1003 these goals by the Legislature. Nothing herein shall require the  
1004 expenditure of funds to meet the goals established herein except  
1005 funds specifically appropriated for such purpose.

1006 Section 19. Subsections (8), (12), (13), (14), and (17) of  
1007 section 39.502, Florida Statutes, are amended to read:

1008 39.502 Notice, process, and service.—

1009 (8) It is not necessary to the validity of a proceeding  
1010 covered by this part that the parents be present if their  
1011 identity or residence is unknown after a diligent search has  
1012 been made, but in this event the petitioner shall file an  
1013 affidavit of diligent search prepared by the person who made the  
1014 search and inquiry, and the court may appoint a guardian ad  
1015 litem for the child or an attorney for the child, as  
1016 appropriate.

1017 (12) All process and orders issued by the court shall be  
1018 served or executed as other process and orders of the circuit  
1019 court and, in addition, may be served or executed by authorized  
1020 agents of the department or the guardian ad litem or attorney  
1021 for the child, as applicable.

1022 (13) Subpoenas may be served within the state by any person  
1023 over 18 years of age who is not a party to the proceeding and,  
1024 in addition, may be served by authorized agents of the  
1025 department or the guardian ad litem or attorney for the child,



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1026 as applicable.

1027 (14) No fee shall be paid for service of any process or  
1028 other papers by an agent of the department or the guardian ad  
1029 litem or attorney for the child, as applicable. If any process,  
1030 orders, or any other papers are served or executed by any  
1031 sheriff, the sheriff's fees shall be paid by the county.

1032 (17) The parent or legal custodian of the child, the  
1033 attorney for the department, the guardian ad litem or attorney  
1034 for the child, as applicable, the foster or preadoptive parents,  
1035 and all other parties and participants shall be given reasonable  
1036 notice of all proceedings and hearings provided for under this  
1037 part. All foster or preadoptive parents must be provided with at  
1038 least 72 hours' notice, verbally or in writing, of all  
1039 proceedings or hearings relating to children in their care or  
1040 children they are seeking to adopt to ensure the ability to  
1041 provide input to the court.

1042 Section 20. Paragraphs (c) and (e) of subsection (1) of  
1043 section 39.521, Florida Statutes, are amended to read:

1044 39.521 Disposition hearings; powers of disposition.—

1045 (1) A disposition hearing shall be conducted by the court,  
1046 if the court finds that the facts alleged in the petition for  
1047 dependency were proven in the adjudicatory hearing, or if the  
1048 parents or legal custodians have consented to the finding of  
1049 dependency or admitted the allegations in the petition, have  
1050 failed to appear for the arraignment hearing after proper  
1051 notice, or have not been located despite a diligent search  
1052 having been conducted.

1053 (c) When any child is adjudicated by a court to be  
1054 dependent, the court having jurisdiction of the child has the



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1055 power by order to:

1056       1. Require the parent and, when appropriate, the legal  
1057 guardian or the child to participate in treatment and services  
1058 identified as necessary. The court may require the person who  
1059 has custody or who is requesting custody of the child to submit  
1060 to a mental health or substance abuse disorder assessment or  
1061 evaluation. The order may be made only upon good cause shown and  
1062 pursuant to notice and procedural requirements provided under  
1063 the Florida Rules of Juvenile Procedure. The mental health  
1064 assessment or evaluation must be administered by a qualified  
1065 professional as defined in s. 39.01, and the substance abuse  
1066 assessment or evaluation must be administered by a qualified  
1067 professional as defined in s. 397.311. The court may also  
1068 require such person to participate in and comply with treatment  
1069 and services identified as necessary, including, when  
1070 appropriate and available, participation in and compliance with  
1071 a mental health court program established under chapter 394 or a  
1072 treatment-based drug court program established under s. 397.334.  
1073 Adjudication of a child as dependent based upon evidence of harm  
1074 as defined in s. 39.01(36)(g) ~~s. 39.01(35)(g)~~ demonstrates good  
1075 cause, and the court shall require the parent whose actions  
1076 caused the harm to submit to a substance abuse disorder  
1077 assessment or evaluation and to participate and comply with  
1078 treatment and services identified in the assessment or  
1079 evaluation as being necessary. In addition to supervision by the  
1080 department, the court, including the mental health court program  
1081 or the treatment-based drug court program, may oversee the  
1082 progress and compliance with treatment by a person who has  
1083 custody or is requesting custody of the child. The court may



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1084 impose appropriate available sanctions for noncompliance upon a  
1085 person who has custody or is requesting custody of the child or  
1086 make a finding of noncompliance for consideration in determining  
1087 whether an alternative placement of the child is in the child's  
1088 best interests. Any order entered under this subparagraph may be  
1089 made only upon good cause shown. This subparagraph does not  
1090 authorize placement of a child with a person seeking custody of  
1091 the child, other than the child's parent or legal custodian, who  
1092 requires mental health or substance abuse disorder treatment.

1093         2. Require, if the court deems necessary, the parties to  
1094 participate in dependency mediation.

1095         3. Require placement of the child either under the  
1096 protective supervision of an authorized agent of the department  
1097 in the home of one or both of the child's parents or in the home  
1098 of a relative of the child or another adult approved by the  
1099 court, or in the custody of the department. Protective  
1100 supervision continues until the court terminates it or until the  
1101 child reaches the age of 18, whichever date is first. Protective  
1102 supervision shall be terminated by the court whenever the court  
1103 determines that permanency has been achieved for the child,  
1104 whether with a parent, another relative, or a legal custodian,  
1105 and that protective supervision is no longer needed. The  
1106 termination of supervision may be with or without retaining  
1107 jurisdiction, at the court's discretion, and shall in either  
1108 case be considered a permanency option for the child. The order  
1109 terminating supervision by the department must set forth the  
1110 powers of the custodian of the child and include the powers  
1111 ordinarily granted to a guardian of the person of a minor unless  
1112 otherwise specified. Upon the court's termination of supervision



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1113 by the department, further judicial reviews are not required if  
1114 permanency has been established for the child.

1115 4. Determine whether the child has a strong attachment to  
1116 the prospective permanent guardian and whether such guardian has  
1117 a strong commitment to permanently caring for the child.

1118 (e) The court shall, in its written order of disposition,  
1119 include all of the following:

1120 1. The placement or custody of the child.

1121 2. Special conditions of placement and visitation.

1122 3. Evaluation, counseling, treatment activities, and other  
1123 actions to be taken by the parties, if ordered.

1124 4. The persons or entities responsible for supervising or  
1125 monitoring services to the child and parent.

1126 5. Continuation or discharge of the guardian ad litem or  
1127 attorney for the child if appointed, as appropriate.

1128 6. The date, time, and location of the next scheduled  
1129 review hearing, which must occur within the earlier of:

1130 a. Ninety days after the disposition hearing;

1131 b. Ninety days after the court accepts the case plan;

1132 c. Six months after the date of the last review hearing; or

1133 d. Six months after the date of the child's removal from  
1134 his or her home, if no review hearing has been held since the  
1135 child's removal from the home.

1136 7. If the child is in an out-of-home placement, child  
1137 support to be paid by the parents, or the guardian of the  
1138 child's estate if possessed of assets which under law may be  
1139 disbursed for the care, support, and maintenance of the child.

1140 The court may exercise jurisdiction over all child support  
1141 matters, shall adjudicate the financial obligation, including





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1142 health insurance, of the child's parents or guardian, and shall  
1143 enforce the financial obligation as provided in chapter 61. The  
1144 state's child support enforcement agency shall enforce child  
1145 support orders under this section in the same manner as child  
1146 support orders under chapter 61. Placement of the child shall  
1147 not be contingent upon issuance of a support order.

1148         8.a. If the court does not commit the child to the  
1149 temporary legal custody of an adult relative, legal custodian,  
1150 or other adult approved by the court, the disposition order must  
1151 include the reasons for such a decision and shall include a  
1152 determination as to whether diligent efforts were made by the  
1153 department to locate an adult relative, legal custodian, or  
1154 other adult willing to care for the child in order to present  
1155 that placement option to the court instead of placement with the  
1156 department.

1157         b. If no suitable relative is found and the child is placed  
1158 with the department or a legal custodian or other adult approved  
1159 by the court, both the department and the court shall consider  
1160 transferring temporary legal custody to an adult relative  
1161 approved by the court at a later date, but neither the  
1162 department nor the court is obligated to so place the child if  
1163 it is in the child's best interest to remain in the current  
1164 placement.

1165  
1166 For the purposes of this section, "diligent efforts to locate an  
1167 adult relative" means a search similar to the diligent search  
1168 for a parent, but without the continuing obligation to search  
1169 after an initial adequate search is completed.

1170         9. Other requirements necessary to protect the health,



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1171 safety, and well-being of the child, to preserve the stability  
1172 of the child's child care, early education program, or any other  
1173 educational placement, and to promote family preservation or  
1174 reunification whenever possible.

1175 Section 21. Paragraph (a) of subsection (2) of section  
1176 39.523, Florida Statutes, is amended to read:

1177 39.523 Placement in out-of-home care.-

1178 (2) ASSESSMENT AND PLACEMENT.-When any child is removed  
1179 from a home and placed into out-of-home care, a comprehensive  
1180 placement assessment process shall be completed to determine the  
1181 level of care needed by the child and match the child with the  
1182 most appropriate placement.

1183 (a) The community-based care lead agency or subcontracted  
1184 agency with the responsibility for assessment and placement must  
1185 coordinate a multidisciplinary team staffing with any available  
1186 individual currently involved with the child, including, but not  
1187 limited to, a representative from the department and the case  
1188 manager for the child; a therapist, ~~attorney ad litem~~, a  
1189 guardian ad litem, an attorney for the child, teachers, coaches,  
1190 and Children's Medical Services; and other community providers  
1191 of services to the child or stakeholders as applicable. The team  
1192 may also include clergy, relatives, and fictive kin if  
1193 appropriate. Team participants must gather data and information  
1194 on the child which is known at the time including, but not  
1195 limited to:

- 1196 1. Mental, medical, behavioral health, and medication  
1197 history;
- 1198 2. Community ties and school placement;
- 1199 3. Current placement decisions relating to any siblings;



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1200 4. Alleged type of abuse or neglect including sexual abuse  
1201 and trafficking history; and

1202 5. The child's age, maturity, strengths, hobbies or  
1203 activities, and the child's preference for placement.

1204 Section 22. Paragraph (a) of subsection (1) of section  
1205 39.6011, Florida Statutes, is amended to read:

1206 39.6011 Case plan development.—

1207 (1) The department shall prepare a draft of the case plan  
1208 for each child receiving services under this chapter. A parent  
1209 of a child may not be threatened or coerced with the loss of  
1210 custody or parental rights for failing to admit in the case plan  
1211 of abusing, neglecting, or abandoning a child. Participating in  
1212 the development of a case plan is not an admission to any  
1213 allegation of abuse, abandonment, or neglect, and it is not a  
1214 consent to a finding of dependency or termination of parental  
1215 rights. The case plan shall be developed subject to the  
1216 following requirements:

1217 (a) The case plan must be developed in a face-to-face  
1218 conference with the parent of the child, any court-appointed  
1219 guardian ad litem or attorney for the child, and, if  
1220 appropriate, the child and the temporary custodian of the child.

1221 Section 23. Paragraph (c) of subsection (1) of section  
1222 39.6012, Florida Statutes, is amended to read:

1223 39.6012 Case plan tasks; services.—

1224 (1) The services to be provided to the parent and the tasks  
1225 that must be completed are subject to the following:

1226 (c) If there is evidence of harm as defined in s.  
1227 39.01(36)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a  
1228 required task for the parent whose actions caused the harm that



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1229 the parent submit to a substance abuse disorder assessment or  
1230 evaluation and participate and comply with treatment and  
1231 services identified in the assessment or evaluation as being  
1232 necessary.

1233 Section 24. Subsection (8) of section 39.6251, Florida  
1234 Statutes, is amended to read:

1235 39.6251 Continuing care for young adults.—

1236 (8) During the time that a young adult is in care, the  
1237 court shall maintain jurisdiction to ensure that the department  
1238 and the lead agencies are providing services and coordinate  
1239 with, and maintain oversight of, other agencies involved in  
1240 implementing the young adult's case plan, individual education  
1241 plan, and transition plan. The court shall review the status of  
1242 the young adult at least every 6 months and hold a permanency  
1243 review hearing at least annually. If the young adult is  
1244 appointed a guardian under chapter 744 or a guardian advocate  
1245 under s. 393.12, at the permanency review hearing the court  
1246 shall review the necessity of continuing the guardianship and  
1247 whether restoration of guardianship proceedings are needed when  
1248 the young adult reaches 22 years of age. The court may appoint  
1249 an attorney for the child ~~a guardian ad litem~~ or continue the  
1250 appointment of a guardian ad litem or an attorney for the child,  
1251 as applicable, with the young adult's consent. The young adult  
1252 or any other party to the dependency case may request an  
1253 additional hearing or review.

1254 Section 25. Paragraph (b) of subsection (1) and paragraph  
1255 (b) of subsection (2) of section 39.701, Florida Statutes, are  
1256 amended to read:

1257 39.701 Judicial review.—



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1258 (1) GENERAL PROVISIONS.—

1259 (b)1. The court shall retain jurisdiction over a child  
1260 returned to his or her parents for a minimum period of 6 months  
1261 following the reunification, but, at that time, based on a  
1262 report of the social service agency and the guardian ad litem or  
1263 attorney for the child, if one has been appointed, and any other  
1264 relevant factors, the court shall make a determination as to  
1265 whether supervision by the department and the court's  
1266 jurisdiction shall continue or be terminated.

1267 2. Notwithstanding subparagraph 1., the court must retain  
1268 jurisdiction over a child if the child is placed in the home  
1269 with a parent or caregiver with an in-home safety plan and such  
1270 safety plan remains necessary for the child to reside safely in  
1271 the home.

1272 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF  
1273 AGE.—

1274 (b) *Submission and distribution of reports.*—

1275 1. A copy of the social service agency's written report and  
1276 the written report of the guardian ad litem, and a report of the  
1277 attorney for the child, if he or she has prepared one, must be  
1278 served on all parties whose whereabouts are known; to the foster  
1279 parents or legal custodians; and to the citizen review panel, at  
1280 least 72 hours before the judicial review hearing or citizen  
1281 review panel hearing. The requirement for providing parents with  
1282 a copy of the written report does not apply to those parents who  
1283 have voluntarily surrendered their child for adoption or who  
1284 have had their parental rights to the child terminated.

1285 2. In a case in which the child has been permanently placed  
1286 with the social service agency, the agency shall furnish to the



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1287 court a written report concerning the progress being made to  
1288 place the child for adoption. If the child cannot be placed for  
1289 adoption, a report on the progress made by the child towards  
1290 alternative permanency goals or placements, including, but not  
1291 limited to, guardianship, long-term custody, long-term licensed  
1292 custody, or independent living, must be submitted to the court.  
1293 The report must be submitted to the court at least 72 hours  
1294 before each scheduled judicial review.

1295 3. In addition to or in lieu of any written statement  
1296 provided to the court, the foster parent or legal custodian, or  
1297 any preadoptive parent, shall be given the opportunity to  
1298 address the court with any information relevant to the best  
1299 interests of the child at any judicial review hearing.

1300 Section 26. Paragraph (g) of subsection (5) of section  
1301 39.702, Florida Statutes, is amended to read:

1302 39.702 Citizen review panels.—

1303 (5) The independent not-for-profit agency authorized to  
1304 administer each citizen review panel shall:

1305 (g) Establish policies to ensure adequate communication  
1306 with the parent, the foster parent or legal custodian, the  
1307 guardian ad litem or attorney for the child, and any other  
1308 person deemed appropriate.

1309 Section 27. Paragraph (a) of subsection (3) and subsections  
1310 (5), (6), and (7) of section 39.801, Florida Statutes, are  
1311 amended to read:

1312 39.801 Procedures and jurisdiction; notice; service of  
1313 process.—

1314 (3) Before the court may terminate parental rights, in  
1315 addition to the other requirements set forth in this part, the



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1316 following requirements must be met:

1317 (a) Notice of the date, time, and place of the advisory  
1318 hearing for the petition to terminate parental rights and a copy  
1319 of the petition must be personally served upon the following  
1320 persons, specifically notifying them that a petition has been  
1321 filed:

1322 1. The parents of the child.

1323 2. The legal custodians of the child.

1324 3. If the parents who would be entitled to notice are dead  
1325 or unknown, a living relative of the child, unless upon diligent  
1326 search and inquiry no such relative can be found.

1327 4. Any person who has physical custody of the child.

1328 5. Any grandparent entitled to priority for adoption under  
1329 s. 63.0425.

1330 6. Any prospective parent who has been identified under s.  
1331 39.503 or s. 39.803, unless a court order has been entered  
1332 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which  
1333 indicates no further notice is required. Except as otherwise  
1334 provided in this section, if there is not a legal father, notice  
1335 of the petition for termination of parental rights must be  
1336 provided to any known prospective father who is identified under  
1337 oath before the court or who is identified by a diligent search  
1338 of the Florida Putative Father Registry. Service of the notice  
1339 of the petition for termination of parental rights is not  
1340 required if the prospective father executes an affidavit of  
1341 nonpaternity or a consent to termination of his parental rights  
1342 which is accepted by the court after notice and opportunity to  
1343 be heard by all parties to address the best interests of the  
1344 child in accepting such affidavit.



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1345           7. The guardian ad litem for the child or the  
1346 representative of the guardian ad litem program, if the program  
1347 has been appointed.

1348           8. The attorney for the child, if appointed.

1349

1350 The document containing the notice to respond or appear must  
1351 contain, in type at least as large as the type in the balance of  
1352 the document, the following or substantially similar language:

1353 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING  
1354 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF  
1355 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND  
1356 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE  
1357 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS  
1358 NOTICE."

1359           (5) All process and orders issued by the court must be  
1360 served or executed as other process and orders of the circuit  
1361 court and, in addition, may be served or executed by authorized  
1362 agents of the department, or the guardian ad litem, or the  
1363 attorney for the child.

1364           (6) Subpoenas may be served within the state by any person  
1365 over 18 years of age who is not a party to the proceeding and,  
1366 in addition, may be served or executed by authorized agents of  
1367 the department, or of the guardian ad litem, or of the attorney  
1368 for the child.

1369           (7) A fee may not be paid for service of any process or  
1370 other papers by an agent of the department, or the guardian ad  
1371 litem, or the attorney for the child. If any process, orders, or  
1372 other papers are served or executed by any sheriff, the  
1373 sheriff's fees must be paid by the county.





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1374 Section 28. Subsection (1) of section 39.802, Florida  
1375 Statutes, is amended to read:

1376 39.802 Petition for termination of parental rights; filing;  
1377 elements.—

1378 (1) All proceedings seeking an adjudication to terminate  
1379 parental rights pursuant to this chapter must be initiated by  
1380 the filing of an original petition by the department, the  
1381 guardian ad litem, the attorney for the child, or any other  
1382 person who has knowledge of the facts alleged or is informed of  
1383 them and believes that they are true.

1384 Section 29. Subsection (2) of section 39.808, Florida  
1385 Statutes, is amended to read:

1386 39.808 Advisory hearing; pretrial status conference.—

1387 (2) At the hearing the court shall inform the parties of  
1388 their rights under s. 39.807, shall appoint counsel for the  
1389 parties in accordance with legal requirements, and shall appoint  
1390 a guardian ad litem or an attorney for the child as provided for  
1391 in s. 39.831 to represent the interests of the child if one has  
1392 not already been appointed.

1393 Section 30. Subsection (11) of section 39.810, Florida  
1394 Statutes, is amended to read:

1395 39.810 Manifest best interests of the child.—In a hearing  
1396 on a petition for termination of parental rights, the court  
1397 shall consider the manifest best interests of the child. This  
1398 consideration shall not include a comparison between the  
1399 attributes of the parents and those of any persons providing a  
1400 present or potential placement for the child. For the purpose of  
1401 determining the manifest best interests of the child, the court  
1402 shall consider and evaluate all relevant factors, including, but



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1403 not limited to:

1404 (11) The recommendations for the child provided by the  
1405 child's guardian ad litem ~~or legal representative.~~

1406 Section 31. Subsection (9) of section 39.811, Florida  
1407 Statutes, is amended to read:

1408 39.811 Powers of disposition; order of disposition.—

1409 (9) After termination of parental rights, the court shall  
1410 retain jurisdiction over any child for whom custody is given to  
1411 a social service agency until the child is adopted. The court  
1412 shall review the status of the child's placement and the  
1413 progress being made toward permanent adoptive placement. As part  
1414 of this continuing jurisdiction, for good cause shown by the  
1415 attorney for the child or guardian ad litem for the child, the  
1416 court may review the appropriateness of the adoptive placement  
1417 of the child.

1418 Section 32. Subsection (4) of section 39.812, Florida  
1419 Statutes, is amended to read:

1420 39.812 Postdisposition relief; petition for adoption.—

1421 (4) The court shall retain jurisdiction over any child  
1422 placed in the custody of the department until the child is  
1423 adopted. After custody of a child for subsequent adoption has  
1424 been given to the department, the court has jurisdiction for the  
1425 purpose of reviewing the status of the child and the progress  
1426 being made toward permanent adoptive placement. As part of this  
1427 continuing jurisdiction, for good cause shown by the attorney  
1428 for the child or guardian ad litem for the child, the court may  
1429 review the appropriateness of the adoptive placement of the  
1430 child. When a licensed foster parent or court-ordered custodian  
1431 has applied to adopt a child who has resided with the foster



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1432 parent or custodian for at least 6 months and who has previously  
1433 been permanently committed to the legal custody of the  
1434 department and the department does not grant the application to  
1435 adopt, the department may not, in the absence of a prior court  
1436 order authorizing it to do so, remove the child from the foster  
1437 home or custodian, except when:

1438 (a) There is probable cause to believe that the child is at  
1439 imminent risk of abuse or neglect;

1440 (b) Thirty days have expired following written notice to  
1441 the foster parent or custodian of the denial of the application  
1442 to adopt, within which period no formal challenge of the  
1443 department's decision has been filed; or

1444 (c) The foster parent or custodian agrees to the child's  
1445 removal.

1446 Section 33. Subsections (5), (6), and (7) of section 43.16,  
1447 Florida Statutes, are amended to read:

1448 43.16 Justice Administrative Commission; membership, powers  
1449 and duties.—

1450 (5) The duties of the commission shall include, but not be  
1451 limited to, the following:

1452 (a) The maintenance of a central state office for  
1453 administrative services and assistance when possible to and on  
1454 behalf of the state attorneys and public defenders of Florida,  
1455 the capital collateral regional counsel of Florida, the criminal  
1456 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
1457 Program, and the Statewide Office of Child Representation.

1458 (b) Each state attorney, public defender, ~~and~~ criminal  
1459 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
1460 Program, and the Statewide Office of Child Representation shall



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1461 continue to prepare necessary budgets, vouchers that represent  
1462 valid claims for reimbursement by the state for authorized  
1463 expenses, and other things incidental to the proper  
1464 administrative operation of the office, such as revenue  
1465 transmittals to the Chief Financial Officer and automated  
1466 systems plans, but will forward such items to the commission for  
1467 recording and submission to the proper state officer. However,  
1468 when requested by a state attorney, a public defender, a  
1469 criminal conflict and civil regional counsel, ~~or~~ the Guardian Ad  
1470 Litem Program, or the Statewide Office of Child Representation,  
1471 the commission will either assist in the preparation of budget  
1472 requests, voucher schedules, and other forms and reports or  
1473 accomplish the entire project involved.

1474 (6) The commission, each state attorney, each public  
1475 defender, the criminal conflict and civil regional counsel, the  
1476 capital collateral regional counsel, ~~and~~ the Guardian Ad Litem  
1477 Program, and the Statewide Office of Child Representation shall  
1478 establish and maintain internal controls designed to:

1479 (a) Prevent and detect fraud, waste, and abuse as defined  
1480 in s. 11.45(1).

1481 (b) Promote and encourage compliance with applicable laws,  
1482 rules, contracts, grant agreements, and best practices.

1483 (c) Support economical and efficient operations.

1484 (d) Ensure reliability of financial records and reports.

1485 (e) Safeguard assets.

1486 (7) The provisions contained in this section shall be  
1487 supplemental to those of chapter 27, relating to state  
1488 attorneys, public defenders, criminal conflict and civil  
1489 regional counsel, and capital collateral regional counsel; to



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1490 those of chapter 39, relating to the Guardian Ad Litem Program  
1491 and the Statewide Office of Child Representation; or to other  
1492 laws pertaining hereto.

1493 Section 34. Paragraph (a) of subsection (2) of section  
1494 63.085, Florida Statutes, are amended to read:

1495 63.085 Disclosure by adoption entity.—

1496 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

1497 (a) At the time that an adoption entity is responsible for  
1498 selecting prospective adoptive parents for a born or unborn  
1499 child whose parents are seeking to place the child for adoption  
1500 or whose rights were terminated pursuant to chapter 39, the  
1501 adoption entity must provide the prospective adoptive parents  
1502 with information concerning the background of the child to the  
1503 extent such information is disclosed to the adoption entity by  
1504 the parents, legal custodian, or the department. This subsection  
1505 applies only if the adoption entity identifies the prospective  
1506 adoptive parents and supervises the placement of the child in  
1507 the prospective adoptive parents' home. If any information  
1508 cannot be disclosed because the records custodian failed or  
1509 refused to produce the background information, the adoption  
1510 entity has a duty to provide the information if it becomes  
1511 available. An individual or entity contacted by an adoption  
1512 entity to obtain the background information must release the  
1513 requested information to the adoption entity without the  
1514 necessity of a subpoena or a court order. In all cases, the  
1515 prospective adoptive parents must receive all available  
1516 information by the date of the final hearing on the petition for  
1517 adoption. The information to be disclosed includes:

1518 1. A family social and medical history form completed



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1519 pursuant to s. 63.162(6).

1520 2. The biological mother's medical records documenting her  
1521 prenatal care and the birth and delivery of the child.

1522 3. A complete set of the child's medical records  
1523 documenting all medical treatment and care since the child's  
1524 birth and before placement.

1525 4. All mental health, psychological, and psychiatric  
1526 records, reports, and evaluations concerning the child before  
1527 placement.

1528 5. The child's educational records, including all records  
1529 concerning any special education needs of the child before  
1530 placement.

1531 6. Records documenting all incidents that required the  
1532 department to provide services to the child, including all  
1533 orders of adjudication of dependency or termination of parental  
1534 rights issued pursuant to chapter 39, any case plans drafted to  
1535 address the child's needs, all protective services  
1536 investigations identifying the child as a victim, and all  
1537 guardian ad litem reports or attorney for the child reports  
1538 filed with the court concerning the child.

1539 7. Written information concerning the availability of  
1540 adoption subsidies for the child, if applicable.

1541 Section 35. Subsection (4) of section 322.09, Florida  
1542 Statutes, is amended to read:

1543 322.09 Application of minors; responsibility for negligence  
1544 or misconduct of minor.—

1545 (4) Notwithstanding subsections (1) and (2), if a caregiver  
1546 of a minor who is under the age of 18 years and is in out-of-  
1547 home care as defined in s. 39.01(56) ~~s. 39.01(55)~~, an authorized



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1548 representative of a residential group home at which such a minor  
1549 resides, the caseworker at the agency at which the state has  
1550 placed the minor, or a guardian ad litem specifically authorized  
1551 by the minor's caregiver to sign for a learner's driver license  
1552 signs the minor's application for a learner's driver license,  
1553 that caregiver, group home representative, caseworker, or  
1554 guardian ad litem does not assume any obligation or become  
1555 liable for any damages caused by the negligence or willful  
1556 misconduct of the minor by reason of having signed the  
1557 application. Before signing the application, the caseworker,  
1558 authorized group home representative, or guardian ad litem shall  
1559 notify the caregiver or other responsible party of his or her  
1560 intent to sign and verify the application.

1561 Section 36. Paragraph (p) of subsection (4) of section  
1562 394.495, Florida Statutes, is amended to read:

1563 394.495 Child and adolescent mental health system of care;  
1564 programs and services.—

1565 (4) The array of services may include, but is not limited  
1566 to:

1567 (p) Trauma-informed services for children who have suffered  
1568 sexual exploitation as defined in s. 39.01(78)(g) ~~s.~~  
1569 ~~39.01(77)(g)~~.

1570 Section 37. Section 627.746, Florida Statutes, is amended  
1571 to read:

1572 627.746 Coverage for minors who have a learner's driver  
1573 license; additional premium prohibited.—An insurer that issues  
1574 an insurance policy on a private passenger motor vehicle to a  
1575 named insured who is a caregiver of a minor who is under the age  
1576 of 18 years and is in out-of-home care as defined in s.



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1577 39.01(56) ~~s. 39.01(55)~~ may not charge an additional premium for  
1578 coverage of the minor while the minor is operating the insured  
1579 vehicle, for the period of time that the minor has a learner's  
1580 driver license, until such time as the minor obtains a driver  
1581 license.

1582 Section 38. Paragraph (c) of subsection (1) of section  
1583 934.255, Florida Statutes, is amended to read:

1584 934.255 Subpoenas in investigations of sexual offenses.—

1585 (1) As used in this section, the term:

1586 (c) "Sexual abuse of a child" means a criminal offense  
1587 based on any conduct described in s. 39.01(78) ~~s. 39.01(77)~~.

1588 Section 39. Subsection (5) of section 960.065, Florida  
1589 Statutes, is amended to read:

1590 960.065 Eligibility for awards.—

1591 (5) A person is not ineligible for an award pursuant to  
1592 paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that  
1593 person is a victim of sexual exploitation of a child as defined  
1594 in s. 39.01(78)(g) ~~s. 39.01(77)(g)~~.

1595 Section 40. This act shall take effect July 1, 2021.

1596 ===== T I T L E A M E N D M E N T =====

1597 And the title is amended as follows:

1598 Delete everything before the enacting clause  
1599 and insert:

1600 A bill to be entitled  
1601 An act relating to child welfare; amending s. 39.01,  
1602 F.S.; defining the term "attorney for the child";  
1603 amending s. 39.013, F.S.; conforming provisions to  
1604 changes made by the act; amending s. 39.01305, F.S.;  
1605 conforming provisions to changes made by the act;





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1606 renaming part XI of ch. 39, F.S., as "Guardians ad  
1607 litem, guardian advocates, and attorney for the  
1608 child"; amending s. 39.820, F.S.; defining the term  
1609 "related adoption proceeding"; amending s. 39.822,  
1610 F.S.; conforming provisions to changes made by the  
1611 act; specifying circumstances under which a court is  
1612 required, on or after a specified date, to appoint a  
1613 guardian ad litem; requiring the court to appoint an  
1614 attorney for the child to represent a child and to  
1615 discharge the guardian ad litem under specified  
1616 circumstances; authorizing the court to order that a  
1617 new guardian ad litem be assigned for a child or  
1618 discharge a guardian ad litem and appoint an attorney  
1619 for the child under specified circumstances; amending  
1620 s. 39.8296, F.S.; renaming the Guardian Ad Litem  
1621 Qualifications Committee as the Child Well-Being  
1622 Qualifications Committee; specifying that the  
1623 executive director of the Statewide Guardian Ad Litem  
1624 Office may be reappointed; clarifying that second and  
1625 subsequent appointments made for the executive  
1626 director of the office are for 3 years; requiring the  
1627 office to develop guidelines to identify conflicts of  
1628 interest of guardians ad litem and prohibit the office  
1629 from assigning such guardian; defining the term  
1630 "conflicts of interest"; requiring the office to  
1631 identify guardians ad litem who are experiencing  
1632 health issues or who present a danger to the child to  
1633 whom the guardian ad litem is assigned; requiring the  
1634 office to remove such guardians from assigned cases,



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1635 terminate their volunteer services, and disclose such  
1636 actions to the circuit court; creating s. 39.83, F.S.;  
1637 creating the Statewide Office of Child Representation  
1638 within the Justice Administration Commission;  
1639 requiring the commission to provide administrative  
1640 support and services to the statewide office;  
1641 providing that the statewide office is not subject to  
1642 control, supervision, or direction by the commission;  
1643 providing that employees of the statewide office are  
1644 governed by the classification plan and salary and  
1645 benefits plan approved by the commission; providing  
1646 that the head of the statewide office is the executive  
1647 director; providing the process for appointment;  
1648 requiring that the initial executive director be  
1649 appointed by a specified date; providing  
1650 responsibilities of the office; authorizing the office  
1651 to contract with local nonprofit agencies under  
1652 certain conditions; creating a regional office of  
1653 child representation within the boundaries of each of  
1654 the five district courts of appeal; requiring such  
1655 offices to commence fulfilling their purpose and  
1656 duties on a specified date; requiring the commission  
1657 to provide administrative support to the regional  
1658 offices; providing that the offices are not subject to  
1659 control, supervision, or direction by the commission;  
1660 providing that employees of the offices are governed  
1661 by the classification plan and salary and benefits  
1662 plan for the commission; prescribing qualifications  
1663 for an attorney for the child; providing certain



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1664 prohibitions; creating s. 39.831, F.S.; specifying  
1665 when the court is authorized or required to appoint an  
1666 attorney for the child; requiring an attorney for the  
1667 child to be compensated and have access to funding for  
1668 expenses with specified conditions; providing  
1669 conditions under which a parent is required to  
1670 reimburse the court for the cost of the attorney;  
1671 providing for appellate representation; requiring  
1672 agencies, persons, and organizations to allow an  
1673 attorney for the child to inspect and copy certain  
1674 records; defining the term "records"; providing  
1675 requirements for an attorney for the child relating to  
1676 hearings; requiring the Department of Children and  
1677 Families to develop procedures to request that a court  
1678 appoint an attorney for the child; authorizing the  
1679 department to adopt rules; amending ss. 28.345,  
1680 39.001, 39.00145, 39.0132, 39.0139, 39.202, 39.302,  
1681 39.402, 39.407, 39.4085, 39.502, 39.521, 39.523,  
1682 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801,  
1683 39.802, 39.808, 39.810, 39.811, 39.812, 43.16, 63.085,  
1684 322.09, 394.495, 627.746, 934.255, and 960.065, F.S.;  
1685 conforming cross-references and provisions to changes  
1686 made by the act; providing an effective date.

By Senator Book

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1                                   A bill to be entitled  
2       An act relating to child welfare; amending s. 39.01,  
3       F.S.; defining the term "attorney for the child";  
4       amending s. 39.013, F.S.; conforming provisions to  
5       changes made by the act; renaming part XI of ch. 39,  
6       F.S., as "Guardians ad litem, guardian advocates, and  
7       attorney for the child"; amending s. 39.820, F.S.;  
8       defining the term "related adoption proceeding";  
9       amending s. 39.822, F.S.; conforming provisions to  
10      changes made by the act; specifying circumstances  
11      under which a court is required, on or after a  
12      specified date, to appoint a guardian ad litem;  
13      requiring the court to appoint an attorney for the  
14      child to represent a child and to discharge the  
15      guardian ad litem under specified circumstances;  
16      authorizing the court to order that a new guardian ad  
17      litem be assigned for a child or discharge a guardian  
18      ad litem and appoint an attorney for the child under  
19      specified circumstances; amending s. 39.8296, F.S.;  
20      renaming the Guardian Ad Litem Qualifications  
21      Committee as the Child Well-Being Qualifications  
22      Committee; specifying that the executive director of  
23      the Statewide Guardian Ad Litem Office may be  
24      reappointed; clarifying that second and subsequent  
25      appointments made for the executive director of the  
26      office are for 3 years; requiring the office to  
27      develop guidelines to identify conflicts of interest  
28      of guardians ad litem; defining the term "conflicts of  
29      interest"; requiring the office to identify guardians

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30 ad litem who are experiencing health issues or who  
31 present a danger to the child to whom the guardian ad  
32 litem is assigned; requiring the office to remove such  
33 guardians from assigned cases, terminate their  
34 volunteer services, and disclose such actions to the  
35 circuit court; creating s. 39.83, F.S.; creating the  
36 Statewide Office of Child Representation within the  
37 Justice Administration Commission; requiring the  
38 commission to provide administrative support and  
39 services to the statewide office; providing that the  
40 statewide office is not subject to control,  
41 supervision, or direction by the commission; providing  
42 that employees of the statewide office are governed by  
43 the classification plan and salary and benefits plan  
44 approved by the commission; providing that the head of  
45 the statewide office is the executive director;  
46 providing the process for appointment; requiring that  
47 the initial executive director be appointed by a  
48 specified date; providing responsibilities of the  
49 office; authorizing the office to contract with local  
50 nonprofit agencies under certain conditions; creating  
51 a regional office of child representation within the  
52 boundaries of each of the five district courts of  
53 appeal; requiring such offices to commence fulfilling  
54 their purpose and duties on a specified date;  
55 requiring the commission to provide administrative  
56 support to the regional offices; providing that the  
57 offices are not subject to control, supervision, or  
58 direction by the commission; providing that employees

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59 of the offices are governed by the classification plan  
60 and salary and benefits plan for the commission;  
61 prescribing qualifications for an attorney for the  
62 child; providing certain prohibitions; creating s.  
63 39.831, F.S.; specifying when the court is authorized  
64 or required to appoint an attorney for the child;  
65 providing conditions under which a parent is required  
66 to reimburse the court for the cost of the attorney;  
67 providing for appellate representation; requiring  
68 agencies, persons, and organizations to allow an  
69 attorney for the child to inspect and copy certain  
70 records; defining the term "records"; providing  
71 requirements for an attorney for the child relating to  
72 hearings; requiring the Department of Children and  
73 Families to develop procedures to request that a court  
74 appoint an attorney for the child; authorizing the  
75 department to adopt rules; amending ss. 28.345,  
76 39.001, 39.00145, 39.0132, 39.0139, 39.202, 39.302,  
77 39.402, 39.407, 39.4085, 39.502, 39.521, 39.523,  
78 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801,  
79 39.802, 39.808, 39.810, 39.811, 39.812, 39.815, 43.16,  
80 63.082, 63.085, 322.09, 394.495, 627.746, 934.255, and  
81 960.065, F.S.; conforming cross-references and  
82 provisions to changes made by the act; providing an  
83 effective date.

84

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

86

87 Section 1. Present subsections (9) through (87) of section

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88 39.01, Florida Statutes, are redesignated as subsections (10)  
89 through (88), respectively, a new subsection (9) is added to  
90 that section, and present subsections (10) and (37) are amended,  
91 to read:

92 39.01 Definitions.—When used in this chapter, unless the  
93 context otherwise requires:

94 (9) "Attorney for the child" means an attorney providing  
95 direct representation to the child, which may include the  
96 appointment of the Office of Child Representation, an attorney  
97 provided by an entity contracted through the Office of Child  
98 Representation to provide direct representation, any privately  
99 retained counsel or pro bono counsel, or any other attorney who  
100 represents the child under this chapter.

101 (11)~~(10)~~ "Caregiver" means the parent, legal custodian,  
102 permanent guardian, adult household member, or other person  
103 responsible for a child's welfare as defined in subsection (55)  
104 ~~(54)~~.

105 (38)~~(37)~~ "Institutional child abuse or neglect" means  
106 situations of known or suspected child abuse or neglect in which  
107 the person allegedly perpetrating the child abuse or neglect is  
108 an employee of a public or private school, public or private day  
109 care center, residential home, institution, facility, or agency  
110 or any other person at such institution responsible for the  
111 child's welfare as defined in subsection (55) ~~(54)~~.

112 Section 2. Subsection (11) of section 39.013, Florida  
113 Statutes, is amended, and subsection (13) is added to that  
114 section, to read:

115 39.013 Procedures and jurisdiction; right to counsel.—

116 (11) The court shall encourage the Statewide Guardian Ad

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117 Litem Office or the Statewide Office of Child Representation, as  
118 applicable, to provide greater representation to those children  
119 who are within 1 year of transferring out of foster care.

120 (13) An attorney for the child shall be appointed pursuant  
121 to s. 39.831.

122 Section 3. Part XI of chapter 39, Florida Statutes,  
123 entitled "GUARDIANS AD LITEM AND GUARDIAN ADVOCATES," is renamed  
124 "GUARDIANS AD LITEM, GUARDIAN ADVOCATES, AND ATTORNEY FOR THE  
125 CHILD."

126 Section 4. Subsection (3) is added to section 39.820,  
127 Florida Statutes, to read:

128 39.820 Definitions.—As used in this chapter, the term:

129 (3) "Related adoption proceeding" means an adoption  
130 proceeding under chapter 63 which arises from dependency  
131 proceedings under this chapter.

132 Section 5. Section 39.822, Florida Statutes, is amended to  
133 read:

134 39.822 Appointment of guardian ad litem for abused,  
135 abandoned, or neglected child.—

136 (1) (a) Before July 1, 2022, a guardian ad litem ~~must~~ shall  
137 be appointed by the court at the earliest possible time to  
138 represent a ~~the~~ child in any child abuse, abandonment, or  
139 neglect judicial proceeding, whether civil or criminal.

140 (b) On or after July 1, 2022, a guardian ad litem must be  
141 appointed by the court at the earliest possible time to  
142 represent a child under the following circumstances:

143 1. The child is younger than 10 years of age and is the  
144 subject of a dependency proceeding under this chapter or a  
145 related adoption proceeding;



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146       2. The child is the subject of a dependency proceeding  
147 under this chapter or a related adoption proceeding and a  
148 criminal proceeding;

149       3. The child is the subject of a termination of parental  
150 rights proceeding under part X; or

151       4. The child is a dependent child as described in s.  
152 39.01305(3).

153       (2) On or after July 1, 2022, the court shall discharge the  
154 guardian ad litem program, if appointed, within 60 days after  
155 such child reaches 10 years of age unless:

156       (a) The child meets a criterion specified in subparagraph  
157 (1)(b)2., 3., or 4.; or

158       (b) The child expresses that he or she wishes to remain  
159 with the guardian ad litem and the court determines that the  
160 expression is voluntary and knowing and that the child is of an  
161 appropriate age and maturity to make such expression.

162       (3) Upon request by a child who is subject to a dependency  
163 proceeding under this chapter or a related adoption proceeding,  
164 who is 10 years of age or older, and who has a guardian ad litem  
165 assigned, or upon any party presenting evidence that there is  
166 reasonable cause to suspect the assigned guardian ad litem has a  
167 conflict of interest as defined in s. 39.8296(2)(b)9., the court  
168 may:

169       (a) Order that a new guardian ad litem be assigned; or

170       (b) Discharge the child's current guardian ad litem and  
171 appoint an attorney for the child.

172       (4) Any person participating in a civil or criminal  
173 judicial proceeding resulting from such appointment shall be  
174 presumed prima facie to be acting in good faith and in so doing

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175 shall be immune from any liability, civil or criminal, that  
176 otherwise might be incurred or imposed.

177 (5)~~(2)~~ In those cases in which the parents are financially  
178 able, the parent or parents of the child shall reimburse the  
179 court, in part or in whole, for the cost of provision of  
180 guardian ad litem services. Reimbursement to the individual  
181 providing guardian ad litem services may ~~shall~~ not be contingent  
182 upon successful collection by the court from the parent or  
183 parents.

184 (6)~~(3)~~ Upon presentation by a guardian ad litem of a court  
185 order appointing the guardian ad litem:

186 (a) An agency, as defined in chapter 119, shall allow the  
187 guardian ad litem to inspect and copy records related to the  
188 best interests of the child who is the subject of the  
189 appointment, including, but not limited to, records made  
190 confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of  
191 the State Constitution. The guardian ad litem shall maintain the  
192 confidential or exempt status of any records shared by an agency  
193 under this paragraph.

194 (b) A person or organization, other than an agency under  
195 paragraph (a), shall allow the guardian ad litem to inspect and  
196 copy any records related to the best interests of the child who  
197 is the subject of the appointment, including, but not limited  
198 to, confidential records.

199  
200 For the purposes of this subsection, the term "records related  
201 to the best interests of the child" includes, but is not limited  
202 to, medical, mental health, substance abuse, child care,  
203 education, law enforcement, court, social services, and

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204 financial records.

205 ~~(7)~~~~(4)~~ The guardian ad litem or the program representative  
206 shall review all disposition recommendations and changes in  
207 placements, and must be present at all critical stages of the  
208 dependency proceeding or submit a written report of  
209 recommendations to the court. Written reports must be filed with  
210 the court and served on all parties whose whereabouts are known  
211 at least 72 hours before ~~prior to~~ the hearing.

212 Section 6. Subsection (2) of section 39.8296, Florida  
213 Statutes, is amended to read:

214 39.8296 Statewide Guardian Ad Litem Office; legislative  
215 findings and intent; creation; appointment of executive  
216 director; duties of office.—

217 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a  
218 Statewide Guardian Ad Litem Office within the Justice  
219 Administrative Commission. The Justice Administrative Commission  
220 shall provide administrative support and service to the office  
221 to the extent requested by the executive director within the  
222 available resources of the commission. The Statewide Guardian Ad  
223 Litem Office is not subject to control, supervision, or  
224 direction by the Justice Administrative Commission in the  
225 performance of its duties, but the employees of the office are  
226 governed by the classification plan and salary and benefits plan  
227 approved by the Justice Administrative Commission.

228 (a) The head of the Statewide Guardian Ad Litem Office is  
229 the executive director, who shall be appointed by the Governor  
230 from a list of a minimum of three eligible applicants submitted  
231 by the Child Well-Being ~~a Guardian Ad Litem~~ Qualifications  
232 Committee. The Child Well-Being ~~Guardian Ad Litem~~ Qualifications

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233 Committee shall be composed of five persons, two persons  
234 appointed by the Governor, two persons appointed by the Chief  
235 Justice of the Supreme Court, and one person appointed by the  
236 Statewide Guardian Ad Litem Association. The committee shall  
237 provide for statewide advertisement and the receiving of  
238 applications for the position of executive director. The  
239 Governor shall appoint an executive director from among the  
240 recommendations, or the Governor may reject the nominations and  
241 request the submission of new nominees. The executive director  
242 must have knowledge in dependency law and knowledge of social  
243 service delivery systems available to meet the needs of children  
244 who are abused, neglected, or abandoned. The executive director  
245 shall serve on a full-time basis and shall personally, or  
246 through representatives of the office, carry out the purposes  
247 and functions of the Statewide Guardian Ad Litem Office in  
248 accordance with state and federal law. The executive director  
249 shall report to the Governor. The executive director shall serve  
250 a 3-year term, subject to removal for cause by the Governor. Any  
251 person appointed to serve as the executive director may be  
252 reappointed ~~permitted~~ to serve more than one term in accordance  
253 with the process provided for in this paragraph. Every second or  
254 subsequent appointment shall be for a term of 3 years.

255 (b) The Statewide Guardian Ad Litem Office shall, within  
256 available resources, have oversight responsibilities for and  
257 provide technical assistance to all guardian ad litem and  
258 attorney ad litem programs located within the judicial circuits.

259 1. The office shall identify the resources required to  
260 implement methods of collecting, reporting, and tracking  
261 reliable and consistent case data.

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262           2. The office shall review the current guardian ad litem  
263 programs in Florida and other states.

264           3. The office, in consultation with local guardian ad litem  
265 offices, shall develop statewide performance measures and  
266 standards.

267           4. The office shall develop a guardian ad litem training  
268 program, which shall include, but is not limited to, training on  
269 the recognition of and responses to head trauma and brain injury  
270 in a child under 6 years of age. The office shall establish a  
271 curriculum committee to develop the training program specified  
272 in this subparagraph. The curriculum committee shall include,  
273 but not be limited to, dependency judges, directors of circuit  
274 guardian ad litem programs, active certified guardians ad litem,  
275 a mental health professional who specializes in the treatment of  
276 children, a member of a child advocacy group, a representative  
277 of a domestic violence advocacy group, an individual with a  
278 degree in social work, and a social worker experienced in  
279 working with victims and perpetrators of child abuse.

280           5. The office shall review the various methods of funding  
281 guardian ad litem programs, maximize the use of those funding  
282 sources to the extent possible, and review the kinds of services  
283 being provided by circuit guardian ad litem programs.

284           6. The office shall determine the feasibility or  
285 desirability of new concepts of organization, administration,  
286 financing, or service delivery designed to preserve the civil  
287 and constitutional rights and fulfill other needs of dependent  
288 children.

289           7. In an effort to promote normalcy and establish trust  
290 between a court-appointed volunteer guardian ad litem and a

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291 child alleged to be abused, abandoned, or neglected under this  
292 chapter, a guardian ad litem may transport a child. However, a  
293 guardian ad litem volunteer may not be required or directed by  
294 the program or a court to transport a child.

295 8. The office shall submit to the Governor, the President  
296 of the Senate, the Speaker of the House of Representatives, and  
297 the Chief Justice of the Supreme Court an interim report  
298 describing the progress of the office in meeting the goals as  
299 described in this section. The office shall submit to the  
300 Governor, the President of the Senate, the Speaker of the House  
301 of Representatives, and the Chief Justice of the Supreme Court a  
302 proposed plan including alternatives for meeting the state's  
303 guardian ad litem and attorney ad litem needs. This plan may  
304 include recommendations for less than the entire state, may  
305 include a phase-in system, and shall include estimates of the  
306 cost of each of the alternatives. Each year the office shall  
307 provide a status report and provide further recommendations to  
308 address the need for guardian ad litem services and related  
309 issues.

310 9. The office shall develop guidelines to identify any  
311 possible conflicts of interest of a guardian ad litem when he or  
312 she is being considered for assignment to a child's case. For  
313 purposes of this subparagraph, the term "conflicts of interest"  
314 means the guardian ad litem:

315 a. Has a personal relationship that could influence a  
316 recommendation regarding a child whom he or she is serving as a  
317 guardian ad litem;

318 b. Is in a position to derive a personal benefit from his  
319 or her role as a guardian ad litem; or

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320 c. Has a particular factor or circumstance, including  
321 personal bias or prejudice against a protected class of the  
322 child or the child's family, that prevents or substantially  
323 impairs his or her ability to fairly and fully discharge the  
324 duties of the guardian ad litem.

325 (c) The Statewide Guardian Ad Litem Office shall identify  
326 any guardian ad litem who is experiencing an issue with his or  
327 her physical or mental health or who appears to present a danger  
328 to any child to whom the guardian ad litem is assigned. As soon  
329 as possible after identification, the office must remove such  
330 guardian ad litem from all assigned cases, terminate his or her  
331 volunteer services with the Guardian Ad Litem Program, and  
332 disclose such action to the appropriate circuit court.

333 Section 7. Section 39.83, Florida Statutes, is created to  
334 read:

335 39.83 Statewide Office of Child Representation;  
336 qualifications, appointment, and duties of executive director  
337 and attorney for the child.-

338 (1) STATEWIDE OFFICE OF CHILD REPRESENTATION.-

339 (a) There is created a Statewide Office of Child  
340 Representation within the Justice Administrative Commission. The  
341 Justice Administrative Commission shall provide administrative  
342 support and services to the statewide office as directed by the  
343 executive director within the available resources of the  
344 commission. The statewide office is not subject to control,  
345 supervision, or direction by the Justice Administrative  
346 Commission in the performance of its duties, but the employees  
347 of the office are governed by the classification plan and salary  
348 and benefits plan approved by the Justice Administrative

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349 Commission.

350 (b) The head of the Statewide Office of Child  
351 Representation is the executive director who must be a member of  
352 The Florida Bar in good standing for at least 5 years and have  
353 knowledge of dependency law and the social service delivery  
354 systems available to meet the needs of children who are abused,  
355 neglected, or abandoned. The executive director shall be  
356 appointed in accordance with the process, and serve in  
357 accordance with the terms and requirements, provided in s.  
358 39.8296(2) (a) for the head of the Statewide Guardian Ad Litem  
359 Office. The appointment for the initial executive director must  
360 be completed by January 1, 2022.

361 (c) The Statewide Office of Child Representation, within  
362 available resources of the Justice Administrative Commission, is  
363 responsible for oversight of, and for providing technical  
364 assistance to, all offices of child representation in this  
365 state. The statewide office:

366 1. Shall identify the resources required to implement  
367 methods of collecting, reporting, and tracking reliable and  
368 consistent case data;

369 2. Shall review and collect information relating to current  
370 guardian ad litem programs for children 10 years of age and  
371 older in this state and other states and information relating to  
372 offices of child representation in other states;

373 3. In consultation with the regional offices of child  
374 representation established under subsection (2), shall develop  
375 statewide performance measures and standards;

376 4. Shall develop a training program for each attorney for  
377 the child. To that end, the statewide office shall establish a



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378 curriculum committee composed of members including, but not  
379 limited to, a dependency judge, directors of circuit guardian ad  
380 litem programs, active certified guardians ad litem, a mental  
381 health professional who specializes in the treatment of  
382 children, a member of a child advocacy group, a representative  
383 of a domestic violence advocacy group, an individual with at  
384 least a Master of Social Work degree, and a social worker  
385 experienced in working with victims and perpetrators of child  
386 abuse;

387 5. Shall develop protocols that must be implemented to  
388 assist children who are represented by the Statewide Office of  
389 Child Representation, regional offices, or its contracted local  
390 agencies in meeting eligibility requirements to receive all  
391 available federal funding. This subparagraph may not be  
392 construed to mean that the protocols may interfere with zealous  
393 and effective representation of the children;

394 6. Shall review the various methods of funding the regional  
395 offices, maximize the use of those funding sources to the extent  
396 possible, and review the kinds of services being provided by the  
397 regional offices;

398 7. Shall determine the feasibility or desirability of new  
399 concepts of organization, administration, financing, or service  
400 delivery designed to preserve the civil and constitutional  
401 rights of, and fulfill other needs of, dependent children 10  
402 years of age and older;

403 8. Shall submit to the Governor, the President of the  
404 Senate, the Speaker of the House of Representatives, and the  
405 Chief Justice of the Supreme Court:

406 a. An interim report describing the progress of the

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407 statewide office in meeting the responsibilities described in  
408 this paragraph.

409 b. A proposed plan that includes alternatives for meeting  
410 the representation needs of children in this state. The plan may  
411 include recommendations for implementation in only a portion of  
412 this state or phased-in statewide implementation and must  
413 include an estimate of the cost of each such alternative.

414 c. An annual status report that includes any additional  
415 recommendations for addressing the representation needs of  
416 children in this state and related issues.

417 (d) The department or community-based care lead agency  
418 shall take any steps necessary to obtain all available federal  
419 funding and maintain compliance with eligibility requirements.

420 (e) The office may contract with a local nonprofit agency  
421 to provide direct attorney representation to a child if the  
422 office determines that the contract is the most efficient method  
423 to satisfy its statutory duties and if federal funding has been  
424 approved for this purpose. The office must ensure that  
425 reimbursement of any Title IV-E funds is properly documented.

426 (2) REGIONAL OFFICES OF CHILD REPRESENTATION.—

427 (a) An office of child representation is created within the  
428 area served by each of the five district courts of appeal. The  
429 offices shall commence fulfilling their statutory purpose and  
430 duties on July 1, 2022.

431 (b) Each office of child representation is assigned to the  
432 Justice Administrative Commission for administrative purposes.  
433 The commission shall provide administrative support and service  
434 to the offices within the available resources of the commission.  
435 The offices are not subject to control, supervision, or

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436 direction by the commission in the performance of their duties,  
437 but the employees of the offices are governed by the  
438 classification plan and the salary and benefits plan for the  
439 commission.

440 (3) CHILD REPRESENTATION COUNSEL; DUTIES.—The attorney for  
441 the child shall serve on a full-time basis and may not engage in  
442 the private practice of law while holding office. Each assistant  
443 attorney for the child shall give priority and preference to his  
444 or her duties as assistant child representation counsel and may  
445 not otherwise engage in the practice of dependency law. However,  
446 a part-time assistant attorney for the child may practice  
447 dependency law for private payment so long as the representation  
448 does not result in a legal or ethical conflict of interest with  
449 a case in which the office of child representation is providing  
450 representation.

451 Section 8. Section 39.831, Florida Statutes, is created to  
452 read:

453 39.831 Attorney for the child.—

454 (1) APPOINTMENT.—

455 (a) Attorney for the child:

456 1. Shall be appointed by the court as provided in s.  
457 39.01305(3);

458 2. Shall be appointed by the court for any child who  
459 reaches 10 years of age or older on or after July 1, 2022, and  
460 who is the subject of a dependency proceeding under this chapter  
461 or a related adoption proceeding; or

462 3. May be appointed at the court's discretion upon a  
463 finding that circumstances exist which require the appointment.

464 (b) The court shall appoint the Statewide Office of Child

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465 Representation unless the child is otherwise represented by  
466 counsel.

467 (c) In cases in which one or both parents are financially  
468 able, the parent or parents, as applicable, of the child shall  
469 reimburse the court, in whole or in part, for the cost of  
470 services provided under this section; however, reimbursement for  
471 services provided by the attorney for the child may not be  
472 contingent upon successful collection by the court of  
473 reimbursement from the parent or parents.

474 (d) Once an attorney for the child is appointed, the  
475 appointment continues in effect until the attorney for the child  
476 is allowed to withdraw or is discharged by the court or until  
477 the case is dismissed. An attorney for the child who is  
478 appointed under this section to represent a child shall provide  
479 all required legal services from the time of the child's removal  
480 from home or of the attorney for the child's initial appointment  
481 through all appellate proceedings. With the permission of the  
482 court, the appointed attorney for the child may arrange for  
483 supplemental or separate counsel to represent the child in  
484 appellate proceedings. A court order appointing an attorney for  
485 the child under this section must be in writing.

486 (2) ACCESS TO RECORDS.—Upon presentation by an attorney for  
487 the child of a court order appointing the Statewide Office of  
488 Child Representation:

489 (a) An agency as defined in chapter 119 must allow the  
490 attorney for the child to inspect and copy records related to  
491 the child who is the subject of the appointment, including, but  
492 not limited to, records made confidential or exempt from s.  
493 119.07(1) or s. 24(a), Art. I of the State Constitution. The

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494 attorney for the child shall maintain the confidential or exempt  
495 status of any records shared by an agency under this paragraph.

496 (b) A person or an organization, other than an agency under  
497 paragraph (a), must allow the attorney for the child to inspect  
498 and copy any records related to the child who is the subject of  
499 the appointment, including, but not limited to, confidential  
500 records.

501  
502 For the purposes of this subsection, the term "records"  
503 includes, but is not limited to, medical, mental health,  
504 substance abuse, child care, education, law enforcement, court,  
505 social services, and financial records.

506 (3) COURT HEARINGS.—The attorney for the child shall review  
507 all disposition recommendations and changes in placements and  
508 file all appropriate motions on behalf of the child at least 72  
509 hours before the hearing.

510 (4) PROCEDURES.—The department shall develop procedures to  
511 request that a court appoint an attorney for the child.

512 (5) RULEMAKING.—The department may adopt rules to implement  
513 this section.

514 Section 9. Subsection (1) of section 28.345, Florida  
515 Statutes, is amended to read:

516 28.345 State access to records; exemption from court-  
517 related fees and charges.—

518 (1) Notwithstanding any other provision of law, the clerk  
519 of the circuit court shall, upon request, provide access to  
520 public records without charge to the state attorney, public  
521 defender, guardian ad litem, public guardian, attorney ad litem,  
522 criminal conflict and civil regional counsel, court-appointed

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523 attorney for the child, and private court-appointed counsel paid  
524 by the state, and to authorized staff acting on their behalf.  
525 The clerk of court may provide the requested public record in an  
526 electronic format in lieu of a paper format if the requesting  
527 entity is capable of accessing such public record  
528 electronically.

529 Section 10. Paragraph (j) of subsection (3) and paragraph  
530 (a) of subsection (10) of section 39.001, Florida Statutes, are  
531 amended to read:

532 39.001 Purposes and intent; personnel standards and  
533 screening.—

534 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of  
535 the Legislature that the children of this state be provided with  
536 the following protections:

537 (j) The ability to contact their guardian ad litem or  
538 attorney for the child ~~attorney ad litem~~, if appointed, by  
539 having that individual's name entered on all orders of the  
540 court.

541 (10) PLAN FOR COMPREHENSIVE APPROACH.—

542 (a) The office shall develop a state plan for the promotion  
543 of adoption, support of adoptive families, and prevention of  
544 abuse, abandonment, and neglect of children. The Department of  
545 Children and Families, the Department of Corrections, the  
546 Department of Education, the Department of Health, the  
547 Department of Juvenile Justice, the Department of Law  
548 Enforcement, and the Agency for Persons with Disabilities shall  
549 participate and fully cooperate in the development of the state  
550 plan at both the state and local levels. Furthermore,  
551 appropriate local agencies and organizations shall be provided

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552 an opportunity to participate in the development of the state  
553 plan at the local level. Appropriate local groups and  
554 organizations shall include, but not be limited to, community  
555 mental health centers; guardian ad litem programs for children  
556 under the circuit court; child representation counsel regional  
557 offices; the school boards of the local school districts; the  
558 Florida local advocacy councils; community-based care lead  
559 agencies; private or public organizations or programs with  
560 recognized expertise in working with child abuse prevention  
561 programs for children and families; private or public  
562 organizations or programs with recognized expertise in working  
563 with children who are sexually abused, physically abused,  
564 emotionally abused, abandoned, or neglected and with expertise  
565 in working with the families of such children; private or public  
566 programs or organizations with expertise in maternal and infant  
567 health care; multidisciplinary Child Protection Teams; child day  
568 care centers; law enforcement agencies; and the circuit courts,  
569 when guardian ad litem programs and attorney for the child are  
570 not available in the local area. The state plan to be provided  
571 to the Legislature and the Governor shall include, as a minimum,  
572 the information required of the various groups in paragraph (b).

573 Section 11. Subsections (2) and (4) of 39.00145, Florida  
574 Statutes, are amended to read:

575 39.00145 Records concerning children.—

576 (2) Notwithstanding any other provision of this chapter,  
577 all records in a child's case record must be made available for  
578 inspection, upon request, to the child who is the subject of the  
579 case record and to the child's caregiver, guardian ad litem, or  
580 attorney for the child ~~attorney~~.

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581 (a) A complete and accurate copy of any record in a child's  
582 case record must be provided, upon request and at no cost, to  
583 the child who is the subject of the case record and to the  
584 child's caregiver, guardian ad litem, or attorney.

585 (b) The department shall release the information in a  
586 manner and setting that are appropriate to the age and maturity  
587 of the child and the nature of the information being released,  
588 which may include the release of information in a therapeutic  
589 setting, if appropriate. This paragraph does not deny the child  
590 access to his or her records.

591 (c) If a child or the child's caregiver, guardian ad litem,  
592 or attorney for the child ~~attorney~~ requests access to the  
593 child's case record, any person or entity that fails to provide  
594 any record in the case record under assertion of a claim of  
595 exemption from the public records requirements of chapter 119,  
596 or fails to provide access within a reasonable time, is subject  
597 to sanctions and penalties under s. 119.10.

598 (d) For the purposes of this subsection, the term  
599 "caregiver" is limited to parents, legal custodians, permanent  
600 guardians, or foster parents; employees of a residential home,  
601 institution, facility, or agency at which the child resides; and  
602 other individuals legally responsible for a child's welfare in a  
603 residential setting.

604 (4) Notwithstanding any other provision of law, all state  
605 and local agencies and programs that provide services to  
606 children or that are responsible for a child's safety, including  
607 the Department of Juvenile Justice, the Department of Health,  
608 the Agency for Health Care Administration, the Agency for  
609 Persons with Disabilities, the Department of Education, the



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610 Department of Revenue, the school districts, the Statewide  
611 Guardian Ad Litem Office, the Statewide Office of Child  
612 Representation, and any provider contracting with such agencies,  
613 may share with each other confidential records or information  
614 that are confidential or exempt from disclosure under chapter  
615 119 if the records or information are reasonably necessary to  
616 ensure access to appropriate services for the child, including  
617 child support enforcement services, or for the safety of the  
618 child. However:

619 (a) Records or information made confidential by federal law  
620 may not be shared.

621 (b) This subsection does not apply to information  
622 concerning clients and records of certified domestic violence  
623 centers, which are confidential under s. 39.908 and privileged  
624 under s. 90.5036.

625 Section 12. Subsections (3) and (4) of section 39.0132,  
626 Florida Statutes, are amended to read:

627 39.0132 Oaths, records, and confidential information.—

628 (3) The clerk shall keep all court records required by this  
629 chapter separate from other records of the circuit court. All  
630 court records required by this chapter shall not be open to  
631 inspection by the public. All records shall be inspected only  
632 upon order of the court by persons deemed by the court to have a  
633 proper interest therein, except that, subject to the provisions  
634 of s. 63.162, a child, ~~and~~ the parents of the child and their  
635 attorneys, guardian ad litem, attorney for the child, law  
636 enforcement agencies, and the department and its designees shall  
637 always have the right to inspect and copy any official record  
638 pertaining to the child. The Justice Administrative Commission

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639 may inspect court dockets required by this chapter as necessary  
640 to audit compensation of court-appointed attorneys. If the  
641 docket is insufficient for purposes of the audit, the commission  
642 may petition the court for additional documentation as necessary  
643 and appropriate. The court may permit authorized representatives  
644 of recognized organizations compiling statistics for proper  
645 purposes to inspect and make abstracts from official records,  
646 under whatever conditions upon their use and disposition the  
647 court may deem proper, and may punish by contempt proceedings  
648 any violation of those conditions.

649 (4) (a) 1. All information obtained pursuant to this part in  
650 the discharge of official duty by any judge, employee of the  
651 court, authorized agent of the department, correctional  
652 probation officer, or law enforcement agent is confidential and  
653 exempt from s. 119.07(1) and may not be disclosed to anyone  
654 other than the authorized personnel of the court, the department  
655 and its designees, correctional probation officers, law  
656 enforcement agents, guardian ad litem, attorney for the child,  
657 and others entitled under this chapter to receive that  
658 information, except upon order of the court.

659 2.a. The following information held by a guardian ad litem  
660 or attorney for the child is confidential and exempt from s.  
661 119.07(1) and s. 24(a), Art. I of the State Constitution:

662 (I) Medical, mental health, substance abuse, child care,  
663 education, law enforcement, court, social services, and  
664 financial records.

665 (II) Any other information maintained by a guardian ad  
666 litem or attorney for the child which is identified as  
667 confidential information under this chapter.

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668 b. Such confidential and exempt information may not be  
669 disclosed to anyone other than the authorized personnel of the  
670 court, the department and its designees, correctional probation  
671 officers, law enforcement agents, guardians ad litem, and others  
672 entitled under this chapter to receive that information, except  
673 upon order of the court.

674 (b) The department shall disclose to the school  
675 superintendent the presence of any child in the care and custody  
676 or under the jurisdiction or supervision of the department who  
677 has a known history of criminal sexual behavior with other  
678 juveniles; is an alleged juvenile sex offender, as defined in s.  
679 39.01; or has pled guilty or nolo contendere to, or has been  
680 found to have committed, a violation of chapter 794, chapter  
681 796, chapter 800, s. 827.071, or s. 847.0133, regardless of  
682 adjudication. Any employee of a district school board who  
683 knowingly and willfully discloses such information to an  
684 unauthorized person commits a misdemeanor of the second degree,  
685 punishable as provided in s. 775.082 or s. 775.083.

686 Section 13. Paragraphs (a) and (b) of subsection (4) of  
687 section 39.0139, Florida Statutes, are amended to read:

688 39.0139 Visitation or other contact; restrictions.—

689 (4) HEARINGS.—A person who meets any of the criteria set  
690 forth in paragraph (3) (a) who seeks to begin or resume contact  
691 with the child victim shall have the right to an evidentiary  
692 hearing to determine whether contact is appropriate.

693 (a) Before ~~Prior to~~ the hearing, the court shall appoint an  
694 attorney for the child ~~an attorney ad litem~~ or a guardian ad  
695 litem, as appropriate, for the child if one has not already been  
696 appointed. Any attorney for the child ~~attorney ad litem~~ or

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697 guardian ad litem appointed shall have special training in the  
698 dynamics of child sexual abuse.

699 (b) At the hearing, the court may receive and rely upon any  
700 relevant and material evidence submitted to the extent of its  
701 probative value, including written and oral reports or  
702 recommendations from the Child Protection Team, the child's  
703 therapist, and the child's guardian ad litem, ~~or the child's~~  
704 ~~attorney ad litem~~, even if these reports, recommendations, and  
705 evidence may not be admissible under the rules of evidence.

706 Section 14. Paragraphs (k) and (t) of subsection (2) of  
707 section 39.202, Florida Statutes, are amended to read:

708 39.202 Confidentiality of reports and records in cases of  
709 child abuse or neglect.—

710 (2) Except as provided in subsection (4), access to such  
711 records, excluding the name of, or other identifying information  
712 with respect to, the reporter which shall be released only as  
713 provided in subsection (5), shall be granted only to the  
714 following persons, officials, and agencies:

715 (k) Any appropriate official of a Florida advocacy council  
716 investigating a report of known or suspected child abuse,  
717 abandonment, or neglect; the Auditor General or the Office of  
718 Program Policy Analysis and Government Accountability for the  
719 purpose of conducting audits or examinations pursuant to law; or  
720 the child's guardian ad litem or attorney for the child ~~for the~~  
721 ~~child~~.

722 (t) Persons with whom the department is seeking to place  
723 the child or to whom placement has been granted, including  
724 foster parents for whom an approved home study has been  
725 conducted, the designee of a licensed child-caring agency as

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726 defined in s. 39.01(42) ~~s. 39.01(41)~~, an approved relative or  
727 nonrelative with whom a child is placed pursuant to s. 39.402,  
728 preadoptive parents for whom a favorable preliminary adoptive  
729 home study has been conducted, adoptive parents, or an adoption  
730 entity acting on behalf of preadoptive or adoptive parents.

731 Section 15. Subsection (1) of section 39.302, Florida  
732 Statutes, is amended to read:

733 39.302 Protective investigations of institutional child  
734 abuse, abandonment, or neglect.—

735 (1) The department shall conduct a child protective  
736 investigation of each report of institutional child abuse,  
737 abandonment, or neglect. Upon receipt of a report that alleges  
738 that an employee or agent of the department, or any other entity  
739 or person covered by s. 39.01(38) or (55) ~~s. 39.01(37) or (54)~~,  
740 acting in an official capacity, has committed an act of child  
741 abuse, abandonment, or neglect, the department shall initiate a  
742 child protective investigation within the timeframe established  
743 under s. 39.201(5) and notify the appropriate state attorney,  
744 law enforcement agency, and licensing agency, which shall  
745 immediately conduct a joint investigation, unless independent  
746 investigations are more feasible. When conducting investigations  
747 or having face-to-face interviews with the child, investigation  
748 visits shall be unannounced unless it is determined by the  
749 department or its agent that unannounced visits threaten the  
750 safety of the child. If a facility is exempt from licensing, the  
751 department shall inform the owner or operator of the facility of  
752 the report. Each agency conducting a joint investigation is  
753 entitled to full access to the information gathered by the  
754 department in the course of the investigation. A protective

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755 investigation must include an interview with the child's parent  
756 or legal guardian. The department shall make a full written  
757 report to the state attorney within 3 working days after making  
758 the oral report. A criminal investigation shall be coordinated,  
759 whenever possible, with the child protective investigation of  
760 the department. Any interested person who has information  
761 regarding the offenses described in this subsection may forward  
762 a statement to the state attorney as to whether prosecution is  
763 warranted and appropriate. Within 15 days after the completion  
764 of the investigation, the state attorney shall report the  
765 findings to the department and shall include in the report a  
766 determination of whether or not prosecution is justified and  
767 appropriate in view of the circumstances of the specific case.

768 Section 16. Paragraph (c) of subsection (8) and paragraph  
769 (a) of subsection (14) of section 39.402, Florida Statutes, are  
770 amended to read:

771 39.402 Placement in a shelter.—

772 (8)

773 (c) At the shelter hearing, the court shall:

774 1. Appoint a guardian ad litem to represent the best  
775 interest of the child or an attorney for the child to provide  
776 direct representation as provided in part XI, unless the court  
777 finds that such representation is unnecessary;

778 2. Inform the parents or legal custodians of their right to  
779 counsel to represent them at the shelter hearing and at each  
780 subsequent hearing or proceeding, and the right of the parents  
781 to appointed counsel, pursuant to the procedures set forth in s.  
782 39.013;

783 3. Give the parents or legal custodians an opportunity to

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784 be heard and to present evidence; and

785 4. Inquire of those present at the shelter hearing as to  
786 the identity and location of the legal father. In determining  
787 who the legal father of the child may be, the court shall  
788 inquire under oath of those present at the shelter hearing  
789 whether they have any of the following information:

790 a. Whether the mother of the child was married at the  
791 probable time of conception of the child or at the time of birth  
792 of the child.

793 b. Whether the mother was cohabiting with a male at the  
794 probable time of conception of the child.

795 c. Whether the mother has received payments or promises of  
796 support with respect to the child or because of her pregnancy  
797 from a man who claims to be the father.

798 d. Whether the mother has named any man as the father on  
799 the birth certificate of the child or in connection with  
800 applying for or receiving public assistance.

801 e. Whether any man has acknowledged or claimed paternity of  
802 the child in a jurisdiction in which the mother resided at the  
803 time of or since conception of the child or in which the child  
804 has resided or resides.

805 f. Whether a man is named on the birth certificate of the  
806 child pursuant to s. 382.013(2).

807 g. Whether a man has been determined by a court order to be  
808 the father of the child.

809 h. Whether a man has been determined to be the father of  
810 the child by the Department of Revenue as provided in s.  
811 409.256.

812 (14) The time limitations in this section do not include:

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813 (a) Periods of delay resulting from a continuance granted  
814 at the request or with the consent of the attorney for the child  
815 or the child's counsel ~~or the child's~~ guardian ad litem, if one  
816 has been appointed by the court, or, if the child is of  
817 sufficient capacity to express reasonable consent, at the  
818 request or with the consent of the attorney for the child  
819 ~~child's attorney~~ or the child's guardian ad litem, ~~if one has~~  
820 ~~been appointed by the court,~~ and the child.

821 Section 17. Paragraphs (e) and (f) of subsection (3) and  
822 subsection (6) of section 39.407, Florida Statutes, are amended  
823 to read:

824 39.407 Medical, psychiatric, and psychological examination  
825 and treatment of child; physical, mental, or substance abuse  
826 examination of person with or requesting child custody.—

827 (3)

828 (e)1. If the child's prescribing physician or psychiatric  
829 nurse, as defined in s. 394.455, certifies in the signed medical  
830 report required in paragraph (c) that delay in providing a  
831 prescribed psychotropic medication would more likely than not  
832 cause significant harm to the child, the medication may be  
833 provided in advance of the issuance of a court order. In such  
834 event, the medical report must provide the specific reasons why  
835 the child may experience significant harm and the nature and the  
836 extent of the potential harm. The department must submit a  
837 motion seeking continuation of the medication and the  
838 physician's or psychiatric nurse's medical report to the court,  
839 the child's guardian ad litem or attorney for the child, and all  
840 other parties within 3 working days after the department  
841 commences providing the medication to the child. The department



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842 shall seek the order at the next regularly scheduled court  
843 hearing required under this chapter, or within 30 days after the  
844 date of the prescription, whichever occurs sooner. If any party  
845 objects to the department's motion, the court shall hold a  
846 hearing within 7 days.

847 2. Psychotropic medications may be administered in advance  
848 of a court order in hospitals, crisis stabilization units, and  
849 in statewide inpatient psychiatric programs. Within 3 working  
850 days after the medication is begun, the department must seek  
851 court authorization as described in paragraph (c).

852 (f)1. The department shall fully inform the court of the  
853 child's medical and behavioral status as part of the social  
854 services report prepared for each judicial review hearing held  
855 for a child for whom psychotropic medication has been prescribed  
856 or provided under this subsection. As a part of the information  
857 provided to the court, the department shall furnish copies of  
858 all pertinent medical records concerning the child which have  
859 been generated since the previous hearing. On its own motion or  
860 on good cause shown by any party, including any guardian ad  
861 litem, or attorney for the child ~~attorney, or attorney ad litem~~  
862 who has been appointed to represent the child or the child's  
863 interests, the court may review the status more frequently than  
864 required in this subsection.

865 2. The court may, in the best interests of the child, order  
866 the department to obtain a medical opinion addressing whether  
867 the continued use of the medication under the circumstances is  
868 safe and medically appropriate.

869 (6) Children who are in the legal custody of the department  
870 may be placed by the department, without prior approval of the

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871 court, in a residential treatment center licensed under s.  
872 394.875 or a hospital licensed under chapter 395 for residential  
873 mental health treatment only pursuant to this section or may be  
874 placed by the court in accordance with an order of involuntary  
875 examination or involuntary placement entered pursuant to s.  
876 394.463 or s. 394.467. All children placed in a residential  
877 treatment program under this subsection must be appointed ~~have~~ a  
878 guardian ad litem and an attorney for the child ~~appointed~~.

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

880 1. "Residential treatment" means placement for observation,  
881 diagnosis, or treatment of an emotional disturbance in a  
882 residential treatment center licensed under s. 394.875 or a  
883 hospital licensed under chapter 395.

884 2. "Least restrictive alternative" means the treatment and  
885 conditions of treatment that, separately and in combination, are  
886 no more intrusive or restrictive of freedom than reasonably  
887 necessary to achieve a substantial therapeutic benefit or to  
888 protect the child or adolescent or others from physical injury.

889 3. "Suitable for residential treatment" or "suitability"  
890 means a determination concerning a child or adolescent with an  
891 emotional disturbance as defined in s. 394.492(5) or a serious  
892 emotional disturbance as defined in s. 394.492(6) that each of  
893 the following criteria is met:

894 a. The child requires residential treatment.

895 b. The child is in need of a residential treatment program  
896 and is expected to benefit from mental health treatment.

897 c. An appropriate, less restrictive alternative to  
898 residential treatment is unavailable.

899 (b) Whenever the department believes that a child in its

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900 legal custody is emotionally disturbed and may need residential  
901 treatment, an examination and suitability assessment must be  
902 conducted by a qualified evaluator who is appointed by the  
903 Agency for Health Care Administration. This suitability  
904 assessment must be completed before the placement of the child  
905 in a residential treatment center for emotionally disturbed  
906 children and adolescents or a hospital. The qualified evaluator  
907 must be a psychiatrist or a psychologist licensed in Florida who  
908 has at least 3 years of experience in the diagnosis and  
909 treatment of serious emotional disturbances in children and  
910 adolescents and who has no actual or perceived conflict of  
911 interest with any inpatient facility or residential treatment  
912 center or program.

913 (c) Before a child is admitted under this subsection, the  
914 child shall be assessed for suitability for residential  
915 treatment by a qualified evaluator who has conducted a personal  
916 examination and assessment of the child and has made written  
917 findings that:

918 1. The child appears to have an emotional disturbance  
919 serious enough to require residential treatment and is  
920 reasonably likely to benefit from the treatment.

921 2. The child has been provided with a clinically  
922 appropriate explanation of the nature and purpose of the  
923 treatment.

924 3. All available modalities of treatment less restrictive  
925 than residential treatment have been considered, and a less  
926 restrictive alternative that would offer comparable benefits to  
927 the child is unavailable.

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929 A copy of the written findings of the evaluation and suitability  
930 assessment must be provided to the department, to the guardian  
931 ad litem and attorney for the child, and, if the child is a  
932 member of a Medicaid managed care plan, to the plan that is  
933 financially responsible for the child's care in residential  
934 treatment, all of whom must be provided with the opportunity to  
935 discuss the findings with the evaluator.

936 (d) Immediately upon placing a child in a residential  
937 treatment program under this section, the department must notify  
938 the guardian ad litem, the attorney for the child, and the court  
939 having jurisdiction over the child and must provide the guardian  
940 ad litem, the attorney for the child, and the court with a copy  
941 of the assessment by the qualified evaluator.

942 (e) Within 10 days after the admission of a child to a  
943 residential treatment program, the director of the residential  
944 treatment program or the director's designee must ensure that an  
945 individualized plan of treatment has been prepared by the  
946 program and has been explained to the child, to the department,  
947 ~~and~~ to the guardian ad litem, and to the attorney for the child,  
948 and submitted to the department. The child must be involved in  
949 the preparation of the plan to the maximum feasible extent  
950 consistent with his or her ability to understand and  
951 participate, and the guardian ad litem, the attorney for the  
952 child, and the child's foster parents must be involved to the  
953 maximum extent consistent with the child's treatment needs. The  
954 plan must include a preliminary plan for residential treatment  
955 and aftercare upon completion of residential treatment. The plan  
956 must include specific behavioral and emotional goals against  
957 which the success of the residential treatment may be measured.

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958 A copy of the plan must be provided to the child, to the  
959 guardian ad litem, to the attorney for the child, and to the  
960 department.

961 (f) Within 30 days after admission, the residential  
962 treatment program must review the appropriateness and  
963 suitability of the child's placement in the program. The  
964 residential treatment program must determine whether the child  
965 is receiving benefit toward the treatment goals and whether the  
966 child could be treated in a less restrictive treatment program.  
967 The residential treatment program shall prepare a written report  
968 of its findings and submit the report to the guardian ad litem,  
969 to the attorney for the child, and to the department. The  
970 department must submit the report to the court. The report must  
971 include a discharge plan for the child. The residential  
972 treatment program must continue to evaluate the child's  
973 treatment progress every 30 days thereafter and must include its  
974 findings in a written report submitted to the department. The  
975 department may not reimburse a facility until the facility has  
976 submitted every written report that is due.

977 (g)1. The department must submit, at the beginning of each  
978 month, to the court having jurisdiction over the child, a  
979 written report regarding the child's progress toward achieving  
980 the goals specified in the individualized plan of treatment.

981 2. The court must conduct a hearing to review the status of  
982 the child's residential treatment plan no later than 60 days  
983 after the child's admission to the residential treatment  
984 program. An independent review of the child's progress toward  
985 achieving the goals and objectives of the treatment plan must be  
986 completed by a qualified evaluator and submitted to the court

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987 before its 60-day review.

988 3. For any child in residential treatment at the time a  
989 judicial review is held pursuant to s. 39.701, the child's  
990 continued placement in residential treatment must be a subject  
991 of the judicial review.

992 4. If at any time the court determines that the child is  
993 not suitable for continued residential treatment, the court  
994 shall order the department to place the child in the least  
995 restrictive setting that is best suited to meet his or her  
996 needs.

997 (h) After the initial 60-day review, the court must conduct  
998 a review of the child's residential treatment plan every 90  
999 days.

1000 (i) The department must adopt rules for implementing  
1001 timeframes for the completion of suitability assessments by  
1002 qualified evaluators and a procedure that includes timeframes  
1003 for completing the 60-day independent review by the qualified  
1004 evaluators of the child's progress toward achieving the goals  
1005 and objectives of the treatment plan which review must be  
1006 submitted to the court. The Agency for Health Care  
1007 Administration must adopt rules for the registration of  
1008 qualified evaluators, the procedure for selecting the evaluators  
1009 to conduct the reviews required under this section, and a  
1010 reasonable, cost-efficient fee schedule for qualified  
1011 evaluators.

1012 Section 18. Subsections (20) and (21) of section 39.4085,  
1013 Florida Statutes, are amended to read:

1014 39.4085 Legislative findings and declaration of intent for  
1015 goals for dependent children.—The Legislature finds and declares

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1016 that the design and delivery of child welfare services should be  
1017 directed by the principle that the health and safety of children  
1018 should be of paramount concern and, therefore, establishes the  
1019 following goals for children in shelter or foster care:

1020 (20) To have a guardian ad litem appointed to represent,  
1021 within reason, their best interests; and, as appropriate, have  
1022 an attorney for the child ~~and, where appropriate, an attorney ad~~  
1023 ~~litem~~ appointed to represent their legal interests.† The  
1024 guardian ad litem and attorney for the child ~~attorney ad litem~~  
1025 shall have immediate and unlimited access to the children they  
1026 represent.

1027 (21) To have all their records available for review by  
1028 their guardian ad litem or attorney for the child, as  
1029 applicable, ~~and attorney ad litem~~ if they deem such review  
1030 necessary.

1031  
1032 The provisions of this section establish goals and not rights.  
1033 Nothing in this section shall be interpreted as requiring the  
1034 delivery of any particular service or level of service in excess  
1035 of existing appropriations. No person shall have a cause of  
1036 action against the state or any of its subdivisions, agencies,  
1037 contractors, subcontractors, or agents, based upon the adoption  
1038 of or failure to provide adequate funding for the achievement of  
1039 these goals by the Legislature. Nothing herein shall require the  
1040 expenditure of funds to meet the goals established herein except  
1041 funds specifically appropriated for such purpose.

1042 Section 19. Subsections (8), (12), (13), (14), and (17) of  
1043 section 39.502, Florida Statutes, are amended to read:

1044 39.502 Notice, process, and service.—

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1045 (8) It is not necessary to the validity of a proceeding  
1046 covered by this part that the parents be present if their  
1047 identity or residence is unknown after a diligent search has  
1048 been made, but in this event the petitioner shall file an  
1049 affidavit of diligent search prepared by the person who made the  
1050 search and inquiry, and the court may appoint a guardian ad  
1051 litem for the child or an attorney for the child, as  
1052 appropriate.

1053 (12) All process and orders issued by the court shall be  
1054 served or executed as other process and orders of the circuit  
1055 court and, in addition, may be served or executed by authorized  
1056 agents of the department or the guardian ad litem or attorney  
1057 for the child, as applicable.

1058 (13) Subpoenas may be served within the state by any person  
1059 over 18 years of age who is not a party to the proceeding and,  
1060 in addition, may be served by authorized agents of the  
1061 department or the guardian ad litem or attorney for the child,  
1062 as applicable.

1063 (14) No fee shall be paid for service of any process or  
1064 other papers by an agent of the department or the guardian ad  
1065 litem or attorney for the child, as applicable. If any process,  
1066 orders, or any other papers are served or executed by any  
1067 sheriff, the sheriff's fees shall be paid by the county.

1068 (17) The parent or legal custodian of the child, the  
1069 attorney for the department, the guardian ad litem or attorney  
1070 for the child, as applicable, the foster or preadoptive parents,  
1071 and all other parties and participants shall be given reasonable  
1072 notice of all proceedings and hearings provided for under this  
1073 part. All foster or preadoptive parents must be provided with at



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1074 least 72 hours' notice, verbally or in writing, of all  
1075 proceedings or hearings relating to children in their care or  
1076 children they are seeking to adopt to ensure the ability to  
1077 provide input to the court.

1078 Section 20. Paragraphs (c) and (e) of subsection (1) of  
1079 section 39.521, Florida Statutes, are amended to read:

1080 39.521 Disposition hearings; powers of disposition.—

1081 (1) A disposition hearing shall be conducted by the court,  
1082 if the court finds that the facts alleged in the petition for  
1083 dependency were proven in the adjudicatory hearing, or if the  
1084 parents or legal custodians have consented to the finding of  
1085 dependency or admitted the allegations in the petition, have  
1086 failed to appear for the arraignment hearing after proper  
1087 notice, or have not been located despite a diligent search  
1088 having been conducted.

1089 (c) When any child is adjudicated by a court to be  
1090 dependent, the court having jurisdiction of the child has the  
1091 power by order to:

1092 1. Require the parent and, when appropriate, the legal  
1093 guardian or the child to participate in treatment and services  
1094 identified as necessary. The court may require the person who  
1095 has custody or who is requesting custody of the child to submit  
1096 to a mental health or substance abuse disorder assessment or  
1097 evaluation. The order may be made only upon good cause shown and  
1098 pursuant to notice and procedural requirements provided under  
1099 the Florida Rules of Juvenile Procedure. The mental health  
1100 assessment or evaluation must be administered by a qualified  
1101 professional as defined in s. 39.01, and the substance abuse  
1102 assessment or evaluation must be administered by a qualified

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1103 professional as defined in s. 397.311. The court may also  
1104 require such person to participate in and comply with treatment  
1105 and services identified as necessary, including, when  
1106 appropriate and available, participation in and compliance with  
1107 a mental health court program established under chapter 394 or a  
1108 treatment-based drug court program established under s. 397.334.  
1109 Adjudication of a child as dependent based upon evidence of harm  
1110 as defined in s. 39.01(36)(g) ~~s. 39.01(35)(g)~~ demonstrates good  
1111 cause, and the court shall require the parent whose actions  
1112 caused the harm to submit to a substance abuse disorder  
1113 assessment or evaluation and to participate and comply with  
1114 treatment and services identified in the assessment or  
1115 evaluation as being necessary. In addition to supervision by the  
1116 department, the court, including the mental health court program  
1117 or the treatment-based drug court program, may oversee the  
1118 progress and compliance with treatment by a person who has  
1119 custody or is requesting custody of the child. The court may  
1120 impose appropriate available sanctions for noncompliance upon a  
1121 person who has custody or is requesting custody of the child or  
1122 make a finding of noncompliance for consideration in determining  
1123 whether an alternative placement of the child is in the child's  
1124 best interests. Any order entered under this subparagraph may be  
1125 made only upon good cause shown. This subparagraph does not  
1126 authorize placement of a child with a person seeking custody of  
1127 the child, other than the child's parent or legal custodian, who  
1128 requires mental health or substance abuse disorder treatment.

1129       2. Require, if the court deems necessary, the parties to  
1130 participate in dependency mediation.

1131       3. Require placement of the child either under the

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1132 protective supervision of an authorized agent of the department  
1133 in the home of one or both of the child's parents or in the home  
1134 of a relative of the child or another adult approved by the  
1135 court, or in the custody of the department. Protective  
1136 supervision continues until the court terminates it or until the  
1137 child reaches the age of 18, whichever date is first. Protective  
1138 supervision shall be terminated by the court whenever the court  
1139 determines that permanency has been achieved for the child,  
1140 whether with a parent, another relative, or a legal custodian,  
1141 and that protective supervision is no longer needed. The  
1142 termination of supervision may be with or without retaining  
1143 jurisdiction, at the court's discretion, and shall in either  
1144 case be considered a permanency option for the child. The order  
1145 terminating supervision by the department must set forth the  
1146 powers of the custodian of the child and include the powers  
1147 ordinarily granted to a guardian of the person of a minor unless  
1148 otherwise specified. Upon the court's termination of supervision  
1149 by the department, further judicial reviews are not required if  
1150 permanency has been established for the child.

1151 4. Determine whether the child has a strong attachment to  
1152 the prospective permanent guardian and whether such guardian has  
1153 a strong commitment to permanently caring for the child.

1154 (e) The court shall, in its written order of disposition,  
1155 include all of the following:

- 1156 1. The placement or custody of the child.
- 1157 2. Special conditions of placement and visitation.
- 1158 3. Evaluation, counseling, treatment activities, and other  
1159 actions to be taken by the parties, if ordered.
- 1160 4. The persons or entities responsible for supervising or

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1161 monitoring services to the child and parent.

1162 5. Continuation or discharge of the guardian ad litem or  
1163 attorney for the child if appointed, as appropriate.

1164 6. The date, time, and location of the next scheduled  
1165 review hearing, which must occur within the earlier of:

- 1166 a. Ninety days after the disposition hearing;  
1167 b. Ninety days after the court accepts the case plan;  
1168 c. Six months after the date of the last review hearing; or  
1169 d. Six months after the date of the child's removal from  
1170 his or her home, if no review hearing has been held since the  
1171 child's removal from the home.

1172 7. If the child is in an out-of-home placement, child  
1173 support to be paid by the parents, or the guardian of the  
1174 child's estate if possessed of assets which under law may be  
1175 disbursed for the care, support, and maintenance of the child.  
1176 The court may exercise jurisdiction over all child support  
1177 matters, shall adjudicate the financial obligation, including  
1178 health insurance, of the child's parents or guardian, and shall  
1179 enforce the financial obligation as provided in chapter 61. The  
1180 state's child support enforcement agency shall enforce child  
1181 support orders under this section in the same manner as child  
1182 support orders under chapter 61. Placement of the child shall  
1183 not be contingent upon issuance of a support order.

1184 8.a. If the court does not commit the child to the  
1185 temporary legal custody of an adult relative, legal custodian,  
1186 or other adult approved by the court, the disposition order must  
1187 include the reasons for such a decision and shall include a  
1188 determination as to whether diligent efforts were made by the  
1189 department to locate an adult relative, legal custodian, or

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1190 other adult willing to care for the child in order to present  
1191 that placement option to the court instead of placement with the  
1192 department.

1193 b. If no suitable relative is found and the child is placed  
1194 with the department or a legal custodian or other adult approved  
1195 by the court, both the department and the court shall consider  
1196 transferring temporary legal custody to an adult relative  
1197 approved by the court at a later date, but neither the  
1198 department nor the court is obligated to so place the child if  
1199 it is in the child's best interest to remain in the current  
1200 placement.

1201  
1202 For the purposes of this section, "diligent efforts to locate an  
1203 adult relative" means a search similar to the diligent search  
1204 for a parent, but without the continuing obligation to search  
1205 after an initial adequate search is completed.

1206 9. Other requirements necessary to protect the health,  
1207 safety, and well-being of the child, to preserve the stability  
1208 of the child's child care, early education program, or any other  
1209 educational placement, and to promote family preservation or  
1210 reunification whenever possible.

1211 Section 21. Paragraph (a) of subsection (2) of section  
1212 39.523, Florida Statutes, is amended to read:

1213 39.523 Placement in out-of-home care.—

1214 (2) ASSESSMENT AND PLACEMENT.—When any child is removed  
1215 from a home and placed into out-of-home care, a comprehensive  
1216 placement assessment process shall be completed to determine the  
1217 level of care needed by the child and match the child with the  
1218 most appropriate placement.

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1219 (a) The community-based care lead agency or subcontracted  
1220 agency with the responsibility for assessment and placement must  
1221 coordinate a multidisciplinary team staffing with any available  
1222 individual currently involved with the child, including, but not  
1223 limited to, a representative from the department and the case  
1224 manager for the child; a therapist, ~~attorney ad litem~~, a  
1225 guardian ad litem, an attorney for the child, teachers, coaches,  
1226 and Children's Medical Services; and other community providers  
1227 of services to the child or stakeholders as applicable. The team  
1228 may also include clergy, relatives, and fictive kin if  
1229 appropriate. Team participants must gather data and information  
1230 on the child which is known at the time including, but not  
1231 limited to:

- 1232 1. Mental, medical, behavioral health, and medication  
1233 history;
- 1234 2. Community ties and school placement;
- 1235 3. Current placement decisions relating to any siblings;
- 1236 4. Alleged type of abuse or neglect including sexual abuse  
1237 and trafficking history; and
- 1238 5. The child's age, maturity, strengths, hobbies or  
1239 activities, and the child's preference for placement.

1240 Section 22. Paragraph (a) of subsection (1) of section  
1241 39.6011, Florida Statutes, is amended to read:

1242 39.6011 Case plan development.—

1243 (1) The department shall prepare a draft of the case plan  
1244 for each child receiving services under this chapter. A parent  
1245 of a child may not be threatened or coerced with the loss of  
1246 custody or parental rights for failing to admit in the case plan  
1247 of abusing, neglecting, or abandoning a child. Participating in

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1248 the development of a case plan is not an admission to any  
1249 allegation of abuse, abandonment, or neglect, and it is not a  
1250 consent to a finding of dependency or termination of parental  
1251 rights. The case plan shall be developed subject to the  
1252 following requirements:

1253 (a) The case plan must be developed in a face-to-face  
1254 conference with the parent of the child, any court-appointed  
1255 guardian ad litem or attorney for the child, and, if  
1256 appropriate, the child and the temporary custodian of the child.

1257 Section 23. Paragraph (c) of subsection (1) of section  
1258 39.6012, Florida Statutes, is amended to read:

1259 39.6012 Case plan tasks; services.—

1260 (1) The services to be provided to the parent and the tasks  
1261 that must be completed are subject to the following:

1262 (c) If there is evidence of harm as defined in s.  
1263 39.01(36)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a  
1264 required task for the parent whose actions caused the harm that  
1265 the parent submit to a substance abuse disorder assessment or  
1266 evaluation and participate and comply with treatment and  
1267 services identified in the assessment or evaluation as being  
1268 necessary.

1269 Section 24. Subsection (8) of section 39.6251, Florida  
1270 Statutes, is amended to read:

1271 39.6251 Continuing care for young adults.—

1272 (8) During the time that a young adult is in care, the  
1273 court shall maintain jurisdiction to ensure that the department  
1274 and the lead agencies are providing services and coordinate  
1275 with, and maintain oversight of, other agencies involved in  
1276 implementing the young adult's case plan, individual education

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1277 plan, and transition plan. The court shall review the status of  
1278 the young adult at least every 6 months and hold a permanency  
1279 review hearing at least annually. If the young adult is  
1280 appointed a guardian under chapter 744 or a guardian advocate  
1281 under s. 393.12, at the permanency review hearing the court  
1282 shall review the necessity of continuing the guardianship and  
1283 whether restoration of guardianship proceedings are needed when  
1284 the young adult reaches 22 years of age. The court may appoint  
1285 an attorney for the child ~~a guardian ad litem~~ or continue the  
1286 appointment of a guardian ad litem or an attorney for the child,  
1287 as applicable, with the young adult's consent. The young adult  
1288 or any other party to the dependency case may request an  
1289 additional hearing or review.

1290 Section 25. Paragraph (b) of subsection (1) and paragraph  
1291 (b) of subsection (2) of section 39.701, Florida Statutes, are  
1292 amended to read:

1293 39.701 Judicial review.—

1294 (1) GENERAL PROVISIONS.—

1295 (b)1. The court shall retain jurisdiction over a child  
1296 returned to his or her parents for a minimum period of 6 months  
1297 following the reunification, but, at that time, based on a  
1298 report of the social service agency and the guardian ad litem or  
1299 attorney for the child, if one has been appointed, and any other  
1300 relevant factors, the court shall make a determination as to  
1301 whether supervision by the department and the court's  
1302 jurisdiction shall continue or be terminated.

1303 2. Notwithstanding subparagraph 1., the court must retain  
1304 jurisdiction over a child if the child is placed in the home  
1305 with a parent or caregiver with an in-home safety plan and such



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1306 safety plan remains necessary for the child to reside safely in  
1307 the home.

1308 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF  
1309 AGE.—

1310 (b) *Submission and distribution of reports.*—

1311 1. A copy of the social service agency's written report and  
1312 the written report of the guardian ad litem or attorney for the  
1313 child must be served on all parties whose whereabouts are known;  
1314 to the foster parents or legal custodians; and to the citizen  
1315 review panel, at least 72 hours before the judicial review  
1316 hearing or citizen review panel hearing. The requirement for  
1317 providing parents with a copy of the written report does not  
1318 apply to those parents who have voluntarily surrendered their  
1319 child for adoption or who have had their parental rights to the  
1320 child terminated.

1321 2. In a case in which the child has been permanently placed  
1322 with the social service agency, the agency shall furnish to the  
1323 court a written report concerning the progress being made to  
1324 place the child for adoption. If the child cannot be placed for  
1325 adoption, a report on the progress made by the child towards  
1326 alternative permanency goals or placements, including, but not  
1327 limited to, guardianship, long-term custody, long-term licensed  
1328 custody, or independent living, must be submitted to the court.  
1329 The report must be submitted to the court at least 72 hours  
1330 before each scheduled judicial review.

1331 3. In addition to or in lieu of any written statement  
1332 provided to the court, the foster parent or legal custodian, or  
1333 any preadoptive parent, shall be given the opportunity to  
1334 address the court with any information relevant to the best

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1335 interests of the child at any judicial review hearing.

1336 Section 26. Paragraph (g) of subsection (5) of section  
1337 39.702, Florida Statutes, is amended to read:

1338 39.702 Citizen review panels.—

1339 (5) The independent not-for-profit agency authorized to  
1340 administer each citizen review panel shall:

1341 (g) Establish policies to ensure adequate communication  
1342 with the parent, the foster parent or legal custodian, the  
1343 guardian ad litem or attorney for the child, and any other  
1344 person deemed appropriate.

1345 Section 27. Paragraph (a) of subsection (3) and subsections  
1346 (5), (6), and (7) of section 39.801, Florida Statutes, are  
1347 amended to read:

1348 39.801 Procedures and jurisdiction; notice; service of  
1349 process.—

1350 (3) Before the court may terminate parental rights, in  
1351 addition to the other requirements set forth in this part, the  
1352 following requirements must be met:

1353 (a) Notice of the date, time, and place of the advisory  
1354 hearing for the petition to terminate parental rights and a copy  
1355 of the petition must be personally served upon the following  
1356 persons, specifically notifying them that a petition has been  
1357 filed:

1358 1. The parents of the child.

1359 2. The legal custodians of the child.

1360 3. If the parents who would be entitled to notice are dead  
1361 or unknown, a living relative of the child, unless upon diligent  
1362 search and inquiry no such relative can be found.

1363 4. Any person who has physical custody of the child.

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1364 5. Any grandparent entitled to priority for adoption under  
1365 s. 63.0425.

1366 6. Any prospective parent who has been identified under s.  
1367 39.503 or s. 39.803, unless a court order has been entered  
1368 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which  
1369 indicates no further notice is required. Except as otherwise  
1370 provided in this section, if there is not a legal father, notice  
1371 of the petition for termination of parental rights must be  
1372 provided to any known prospective father who is identified under  
1373 oath before the court or who is identified by a diligent search  
1374 of the Florida Putative Father Registry. Service of the notice  
1375 of the petition for termination of parental rights is not  
1376 required if the prospective father executes an affidavit of  
1377 nonpaternity or a consent to termination of his parental rights  
1378 which is accepted by the court after notice and opportunity to  
1379 be heard by all parties to address the best interests of the  
1380 child in accepting such affidavit.

1381 7. The guardian ad litem for the child or the  
1382 representative of the guardian ad litem program, if the program  
1383 has been appointed.

1384 8. The attorney for the child, if appointed.

1385  
1386 The document containing the notice to respond or appear must  
1387 contain, in type at least as large as the type in the balance of  
1388 the document, the following or substantially similar language:  
1389 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING  
1390 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF  
1391 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND  
1392 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE

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1393 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS  
1394 NOTICE.”

1395 (5) All process and orders issued by the court must be  
1396 served or executed as other process and orders of the circuit  
1397 court and, in addition, may be served or executed by authorized  
1398 agents of the department, ~~or~~ the guardian ad litem, or the  
1399 attorney for the child.

1400 (6) Subpoenas may be served within the state by any person  
1401 over 18 years of age who is not a party to the proceeding and,  
1402 in addition, may be served or executed by authorized agents of  
1403 the department, ~~or~~ of the guardian ad litem, or of the attorney  
1404 for the child.

1405 (7) A fee may not be paid for service of any process or  
1406 other papers by an agent of the department, ~~or~~ the guardian ad  
1407 litem, or the attorney for the child. If any process, orders, or  
1408 other papers are served or executed by any sheriff, the  
1409 sheriff's fees must be paid by the county.

1410 Section 28. Subsection (1) of section 39.802, Florida  
1411 Statutes, is amended to read:

1412 39.802 Petition for termination of parental rights; filing;  
1413 elements.—

1414 (1) All proceedings seeking an adjudication to terminate  
1415 parental rights pursuant to this chapter must be initiated by  
1416 the filing of an original petition by the department, the  
1417 guardian ad litem, the attorney for the child, or any other  
1418 person who has knowledge of the facts alleged or is informed of  
1419 them and believes that they are true.

1420 Section 29. Subsection (2) of section 39.808, Florida  
1421 Statutes, is amended to read:

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1422 39.808 Advisory hearing; pretrial status conference.—

1423 (2) At the hearing the court shall inform the parties of  
1424 their rights under s. 39.807, shall appoint counsel for the  
1425 parties in accordance with legal requirements, and shall appoint  
1426 a guardian ad litem or an attorney for the child as provided for  
1427 in s. 39.831 to represent the interests of the child if one has  
1428 not already been appointed.

1429 Section 30. Subsection (11) of section 39.810, Florida  
1430 Statutes, is amended to read:

1431 39.810 Manifest best interests of the child.—In a hearing  
1432 on a petition for termination of parental rights, the court  
1433 shall consider the manifest best interests of the child. This  
1434 consideration shall not include a comparison between the  
1435 attributes of the parents and those of any persons providing a  
1436 present or potential placement for the child. For the purpose of  
1437 determining the manifest best interests of the child, the court  
1438 shall consider and evaluate all relevant factors, including, but  
1439 not limited to:

1440 (11) The recommendations for the child provided by the  
1441 child's guardian ad litem ~~or legal representative~~.

1442 Section 31. Subsection (9) of section 39.811, Florida  
1443 Statutes, is amended to read:

1444 39.811 Powers of disposition; order of disposition.—

1445 (9) After termination of parental rights, the court shall  
1446 retain jurisdiction over any child for whom custody is given to  
1447 a social service agency until the child is adopted. The court  
1448 shall review the status of the child's placement and the  
1449 progress being made toward permanent adoptive placement. As part  
1450 of this continuing jurisdiction, for good cause shown by the

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1451 attorney for the child or guardian ad litem for the child, the  
1452 court may review the appropriateness of the adoptive placement  
1453 of the child.

1454 Section 32. Subsection (4) of section 39.812, Florida  
1455 Statutes, is amended to read:

1456 39.812 Postdisposition relief; petition for adoption.—

1457 (4) The court shall retain jurisdiction over any child  
1458 placed in the custody of the department until the child is  
1459 adopted. After custody of a child for subsequent adoption has  
1460 been given to the department, the court has jurisdiction for the  
1461 purpose of reviewing the status of the child and the progress  
1462 being made toward permanent adoptive placement. As part of this  
1463 continuing jurisdiction, for good cause shown by the attorney  
1464 for the child or guardian ad litem for the child, the court may  
1465 review the appropriateness of the adoptive placement of the  
1466 child. When a licensed foster parent or court-ordered custodian  
1467 has applied to adopt a child who has resided with the foster  
1468 parent or custodian for at least 6 months and who has previously  
1469 been permanently committed to the legal custody of the  
1470 department and the department does not grant the application to  
1471 adopt, the department may not, in the absence of a prior court  
1472 order authorizing it to do so, remove the child from the foster  
1473 home or custodian, except when:

1474 (a) There is probable cause to believe that the child is at  
1475 imminent risk of abuse or neglect;

1476 (b) Thirty days have expired following written notice to  
1477 the foster parent or custodian of the denial of the application  
1478 to adopt, within which period no formal challenge of the  
1479 department's decision has been filed; or

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1480 (c) The foster parent or custodian agrees to the child's  
1481 removal.

1482 Section 33. Subsection (1) of section 39.815, Florida  
1483 Statutes, is amended to read:

1484 39.815 Appeal.—

1485 (1) Any child, any parent, or guardian ad litem of any  
1486 child, attorney for the child, any other party to the proceeding  
1487 who is affected by an order of the court, or the department may  
1488 appeal to the appropriate district court of appeal within the  
1489 time and in the manner prescribed by the Florida Rules of  
1490 Appellate Procedure. The district court of appeal shall give an  
1491 appeal from an order terminating parental rights priority in  
1492 docketing and shall render a decision on the appeal as  
1493 expeditiously as possible. Appointed counsel shall be  
1494 compensated as provided in s. 27.5304(6).

1495 Section 34. Subsections (5), (6), and (7) of section 43.16,  
1496 Florida Statutes, are amended to read:

1497 43.16 Justice Administrative Commission; membership, powers  
1498 and duties.—

1499 (5) The duties of the commission shall include, but not be  
1500 limited to, the following:

1501 (a) The maintenance of a central state office for  
1502 administrative services and assistance when possible to and on  
1503 behalf of the state attorneys and public defenders of Florida,  
1504 the capital collateral regional counsel of Florida, the criminal  
1505 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
1506 Program, and the Statewide Office of Child Representation.

1507 (b) Each state attorney, public defender, ~~and~~ criminal  
1508 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem

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1509 Program, and the Statewide Office of Child Representation shall  
1510 continue to prepare necessary budgets, vouchers that represent  
1511 valid claims for reimbursement by the state for authorized  
1512 expenses, and other things incidental to the proper  
1513 administrative operation of the office, such as revenue  
1514 transmittals to the Chief Financial Officer and automated  
1515 systems plans, but will forward such items to the commission for  
1516 recording and submission to the proper state officer. However,  
1517 when requested by a state attorney, a public defender, a  
1518 criminal conflict and civil regional counsel, ~~or~~ the Guardian Ad  
1519 Litem Program, or the Statewide Office of Child Representation,  
1520 the commission will either assist in the preparation of budget  
1521 requests, voucher schedules, and other forms and reports or  
1522 accomplish the entire project involved.

1523 (6) The commission, each state attorney, each public  
1524 defender, the criminal conflict and civil regional counsel, the  
1525 capital collateral regional counsel, ~~and~~ the Guardian Ad Litem  
1526 Program, and the Statewide Office of Child Representation shall  
1527 establish and maintain internal controls designed to:

1528 (a) Prevent and detect fraud, waste, and abuse as defined  
1529 in s. 11.45(1).

1530 (b) Promote and encourage compliance with applicable laws,  
1531 rules, contracts, grant agreements, and best practices.

1532 (c) Support economical and efficient operations.

1533 (d) Ensure reliability of financial records and reports.

1534 (e) Safeguard assets.

1535 (7) The provisions contained in this section shall be  
1536 supplemental to those of chapter 27, relating to state  
1537 attorneys, public defenders, criminal conflict and civil



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1538 regional counsel, and capital collateral regional counsel; to  
1539 those of chapter 39, relating to the Guardian Ad Litem Program  
1540 and the Statewide Office of Child Representation; or to other  
1541 laws pertaining hereto.

1542 Section 35. Paragraph (c) of subsection (1) of section  
1543 63.082, Florida Statutes, is amended to read:

1544 63.082 Execution of consent to adoption or affidavit of  
1545 nonpaternity; family social and medical history; revocation of  
1546 consent.—

1547 (1)

1548 (c) A consent or an affidavit of nonpaternity executed by a  
1549 minor parent who is 14 years of age or younger must be witnessed  
1550 by a parent, legal guardian, or court-appointed guardian ad  
1551 litem or court-appointed attorney for the child.

1552 Section 36. Subsection (1) and paragraph (a) of subsection  
1553 (2) of section 63.085, Florida Statutes, are amended to read:

1554 63.085 Disclosure by adoption entity.—

1555 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE  
1556 PARENTS.—Within 14 days after a person seeking to adopt a minor  
1557 or a person seeking to place a minor for adoption contacts an  
1558 adoption entity in person or provides the adoption entity with a  
1559 mailing address, the entity must provide a written disclosure  
1560 statement to that person if the entity agrees or continues to  
1561 work with the person. The adoption entity shall also provide the  
1562 written disclosure to the parent who did not initiate contact  
1563 with the adoption entity within 14 days after that parent is  
1564 identified and located. For purposes of providing the written  
1565 disclosure, a person is considered to be seeking to place a  
1566 minor for adoption if that person has sought information or

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1567 advice from the adoption entity regarding the option of adoptive  
1568 placement. The written disclosure statement must be in  
1569 substantially the following form:

1570

1571

ADOPTION DISCLOSURE

1572

1573

THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE  
1574 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A MINOR  
1575 OR SEEKING TO PLACE A MINOR FOR ADOPTION, TO ADVISE  
1576 THEM OF THE FOLLOWING FACTS REGARDING ADOPTION UNDER  
1577 FLORIDA LAW:

1578

1579

1. The name, address, and telephone number of the  
1580 adoption entity providing this disclosure is:

1581

Name:.....

1582

Address:.....

1583

Telephone Number:.....

1584

1585

2. The adoption entity does not provide legal  
1586 representation or advice to parents or anyone signing  
1587 a consent for adoption or affidavit of nonpaternity,  
1588 and parents have the right to consult with an attorney  
1589 of their own choosing to advise them.

1590

3. With the exception of an adoption by a  
1591 stepparent or relative, a child cannot be placed into  
1592 a prospective adoptive home unless the prospective  
1593 adoptive parents have received a favorable preliminary  
1594 home study, including criminal and child abuse  
1595 clearances.

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1596 4. A valid consent for adoption may not be signed  
1597 by the birth mother until 48 hours after the birth of  
1598 the child, or the day the birth mother is notified, in  
1599 writing, that she is fit for discharge from the  
1600 licensed hospital or birth center. Any man may sign a  
1601 valid consent for adoption at any time after the birth  
1602 of the child.

1603 5. A consent for adoption signed before the child  
1604 attains the age of 6 months is binding and irrevocable  
1605 from the moment it is signed unless it can be proven  
1606 in court that the consent was obtained by fraud or  
1607 duress. A consent for adoption signed after the child  
1608 attains the age of 6 months is valid from the moment  
1609 it is signed; however, it may be revoked up to 3  
1610 business days after it was signed.

1611 6. A consent for adoption is not valid if the  
1612 signature of the person who signed the consent was  
1613 obtained by fraud or duress.

1614 7. An unmarried biological father must act  
1615 immediately in order to protect his parental rights.  
1616 Section 63.062, Florida Statutes, prescribes that any  
1617 father seeking to establish his right to consent to  
1618 the adoption of his child must file a claim of  
1619 paternity with the Florida Putative Father Registry  
1620 maintained by the Office of Vital Statistics of the  
1621 Department of Health by the date a petition to  
1622 terminate parental rights is filed with the court, or  
1623 within 30 days after receiving service of a Notice of  
1624 Intended Adoption Plan. If he receives a Notice of

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1625 Intended Adoption Plan, he must file a claim of  
1626 paternity with the Florida Putative Father Registry,  
1627 file a parenting plan with the court, and provide  
1628 financial support to the mother or child within 30  
1629 days following service. An unmarried biological  
1630 father's failure to timely respond to a Notice of  
1631 Intended Adoption Plan constitutes an irrevocable  
1632 legal waiver of any and all rights that the father may  
1633 have to the child. A claim of paternity registration  
1634 form for the Florida Putative Father Registry may be  
1635 obtained from any local office of the Department of  
1636 Health, Office of Vital Statistics, the Department of  
1637 Children and Families, the Internet websites for these  
1638 agencies, and the offices of the clerks of the Florida  
1639 circuit courts. The claim of paternity form must be  
1640 submitted to the Office of Vital Statistics,  
1641 Attention: Adoption Unit, P.O. Box 210, Jacksonville,  
1642 FL 32231.

1643 8. There are alternatives to adoption, including  
1644 foster care, relative care, and parenting the child.  
1645 There may be services and sources of financial  
1646 assistance in the community available to parents if  
1647 they choose to parent the child.

1648 9. A parent has the right to have a witness of  
1649 his or her choice, who is unconnected with the  
1650 adoption entity or the adoptive parents, to be present  
1651 and witness the signing of the consent or affidavit of  
1652 nonpaternity.

1653 10. A parent 14 years of age or younger must have

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1654 a parent, legal guardian, or court-appointed guardian  
1655 ad litem or court-appointed attorney for the child to  
1656 assist and advise the parent as to the adoption plan  
1657 and to witness consent.

1658 11. A parent has a right to receive supportive  
1659 counseling from a counselor, social worker, physician,  
1660 clergy, or attorney.

1661 12. The payment of living or medical expenses by  
1662 the prospective adoptive parents before the birth of  
1663 the child does not, in any way, obligate the parent to  
1664 sign the consent for adoption.

1665

1666 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

1667 (a) At the time that an adoption entity is responsible for  
1668 selecting prospective adoptive parents for a born or unborn  
1669 child whose parents are seeking to place the child for adoption  
1670 or whose rights were terminated pursuant to chapter 39, the  
1671 adoption entity must provide the prospective adoptive parents  
1672 with information concerning the background of the child to the  
1673 extent such information is disclosed to the adoption entity by  
1674 the parents, legal custodian, or the department. This subsection  
1675 applies only if the adoption entity identifies the prospective  
1676 adoptive parents and supervises the placement of the child in  
1677 the prospective adoptive parents' home. If any information  
1678 cannot be disclosed because the records custodian failed or  
1679 refused to produce the background information, the adoption  
1680 entity has a duty to provide the information if it becomes  
1681 available. An individual or entity contacted by an adoption  
1682 entity to obtain the background information must release the

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1683 requested information to the adoption entity without the  
1684 necessity of a subpoena or a court order. In all cases, the  
1685 prospective adoptive parents must receive all available  
1686 information by the date of the final hearing on the petition for  
1687 adoption. The information to be disclosed includes:

1688 1. A family social and medical history form completed  
1689 pursuant to s. 63.162(6).

1690 2. The biological mother's medical records documenting her  
1691 prenatal care and the birth and delivery of the child.

1692 3. A complete set of the child's medical records  
1693 documenting all medical treatment and care since the child's  
1694 birth and before placement.

1695 4. All mental health, psychological, and psychiatric  
1696 records, reports, and evaluations concerning the child before  
1697 placement.

1698 5. The child's educational records, including all records  
1699 concerning any special education needs of the child before  
1700 placement.

1701 6. Records documenting all incidents that required the  
1702 department to provide services to the child, including all  
1703 orders of adjudication of dependency or termination of parental  
1704 rights issued pursuant to chapter 39, any case plans drafted to  
1705 address the child's needs, all protective services  
1706 investigations identifying the child as a victim, and all  
1707 guardian ad litem reports or attorney for the child reports  
1708 filed with the court concerning the child.

1709 7. Written information concerning the availability of  
1710 adoption subsidies for the child, if applicable.

1711 Section 37. Subsection (4) of section 322.09, Florida

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1712 Statutes, is amended to read:

1713       322.09 Application of minors; responsibility for negligence  
1714 or misconduct of minor.—

1715       (4) Notwithstanding subsections (1) and (2), if a caregiver  
1716 of a minor who is under the age of 18 years and is in out-of-  
1717 home care as defined in s. 39.01(56) ~~s. 39.01(55)~~, an authorized  
1718 representative of a residential group home at which such a minor  
1719 resides, the caseworker at the agency at which the state has  
1720 placed the minor, or a guardian ad litem specifically authorized  
1721 by the minor's caregiver to sign for a learner's driver license  
1722 signs the minor's application for a learner's driver license,  
1723 that caregiver, group home representative, caseworker, or  
1724 guardian ad litem does not assume any obligation or become  
1725 liable for any damages caused by the negligence or willful  
1726 misconduct of the minor by reason of having signed the  
1727 application. Before signing the application, the caseworker,  
1728 authorized group home representative, or guardian ad litem shall  
1729 notify the caregiver or other responsible party of his or her  
1730 intent to sign and verify the application.

1731       Section 38. Paragraph (p) of subsection (4) of section  
1732 394.495, Florida Statutes, is amended to read:

1733       394.495 Child and adolescent mental health system of care;  
1734 programs and services.—

1735       (4) The array of services may include, but is not limited  
1736 to:

1737       (p) Trauma-informed services for children who have suffered  
1738 sexual exploitation as defined in s. 39.01(78)(g) ~~s.~~  
1739 ~~39.01(77)(g)~~.

1740       Section 39. Section 627.746, Florida Statutes, is amended

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1741 to read:

1742           627.746 Coverage for minors who have a learner's driver  
1743 license; additional premium prohibited.—An insurer that issues  
1744 an insurance policy on a private passenger motor vehicle to a  
1745 named insured who is a caregiver of a minor who is under the age  
1746 of 18 years and is in out-of-home care as defined in s.  
1747 39.01(56) ~~s. 39.01(55)~~ may not charge an additional premium for  
1748 coverage of the minor while the minor is operating the insured  
1749 vehicle, for the period of time that the minor has a learner's  
1750 driver license, until such time as the minor obtains a driver  
1751 license.

1752           Section 40. Paragraph (c) of subsection (1) of section  
1753 934.255, Florida Statutes, is amended to read:

1754           934.255 Subpoenas in investigations of sexual offenses.—

1755           (1) As used in this section, the term:

1756           (c) "Sexual abuse of a child" means a criminal offense  
1757 based on any conduct described in s. 39.01(78) ~~s. 39.01(77)~~.

1758           Section 41. Subsection (5) of section 960.065, Florida  
1759 Statutes, is amended to read:

1760           960.065 Eligibility for awards.—

1761           (5) A person is not ineligible for an award pursuant to  
1762 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that  
1763 person is a victim of sexual exploitation of a child as defined  
1764 in s. 39.01(78) (g) ~~s. 39.01(77) (g)~~.

1765           Section 42. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

SB 1920

Bill Number (if applicable)

Topic 39 child representation

Name Daniel Dawson

Amendment Barcode (if applicable)

Job Title Senior Circuit Judge

Address 4809 Hoffner Ave #335

Street

Phone

Orlando

City

FL

State

Zip

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21  
Meeting Date

1920  
Bill Number (if applicable)

Topic Representation of children

Amendment Barcode (if applicable)

Name ALAN ABRAMOWITZ

Job Title Executive Director

Address 111 Mission St.  
Street

Phone 855-241-3232

Tallah FL 32399  
City State Zip

Email alan.abramowitz@gal-fl.gov

Speaking:  For  Against  Information (Available if given)

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FAL Program

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 1920

INTRODUCER: Senator Book

SUBJECT: Child Welfare

DATE: March 15, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

**I. Summary:**

SB 1920 creates the Statewide Office of Child Representation (OCR) and makes a number of changes to various provisions related to guardians ad litem (GAL) under ch. 39, F.S., and regarding attorney representation for the child.

The bill provides that on or after July 1, 2022, a GAL must be appointed in specified circumstances including a dependency proceeding or “related adoption proceeding” as defined in s. 39.820, F.S. The guardian ad litem program (GALP) must be discharged within 60 days after a child reaches 10 years old except in limited cases.

The bill defines a “conflict of interest” with respect to GAL volunteers and requires the GALP to develop guidelines to identify when there is reasonable cause to suspect an assigned GAL has a conflict of interest. The bill also requires the court to order that a new GAL be assigned or appoint an attorney for the child when such circumstances exist. Further, the GALP must identify any GAL who is experiencing a physical or mental health issue or who appears to present a danger to any child, and remove him or her from all assigned cases and terminate his or her volunteer services.

The GAL Qualifications Committee is redesignated as the Child Well-Being Qualifications Committee. The bill provides that the executive director of the GALP may be reappointed to serve more than one term and the reappointment process must be made in accordance with the initial appointment process.

The OCR is established within the Justice Administrative Commission and is structured with requirements substantially similar to current law relating to the GALP. Regional Offices are created within the area serviced by each of the five district court of appeals. Child Representation Counsel (CRC) must comply with proscribed duties. The bill provides specified duties for the OCR and the Department of Children and Families (DCF) is required to take any necessary steps

to obtain federal funding for the OCR. The OCR may contract with a local nonprofit agency to provide direct representation for the child.

Section 39.831, F.S., is created to make provisions regarding when an “attorney for the child,” as defined in the bill, must or may be appointed. The bill sets out several other provisions regarding an attorney for the child, including when the OCR must be appointed, when the attorney for the child may withdraw or be discharged, his or her access to records, and requirement to file all appropriate motions at least 72 hours before a court hearing.

Several sections are amended to conform cross-referencing and provisions to changes made by the act.

The bill will likely result in an indeterminate positive impact on state expenditures. The GALP reports an indeterminate fiscal impact of the bill as it is unknown how many children will meet the criteria under s. 39.822(1)(b), F.S. Further, the JAC states that the bill will likely have a substantial fiscal impact on the JAC through an increased workload. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida central abuse hotline (hotline).<sup>1</sup> A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,<sup>2</sup> abandonment,<sup>3</sup> or neglect.<sup>4</sup> A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.<sup>5</sup>

---

<sup>1</sup> Section 39.201(a), F.S.

<sup>2</sup> Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

<sup>3</sup> Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

<sup>4</sup> Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

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

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the Department of Children and Families (DCF) removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.<sup>6</sup> The dependency court process is summarized in the table below.

**The Dependency Court Process**

<b>Dependency Proceeding</b>	<b>Description of Process</b>	<b>Controlling Statute</b>
Removal	A child protective investigation determines the child’s home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.

<sup>6</sup> See s. 39.01(15), F.S., for the definition of “child who is found to be dependent”.

Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

### **Attorney Representation in Dependency Cases**

An attorney must comply with the Florida Rules of Professional Conduct promulgated by the Florida Bar. An attorney must zealously advocate for his or her client and must abide by a client's decision on how to proceed in a matter.<sup>7</sup> This means the client has authority to decide the purpose and scope of the attorney's representation, within the limits imposed by law and the attorney's professional obligations, including for instance whether to settle a matter.<sup>8</sup> An attorney has an obligation to communicate with his or her client about such decisions,<sup>9</sup> and should try to reach a mutually agreeable resolution with his or her client if a disagreement arises on how to proceed.<sup>10</sup>

### ***Attorney Duties and Conflicts of Interest***

Attorneys are required to adhere to specified duties within the Rules of Professional Conduct. For instance, an attorney has duties of loyalty and confidentiality to his client.<sup>11</sup> An attorney must be competent to represent his or her client, and must act with reasonable diligence and promptness in representing a client.<sup>12</sup>

The Rules of Professional Conduct also contain provisions regarding how an attorney must handle circumstances in which conflict of interest exists.<sup>13</sup> This includes, in part, when an attorney has a conflict with a current<sup>14</sup> or former client<sup>15</sup> as well as prohibited transactions.<sup>16</sup> An attorney must not represent a client whose interests are directly adverse to another client, or there is a substantial risk that representation of the client would materially limit the attorney's representation of another client, a former client or personal interest of the lawyer, except when the client waives the conflict in specified circumstances.<sup>17</sup> This means an attorney must not represent opposing parties in litigation.<sup>18</sup> Further, an attorney generally may not use information to the disadvantage of a client without informed consent, unless otherwise permitted in the rules.<sup>19</sup>

<sup>7</sup> Rules Regulating the Fla. Bar 4-1.2.

<sup>8</sup> *Id.*

<sup>9</sup> Rules Regulating the Fla. Bar 4-1.2 and 4-1.4(a)(1).

<sup>10</sup> Rules Regulating the Fla. Bar 4-1.2.

<sup>11</sup> Rules Regulating the Fla. Bar 4-1.6 and 4-1.7.

<sup>12</sup> Rules Regulating the Fla. Bar 4-1.1 and 4-1.3.

<sup>13</sup> *See* Rules Regulating the Fla. Bar 4-1.7 to 4-1.11.

<sup>14</sup> Rules Regulating the Fla. Bar 4-1.7

<sup>15</sup> Rules Regulating the Fla. Bar 4-1.9.

<sup>16</sup> Rules Regulating the Fla. Bar 4-1.8.

<sup>17</sup> Rules Regulating the Fla. Bar 4-1.7(a).

<sup>18</sup> Rules Regulating the Fla. Bar 4-1.7.

<sup>19</sup> Rules Regulating the Fla. Bar 4-1.8(b).

An attorney must not represent a client if his or her representation will result in a violation of the Rules of Professional Conduct or law, or the attorney's physical or mental condition materially impairs his or her ability to represent the client.<sup>20</sup> In such instances, the attorney must not commence representation or must withdraw as counsel if specified conditions are met.<sup>21</sup>

### ***Attorney for the DCF***

The DCF must be represented by counsel in dependency and termination of parental rights proceedings.<sup>22</sup> The DCF, through its counsel, must make recommendations to the court and may present evidence including testimony from its own employees or employees of its agents, subcontractors, or other community providers.<sup>23</sup> The DCF may enter into a contract for the provision of children legal services, and all counsel included those contracted must adopt the child welfare practice model as proscribed by the DCF.<sup>24</sup>

Except when legal representation is contracted out, the State of Florida is represented by Children Legal Services through the DCF.<sup>25</sup> The DCF is required to contract with the state attorney in the sixth judicial circuit for children legal services.<sup>26</sup> The DCF contracts with the Florida Attorney General's Office to provide children legal services in Hillsborough and Broward counties.<sup>27</sup>

### ***Attorney for the parents***

Parents have the right to be represented by counsel in dependency proceedings, and they must be informed of this right at each stage of the dependency proceedings.<sup>28</sup> The court must appoint counsel to represent parents who are indigent.<sup>29</sup> The Office of Criminal Conflict and Civil Regional Counsel (OCCCRC) has primary responsibility for representing parents in proceedings under ch. 39, F.S.<sup>30</sup> If OCCCRC has a conflict of interest in representing a parent or parents, private counsel who must be selected from a registry is appointed on a rotating basis.<sup>31</sup> The private attorneys contract with the JAC under specified terms to provide such services.<sup>32</sup>

### ***Attorney for the child (Sections 1-2 and 8)***

#### Attorney representation of children

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<sup>20</sup> Rules Regulating the Fla. Bar 4-1.16(a), F.S.

<sup>21</sup> Rules Regulating the Fla. Bar 4-1.16(a) and (b), F.S.

<sup>22</sup> Section 39.013(12), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 409.996(18), F.S.

<sup>25</sup> The DCF, *Children Legal Services Overview*, available at <https://www.myflfamilies.com/service-programs/childrens-legal-services/overview.shtml> (last visited March 15, 2021).

<sup>26</sup> Section 409.996(18)(a), F.S.

<sup>27</sup> The Office of Attorney General State of Florida, *Children's Legal Services Bureau*, available at <http://myfloridalegal.com/pages.nsf/Main/27E91605D4750EBF85256CCB006E66D3> (last visited March 15, 2021).

<sup>28</sup> Section 39.013(1), F.S.

<sup>29</sup> Section 39.013(9)(a), F.S.

<sup>30</sup> Section 27.511(6)(a), F.S.

<sup>31</sup> Section 27.40(2) and (3), F.S.

<sup>32</sup> Section 27.40(3) and (5), F.S.

An attorney should, as far as reasonably practical, maintain a normal attorney-client relationship when a client’s ability to make an adequately informed decision is impaired, such as in representation of a minor child.<sup>33</sup> An attorney may seek the appointment of a guardian if he or she reasonably believes the client is not able to adequately act in his or her own interest.<sup>34</sup> The Rules of Professional Conduct acknowledge that the law recognizes intermediate degrees of competence, and explicitly provides that children ages 10 or 12 are regarded as having opinions which are entitled to be considered in respect of legal proceedings concerning their custody.<sup>35</sup>

Child Representation Models

Child representation in dependency proceedings varies but in most instances is based on what is in the child’s best interest, direct representation, or a hybrid approach.<sup>36</sup> A summary of the different models and how they operate is set out in the table below.<sup>37</sup>

**Exhibit 3**  
**States’ Models of Representation for Children in Dependency Proceedings Fall Into Six Categories**

Representation Model	Number of States That Use Model	Description
Age Dependent	4	Children in these states receive different types of representation depending on their age. In these states, older children receive a client-directed attorney, and younger children receive a GAL.
Best Interest (attorney or professional)	20	Children in these states always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Best Interest (lay volunteer)	12	Children in these states always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Client-Directed Attorney	7	Children in these states always receive a client-directed attorney. These states may also allow for the appointment of a separate GAL or CASA at the discretion of the judge or in certain circumstances.
Hybrid	6	Children in these states always receive both a client-directed attorney and a GAL.
Multidisciplinary Team	2	Children in these states are represented by a GAL team, made up of a volunteer, a staff advocate, and an attorney.

Source: OPPAGA analysis of state statutes and court rules.

Office of Child Representation (Section 7)

Florida law does not currently provide for an OCR. Colorado and Travis County, Texas, however, do have offices of child representation. The Colorado Office of Child’s Representative (COCR) is a state agency that was established in 2000 to provide representation to children.<sup>38</sup> The COCR represent children in several types of cases, including:

<sup>33</sup> Rules Regulating the Fla. Bar 4-1.14.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> The Office of Program Policy Analysis and Government Accountability (OPPAGA), *OPPAGA Review of Florida’s Guardian ad Litem Program, Presentation to the Senate Committee on Children, Families, and Elder Affairs*, p. 9, January 26, 2021, available at <https://oppaga.fl.gov/Documents/Presentations/GAL%20Presentation%201-26-21.pdf> (last visited March 15, 2021) (hereinafter cited as “OPPAGA Presentation”).

<sup>37</sup> OPPAGA, *OPPAGA Review of Florida’s Guardian ad Litem Program*, p. 5 and 34, December 2020 (on file with the Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The OPPAGA Memo”).

<sup>38</sup> The COCR, *What We Do*, available at <https://coloradochildrep.org/about-ocr/> (last visited March 15, 2021).



- Dependency and Neglect;
- Juvenile Delinquency;
- Domestic Relations; and
- Adoption, Truancy, Probation, Mental Health, and Paternity.<sup>39</sup>

All COCR attorneys are trained on the law, social science research, child development, mental health and education issues, and best practices in court proceedings.<sup>40</sup> A Colorado court must appoint a GAL in dependency and neglect cases to represent the child’s best interest, and must appoint an OCR attorney to act as the child’s counsel when the child faces contempt citations or the court has determined that the child holds his or her own patient-therapist privilege.<sup>41, 42</sup> The COCR is responsible for overseeing both roles as a GAL and as counsel for the children, if applicable.<sup>43</sup> When COCR is appointed as counsel for the child, the attorney has a traditional attorney-client role in which he or she represents the child’s wishes in court proceedings.<sup>44</sup>

In Colorado, a GAL is a COCR attorney who is appointed to represent the best interest of the child which means that the COCR attorney does not advocate for the child’s express wishes in a traditional attorney-client role.<sup>45</sup> Instead, the GAL must advocate for the child’s health, safety, and well-being, and his or her advocacy must align with the interests and needs of the child.<sup>46</sup> The GAL has specified requirements that must be met, including attend all court hearings and conduct an independent investigation which must continue throughout the duration of the case.<sup>47</sup>

The Travis County, Texas Office of Children Representation (TOCR), however, provides legal representation to children who are the subject of dependency cases only.<sup>48</sup> The TOCR counsel act in a traditional attorney-client role and represent children’s legal interests.<sup>49</sup>

#### Representation under current Florida law

Section 39.01305, F.S., provides that an attorney must be appointed to represent a dependent child<sup>50</sup> who has the following special needs:

- Resides in or is being considered for placement in a skilled nursing home;
- Is prescribed psychotropic medication but does not agree to take it;

<sup>39</sup> *Id.*

<sup>40</sup> The COCR, *Case Types Covered by OCR Attorneys*, available at <https://coloradochildrep.org/about-ocr/ocr-cases/> (last visited March 15, 2021).

<sup>41</sup> *L.A.N. et al. v. L.M.B.*, 11 SC 529 (Jan. 22, 2013) (finding that a GAL holds a child’s psychotherapist-patient privilege when: (1) the child is too young or incompetent to hold the privilege; (2) the child’s interests are adverse to those of his or her parent(s); and (3) section 19-3-311, C.R.S. (2012) does not abrogate the privilege).

<sup>42</sup> The COCR, *Dependency & Neglect Cases*, available at <https://coloradochildrep.org/about-ocr/ocr-cases/dependency-and-neglect/> (last visited March 15, 2021) (hereinafter cited as “D&N Cases”).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> D&N Cases.

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

<sup>47</sup> *Id.*

<sup>48</sup> Travis County, Tx Gov, *The Office of Child Representation*, available at <https://www.traviscountytexas.gov/criminal-justice/child-representation> (last visited March 15, 2021) (hereinafter cited as “TOCR website”).

<sup>49</sup> *Id.*

<sup>50</sup> Section 39.01305(2), F.S., defines “dependent child” as a child who is subject to any proceeding under ch. 39, F.S. The term does not require that a child be adjudicated dependent for purposes of this section.

- Has a diagnosis of a developmental disability;<sup>51</sup>
- Is being placed or is being considered for placement in a residential treatment center; or
- Is a victim of human trafficking.<sup>52</sup>

A court is not restricted to appointing an attorney to represent a child for the reasons listed above.<sup>53</sup>

The court must request a recommendation from the GALP for an attorney who is willing to represent a child without additional compensation before a court may appoint one under s. 39.01305(4)(a), F.S. If the GAL recommends an attorney who is available within 15 days from the date of the court's request, the court must appoint that attorney.<sup>54</sup> The court may appoint an attorney who will receive additional compensation within 15 days if the GALP notifies the court that it will not be able to make a recommendation within the specified time.<sup>55</sup>

An attorney who is appointed to represent a child continues to be appointed until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed.<sup>56</sup> An attorney who is appointed must provide a range of legal services including from removal or appointment through any appellate proceedings.<sup>57</sup> The appointment must be in writing and the attorney must be adequately compensated unless he or she was agreed to provide pro bono services.<sup>58</sup> The Justice Administrative Commission must contract with attorneys appointed by the court and their fees may not exceed \$1,000 per child per year.<sup>59</sup>

There are several local legal aid society or other nonprofit organizations that offer free legal representation to children in dependency cases.<sup>60</sup> At least some of these organizations receive government funding.<sup>61</sup> For instance, the Legal Aid Society of Palm Beach County receives public grants, such as the U.S. Department of Justice under the Violence against Women Act, and private grants, such as William and Helen Thomas Charitable Foundation.<sup>62</sup> Legal Aid

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<sup>51</sup> Section 393.063(12), F.S., defines “developmental disability” as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. *See* s. 393.063, F.S., for other definitions related to developmental disability.

<sup>52</sup> Section 787.06(2)(d), F.S., defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

<sup>53</sup> Section 39.01305(8), F.S.

<sup>54</sup> Section 39.01305(4)(a), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Section 39.01305(4)(b), F.S.

<sup>57</sup> *Id.*

<sup>58</sup> Section 39.01305(4)(b) and (5), F.S.

<sup>59</sup> Section 39.01305(5), F.S.

<sup>60</sup> *See* Legal Aid Service of Broward County, *What We Do, Areas of Legal Service*, available at <https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/>; Dade Legal Aid, *Main, Free Legal Help*, available at <http://www.dadelegalaid.org/>; Legal Aid Service of Collier County, *Services Offered*, available at <http://www.collierlegalaid.org/services-offered/>; Bay Area Legal Services, *Family & Children*, available at <https://bals.org/help/family-children/>; and Legal Aid Society of Palm Beach County, *Legal Help, Children*, available at <https://legalaidpbc.org/children/> (all sites last visited March 15, 2021).

<sup>61</sup> *See* Legal Aid Service of Broward County, *Children & Education*, available at <https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/children-education/> (last visited March 15, 2021).

<sup>62</sup> Legal Aid Society of Palm Beach County, *Funding*, available at <https://legalaidpbc.org/funding/> (last visited March 15, 2021).

Service of Broward County, however, receives funding from the Children’s Services Council of Broward County (CSCBC).<sup>63</sup> In many instances, these organizations rely on donations and pro bono attorneys who donate their services to provide representation to children who are the subject of a dependency case.<sup>64</sup>

### **Guardian ad Litem (Sections 3-6)**

#### Appointment and Discharge

Federal and Florida law provide that a guardian ad litem must be appointed to represent the child in every case.<sup>65</sup> The Child Abuse Prevention and Treatment Act makes the approval of grants contingent on a eligible state plans which must include provisions and procedures to appoint a guardian ad litem in every case.<sup>66</sup> The GAL must be appointed to:

- Obtain first-hand knowledge of the child’s situation and needs; and
- Make recommendations to the court regarding the best interest of the child.<sup>67</sup>

Under Florida law, a court must appoint a GAL at the earliest possible time to represent the child in a dependency proceeding.<sup>68</sup> The GALP publishes monthly representation reports which summarize, in part, the number of reported dependent children, the GALPs appointments in those cases, and the number of certified volunteer GALs.<sup>69</sup> The December 2020 Representation Report details the following statistics:

- The Office of State Courts Administrator reports there are 31,288 children who are the subject of a dependency case.<sup>70</sup>
- The GALP reports that 22,960 children are appointed to the program, and there are 11,116 certified case volunteers including pro bono attorneys.<sup>71</sup>
- The GALP reports 98 newly certified case volunteers in its December 2020 report.<sup>72</sup>

In some cases, the GALP may discharge from a case when a child’s permanency goal has been established and the child is in a stable placement.<sup>73</sup> A summary of the reasons the GALP has

<sup>63</sup> See Legal Aid Service of Broward County, *Children & Education*, available at <https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/children-education/> (last visited March 15, 2021). The CSCBC is an independent taxing authority created by voters in 2000 and reauthorized in 2014, and its purpose is to provide advocacy and resources to children of Broward County. The CSCBC, *About Us*, available at <https://www.cscbroward.org/about> (last visited March 15, 2021).

<sup>64</sup> See Legal Aid Service of Broward County, *Get Involved with Legal Aid*, available at <https://www.browardlegalaid.org/get-involved/>; Dade Legal Aid, *Pro Bono Enrollment (Attorney)*, available at <http://www.dadelegalaid.org/psb-enrollment-form-attorneys/>; Dade Legal Aid, *Donations through The Miami Foundation*, available at <http://www.dadelegalaid.org/donations-through-the-miami-foundation/>; Bay Area Legal Services, *Justice Works! The Campaign for Bay Area Legal Services*, available at <https://bals.org/support>; and Bay Area Legal Services, *Volunteer Lawyers Program*, available at <https://bals.org/volunteer> (all sites last visited March 15, 2021).

<sup>65</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii); Section 39.822(1), F.S.

<sup>66</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii).

<sup>67</sup> *Id.*

<sup>68</sup> Section 39.822(1), F.S.

<sup>69</sup> See the GAL for Children, *Florida Guardian ad Litem Program, Monthly Representation Report: December 2020*, available at <https://guardianadlitem.org/wp-content/uploads/2021/01/Representation-Report-December-2020.pdf> (last visited March 15, 2021) (hereinafter cited as “December 2020 Representation Report”).

<sup>70</sup> *Id.*

<sup>71</sup> December 2020 Representation Report.

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

<sup>73</sup> The OPPAGA Memo at p. 15.

been discharged from dependency cases from 2016 to 2020 by Fiscal Year is summarized in the table below.<sup>74</sup>

**Exhibit 6**

**Closure Reasons Reported by GAL Program Remained Stable From Fiscal Year 2016-17 Through the First Half of Fiscal Year 2019-20<sup>1</sup>**

GAL Program Closure Reason for GAL Program Closures	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 <sup>1</sup>	Four-Year Total
Reunification	29%	31%	29%	31%	30%
Adoption	18%	18%	20%	19%	19%
Permanency Goal Established <sup>2</sup>	18%	19%	23%	22%	21%
Permanent Guardianship	17%	15%	13%	12%	15%
Other <sup>3</sup>	9%	9%	6%	6%	8%
Insufficient Program Resources <sup>4</sup>	5%	4%	4%	4%	5%
Aged Out of Care	3%	4%	4%	4%	4%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

<sup>1</sup>To control for differences between GAL Program closures and DCF discharges, we limited the Fiscal Year 2019-20 data to the first six months (July 1, 2019–December 31, 2019).

<sup>2</sup>Closure reasons of APPLA are included here.

<sup>3</sup>Other includes children who ran away, were transferred to or placed in another circuit, and cases that were either consolidated or bifurcated by the courts.

<sup>4</sup>This includes cases to which the GAL Program was appointed where the program was either unable to staff the case at all or had to discharge from a case before it concluded. Closure reasons of APPLA are included here.

Source: OPPAGA analysis of Florida Guardian ad Litem Program data representing 80% of GAL children with a closed case.

Role of the GALP and GAL

“Guardian ad litem” is defined as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a guardian ad litem; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child in a proceeding as provided by law including ch. 39, F.S., until discharged by the court.<sup>75</sup>

The GALP reports that it represents the children who are alleged to be abused, abandoned, or neglected and are subject to the dependency court’s jurisdiction.<sup>76</sup> The Florida Supreme Court has recognized that a guardian ad litem is appointed to serve as the child’s representative in court to present what is in the child’s best interest.<sup>77</sup> The GALP reports that the adult representing the child’s best interest will ordinarily be represented by counsel in the judicial proceedings, and suggests such attorney owes a duty of care to both the guardian ad litem and the child with whom the guardian is appointed to represent.<sup>78</sup> The GALP acknowledges that there is no attorney-client relationship between the GALP attorney and the child, and suggests that independent legal representation is provided through the GAL.<sup>79</sup>

<sup>74</sup> *Id.* at p. 16.

<sup>75</sup> Section 39.820(1), F.S.

<sup>76</sup> The GALP, *Agency Analysis for SB 1920*, p. 15, March 14, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The GALP Analysis”).

<sup>77</sup> *D.H. v. Adept Cmty. Servs.*, 271 So. 3d 870, 879 (Fla. 2018) (citing *C.M. v Dep’t of Children & Family Servs.*, 854 So.2d 777, 779 (Fla. 4<sup>th</sup> DCA 2003)).

<sup>78</sup> The GALP Analysis at p. 3 [citing *Op. Att’y Gen. Fla. 96-94* (1996)].

<sup>79</sup> *Id.* at p. 4.

The GAL or GALP representative must review all disposition recommendations or changes in placements, and must be present at all critical stages of the proceeding or submit a written report, which must be filed and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.<sup>80</sup>

Performance Advocacy Snapshot (PASS) summarizes the individual GAL circuit program performance and GAL influence on child welfare outcomes by circuit.<sup>81</sup> The December 2020 PASS report states that a GAL has been appointed to 73.4% of children who are the subject of dependency proceedings, with some exceptions.<sup>82</sup> It also reports 67.5% active certified volunteers statewide.<sup>83</sup> Children achieving permanency within 12 months of entering care totals 18% and 40.6% of adoptions occur within 24 months according to the PASS report.<sup>84</sup>

### Activities of GAL

The GALP reports that GAL are involved in a number of activities related to the child, including, in part:

- Attending school events;
- Guiding children through changes of placement;
- Creating community awareness about children who are abused, abandoned, or neglected;
- Being a safe and stable adult in the child's life; or
- Reporting quality information to judges.<sup>85</sup>

### Conflicts of Interest

Under current law, there is no statutory provision under ch. 39, F.S., which requires the GALP to identify any conflict of interest a GAL may have. The GALP Standards of Operation, however, provide that the GALP “shall not accept appointment to a case where the Program has an impermissible conflict of interest and shall seek discharge if an impermissible conflict of interest arises after appointment. An impermissible conflict of interest between the GAL Program and a child or children will be found if the GAL Program has a duty, or the appearance of a duty, to another that may prevent the GAL Program from being fully able to represent the child to whom the Program is appointed. If an individual GAL Volunteer or staff member has a conflict, this may be resolved by assigning another individual from the Program in the discretion of the Circuit Director.”<sup>86</sup> Standard 7.D. further states that GALs have an obligation to notify the GAL Program Attorney if they are aware of a possible conflict of interest, which could include prior involvement with individuals involved in the case, any personal reasons that may not allow them to provide best interests advocacy for a child, and situations when the GALP is appointed to represent multiple related children whose interests conflict with one another.

Further, Standard 7.D. states that an impermissible conflict will not be found simply because the

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<sup>80</sup> Section 39.822(4), F.S.

<sup>81</sup> See The GALP, *Statewide Guardian ad Litem Program – Performance Advocacy Snapshot (PASS)*, December 2020, available at <https://guardianadlitem.org/wp-content/uploads/2021/01/Performance-Advocacy-SnapShot-December-2020-Revised.pdf> (last visited March 15, 2021) (hereinafter cited as “December 2020 PASS”).

<sup>82</sup> *Id.*

<sup>83</sup> December 2020 PASS.

<sup>84</sup> *Id.*

<sup>85</sup> The GALP Analysis at p. 4.

<sup>86</sup> *Id.* at p. 9-10 (citing GAL's Standard 7.D.).

GAL is advocating in good faith for the child's best interests and the child conveys a position that may be opposed to the position taken by the GAL.<sup>87</sup>

The GAL's Standards of Operation 3, Code of Conduct, prohibit GALs from practicing, condoning, facilitating, or participating in any form of discrimination, including in part, discrimination based on race, color, gender, sexual orientation, sexual identity, age, religion, or ethnicity.<sup>88</sup> Finally, the GALP reports that the Standards of Operation prohibit a GAL from receiving a fee for their services as a GAL or accepting a gift for personal benefit.<sup>89</sup>

#### GAL Executive Director Appointment and Reappointment

The GALP's executive director is appointed by the Governor from a list of at least three nominees of eligible applicants selected by the Guardian Ad Litem Qualifications Committee (GALQC).<sup>90</sup> The executive director must meet minimum qualifications, serve a term of 3 years, and has specified duties.<sup>91</sup> The executive director is permitted to serve more than one term, but current law is unclear on whether any additional terms are subject to the appointment process.

### **Funding**

#### *GAL Funding*

The OPPAGA reports that state funding for the GALP has increased by 21% over the past five years from \$43.6 million in Fiscal Year 2015-16 to \$52.9 million in Fiscal Year 2019-20.<sup>92</sup> Other sources of funding have also increased over the increased over the past five years from \$4.6 million in Calendar Year (CY) 2015 to \$9.7 million in CY 2019.<sup>93</sup> With this increase, the number of staff increased, the number of volunteers remained stable, and the number of children served has decreased from 40,032 in Fiscal Year (FY) 2016-17 to 36,506 in FY 2019-20.<sup>94</sup>

#### *Family First Prevention Services Act*

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on February 9, 2018 which included the Family First Prevention Services Act (FFPSA). The legislation aims at providing financial assistance with a focus on prevention services and reducing funds to residential group care.<sup>95</sup> It also has the potential to dramatically change child welfare systems by expanding the way in which Title IV-E funding may be spent.<sup>96</sup> The FFPSA requirements include:

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<sup>87</sup> The GALP, *Standards of Operation*, Revised April 2020, p. 18, available at <https://guardianadlitem.org/wp-content/uploads/2020/05/GAL-Standards-Rev.-4.30.2020-FINAL.pdf> (last visited March 15, 2021) (hereinafter cited as "GALP SOP 2020").

<sup>88</sup> *Id.* at p. 10.

<sup>89</sup> The GALP Analysis at p. 10.

<sup>90</sup> Section 39.8296(2)(a), F.S.

<sup>91</sup> *Id.*

<sup>92</sup> OPPAGA Presentation at p. 7.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> The DCF, *The Florida Center for Child Welfare FFPSA Updates*, available at <http://centerforchildwelfare.fmhi.usf.edu/FFPSA.shtml> (last visited March 15, 2021).

<sup>96</sup> 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 March 15, 2021).



- Option to use funds for up to 12 months for evidence-based services, such as substance abuse treatment;
- Eligible candidates include children who can remain safely in the home with the provision of services, children in foster care who are parents, or parents or caregivers who require services to prevent a child's entry into foster care; and
- States must prepare a prevention plan for the child to safely remain at home with services; and
- Services must be trauma-informed and pre-approved on the Health and Human Services website.<sup>97</sup>

Title IV-E funds previously were restricted to being used for the costs of eligible children's foster care maintenance; administrative expenses to manage the foster care program; training for specified persons; and kinship guardianship assistance. Title IV-E federal funding is now available for direct legal representation and advocacy for eligible children in foster care and their parents.<sup>98</sup> As the GALP attorney does not have a direct attorney-client relationship with the child<sup>99</sup> and directly represent the children in Florida dependency proceedings, it is unclear whether the GALP is eligible for Title IV-E funding under the new federal standards. However, the GALP has not begun to be reimbursed for legal representation and advocacy under the FFPSA standards.

### III. Effect of Proposed Changes:

#### *Office of Child Representation (Section 7)*

The bill establishes a new Office of Child Representation (OCR) to provide direct legal representation to specified children during dependency proceedings. Similar to the GALP, the bill creates the OCR within the JAC which provides administrative support and services but does not control, supervisor, or direct the OCR in the performance of its duties. However, employees are governed by plans, including salary and benefits, approved by the JAC.

The bill provides for an executive director to be appointed to the OCR with the same appointment process, term, and requirements as the executive of the GALP provided for in s. 39.8296(2)(a), F.S. The OCR executive director must be a member of The Florida Bar in good standing for at least 5 years and have knowledge of dependency law and social service delivery systems to meet the needs of children who are abused, abandoned and neglected. The bill requires the appointment of the initial executive director to be completed by January 1, 2022.

The OCR, within the resources of the JAC, must provide oversight and technical assistance, in part, as follows:

- Identify the resources required to implement methods of collecting, reporting, and tracking case data;

<sup>97</sup> The DCF, *Family First Prevention Services Act*, p. 26, August 28, 2020, available at [http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8\\_28\\_2020.pdf](http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8_28_2020.pdf) (last visited March 15, 2021).

<sup>98</sup> U.S. Department of Health and Human Services, Administration for Children and Families, *High Quality Memo*, p. 10-11, January 14, 2021, available at [https://www.courts.ca.gov/documents/ffdrp\\_acf2021\\_high\\_quality\\_memo.pdf](https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf) (last visited March 15, 2021).

<sup>99</sup> The GALP SOP 2020, p. 7.

- Review and collect information relating to current GALP for children who are 10 years of age or older in Florida and other states, and information relating to offices of child representation in other states;
- Develop statewide performance measures and standards in collaboration with the regional offices of OCR;
- Develop a training program for each attorney for the child, and create a curriculum committee composed of specified professionals<sup>100</sup> for such purpose;
- Develop protocols that must be implemented to assist children in meeting eligibility requirements to receive all federal funding;<sup>101</sup>
- Review methods of funding, maximum the use of those funds, and review the kinds of services being provided by the regional offices;
- Determine the feasibility or desirability of new concepts regarding the operation and scope of services provided by the OCR; and
- Submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, including:
  - An interim report describing the progress of the statewide office in meeting the responsibilities described in this paragraph.
  - A proposed plan that includes alternatives for meeting the representation needs of children in this state. The plan may include recommendations for implementation in only a portion of this state or phased-in statewide implementation and must include an estimate of the cost of each such alternative.
  - An annual status report that includes any additional recommendations for addressing the representation needs of children in this state and related issues.

The DCF or community-based care lead agency must take any steps necessary to obtain and maintain eligible federal funding. The bill provides that OCR may contract with local nonprofit agencies to provide direct representation to a child if it is the most efficient method to satisfy its duties and if federal funding has been approved for reimbursement.

The bill provides for regional offices to be established within each of the five district court of appeals which must commence fulfilling their purpose and duties on July 1, 2022. Each regional office is also assigned to the JAC for it to provide administrative support and services within available resources. Like the statewide office, the regional offices are not subject to control, supervision, or direction by the JAC, but are governed by plans such as salary and benefits.

Finally, the child representation counsel (CRC) who is the head of the regional offices must serve on a full-time basis and may not engage in private practice. Assistant child representation counsel (ACRC) must give priority to his or her duties in that position but part-time ACRC may practice dependency law provided the representation does not result in a legal or ethical conflict of interest with a case that OCR is providing representation.

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<sup>100</sup> Members must include, but not limited to, a dependency judge, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with at least a Master of Social Work degree, and a social worker experienced in working with victims and perpetrators of child abuse.

<sup>101</sup> This may not be construed to mean that the protocols may interfere with zealous and effective representation of the children.



***Attorney for the Child (Sections 1-2 and 8)***

Section 39.013(13), F.S. is amended to provide that an attorney for the child must be appointed pursuant to s. 39.831, F.S. The bill defines “attorney for the child” as an attorney providing direct representation to the child, which may include the appointment of the Office of the Child Representation, an attorney provided by an entity contracted through the Office of the Child Representation to provide direct representation, any privately retained counsel or pro bono counsel, or any other attorney who represents the child under ch. 39, F.S.

The bill creates s. 39.831, F.S., which provides that an attorney for the child:

- Must be appointed when the child has special needs as provided in s. 39.01305(3), F.S.;
- Must be appointed for any child who reaches 10 years of age or older after July 1, 2022, who is subject to a dependency proceeding or related adoption proceeding; and
- May be appointed upon a finding by the court that circumstances exist which necessitate the appointment.

The appointment continues in effect until the attorney is allowed to withdraw, the attorney is discharged by the court, or the case is dismissed. The attorney for the child must provide all legal services required from the time the child is removed or the initial appointment through appellate proceedings. With court permission, the attorney for the child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. An order appointing an attorney for the child must be in writing.

The court must appoint the OCR unless the child is otherwise represented. Similar to the GALP, parents who are financially able must reimburse the court for the costs of the OCR representation, but reimbursement for the attorney’s services may not be contingent upon successful collection by the court of reimbursement from the parent.

Upon presentation of a court order by an attorney for the child, an agency, person, or organization must allow the attorney to inspect and copy records related to the child who is the subject of the appointment, including records that are made confidential. An agency must also allow an attorney for the child to inspect and copy records that are exempt from s. 119.07(1), F.S., or s. 24(a), Art. I of the Florida Constitution, but he or she must maintain the confidential or exempt<sup>102</sup> status of any records shared.

The attorney for the child must review all disposition recommendations and changes in placement and file any appropriate motions at least 72 hours in advance of the hearing. The DCF must develop procedures to request that a court appoint an attorney for the child, and may adopt rules to implement the section.

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<sup>102</sup> When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991). Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

***Guardian ad Litem (Section 3 to 6)***

Part XI is retitled to state “GUARDIAN AD LITEM, GUARDIAN ADVOCATES, AND ATTORNEY FOR THE CHILD.”

The bill provides that a GAL will continue to be appointed as proscribed under current law before July 1, 2022. On or after that date:

- The GAL must be appointed at the earliest possible time to represent a child who is:
  - Younger than 10 years old and subject of a dependency proceeding or related adoption proceeding;
  - The subject of a dependency proceeding or related adoption proceeding and a criminal proceeding;
  - The subject of a termination of parental rights proceeding under Part X; or
  - A dependent child as described in s. 39.01305(3), F.S.<sup>103</sup>
- The court must discharge the GALP within 60 days after the child reaches 10 years old except if:
  - The child meets one of the last three criteria for appointing a GAL summarized above; or
  - The child knowingly and voluntarily expresses a wish to have the guardian remain appointed, and the court makes such findings and determines the child is of an appropriate age and maturity to make such an expression.

The bill defines “related adoption proceeding” as an adoption proceeding under ch. 63, F.S., which arises from dependency proceedings under ch. 39, F.S.<sup>104</sup>

The GALP must develop guidelines to identify any possible conflicts of interest of a GAL when he or she is being considered for assignment to a child’s case. “Conflict of interest” is defined as a GAL who:

- Has a personal relationship that could influence a recommendation regarding a child whom he or she is serving as a GAL;
- Is in a position to derive a personal benefit from his or her role as a GAL; or
- Has a personal factor or circumstance, including a bias or prejudice, which impairs the GALs ability to fully and fairly discharge his or her duties.

The bill permits the court to order that a new GAL be assigned or that the GAL be discharged and an attorney for the child be appointed upon:

- Consent of a child who is the subject of a dependency proceeding or related adoption proceeding and who is 10 years of age or older; or
- Any party presenting evidence that there is reasonable cause to suspect the assigned GAL has a conflict of interest.

<sup>103</sup> See below for further discussion on this section.

<sup>104</sup> In Florida, a parent may place their child for adoption with a private adoption agency, even if the child is under jurisdiction of the court and in out-of-home care as long as no final judgment of termination of parental rights has been entered. This means that birth parents can choose a private adoption placement if their parental rights are still be intact. This process is commonly referred to as an intervention and results in a private adoption entity intervening into the DCF case and handling the adoption according to the wishes of the biological parent. Section 63.082, F.S. *See also* Adoption Choice of Florida, *What is an adoption intervention?*, available at <https://www.adoptionchoicesofflorida.com/blog/2019/november/what-is-an-adoption-intervention/> (last visited March 15, 2021).

The bill also requires the GALP to identify any GAL who is experiencing any physical or mental health issues or who appears to present a danger to any child, remove such GAL from all assigned cases, and terminate his or her voluntary services with the GALP. This action must be disclosed to the court.

The GAL Qualifications Committee who nominates at least three eligible applicants for the executive director position of the GALP to the Governor is renamed to Child Well-Being Qualifications Committee. The bill provides that the executive director may be reappointed to serve more than one term pursuant to the appointment process. Every term is for a 3 year period.

***Conforming Sections (Sections 9-40)***

The bill amends ss. 39.00145, 39.0139, 39.402, 39.407, 39.4085, and 39.523, F.S., in part, to change the term “attorney ad litem” or other term used to refer to an attorney appointed to represent a child to the term “attorney for the child.”

The bill also amends ss. 28.345, 39.001, 39.00145, 39.0132, 39.0139, 39.202, 39.302, 39.402, 39.407, 39.502, 39.521, 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801, 39.802, 39.808, 39.810, 39.811, 39.812, 39.815, 43.16, 63.082, 63.085, 322.09, 394.495, 627.746, 934.255, and 960.065 to update reference to the attorney for the child as counsel for a party that is applicable to these sections as contemplated in the provisions in this bill.

The bill is effective July 1, 2021.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The creation of the OCR within the JAC could create responsibilities for counties.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The bill permits the attorney for the child to file a termination of parental rights petition would could raise constitutional issues with respect to the fundamental rights of parents.<sup>105</sup>

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

To the extend a parent is financially able, he or she would have to reimburse the cost of the attorney for the child pursuant to s. 39.831(1)(c), F.S.

**C. Government Sector Impact:**

Counties will be required to provide facilities, communications, and security to the new regional counsel. The amount of this cost is not known.

The GALP reports an indeterminate fiscal impact of the bill as it is unknown how many children will meet the criteria under s. 39.822(1)(b), F.S.<sup>106</sup> Of the 35,160 children in out-of-home care or receiving in-home services as of February 28, 2021, 23,444 children were under 10 years old and 11,714 children were 10 years of age or older.<sup>107</sup> Further, the number of GALs appointed to represent children will vary depending on how many termination of parental rights petitions are filed, how many children have special needs, and whether the children have pending delinquency proceedings.

The GALP did not offer an opinion on the potential fiscal impact of the provision for the creation of OCR.<sup>108</sup>

The JAC states that the bill will likely have a substantial fiscal impact on the JAC through an increased workload to serve the new Statewide OCR and the five Regional Offices of Child Representation.<sup>109</sup> The JAC reports that the additional support and services required will necessitate an indeterminate number of employees and additional resources to provide the necessary services in areas such as accounting, budget, financial services, human resources, operations, online support, and information technology as well as associated executive services.<sup>110</sup>

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<sup>105</sup> The GALP Analysis at p. 14.

<sup>106</sup> *Id.* at p. 15.

<sup>107</sup> *Id.*

<sup>108</sup> The GALP Analysis at p. 15.

<sup>109</sup> The JAC, *2021 Legislative Session Bill Analysis for SB 1920*, March 12, 2021, p. 6 (on file with the Committee on Children, Families, and Elder Affairs).

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

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 28.345, 39.001, 39.00145, 39.01, 39.013, 39.0132, 39.0139, 39.202, 39.302, 39.402, 39.407, 39.4085, 39.502, 39.521, 39.523, 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801, 39.802, 39.808, 39.810, 39.811, 39.812, 39.815, 39.820, 39.822, 39.8296, 43.16, 63.082, 63.085, 322.09, 394.495, 627.746, 934.255, and 960.065 of the Florida Statutes.

This bill creates sections 39.83 and 39.831 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.