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|--------------|---|---|-----|-------------|-------------------------|-------|----------|
| Tab 1 | SB 450 by Wright; (Similar to H 00875) Sheltering or Aiding Unmarried Minors | | | | | | |
| Tab 2 | SB 534 by Grall; (Identical to H 00521) Equitable Distribution of Marital Assets and Liabilities | | | | | | |
| Tab 3 | SB 1394 by Gruters (CO-INTRODUCERS) Book; (Similar to H 01309) Mental Health | | | | | | |
| 962208 | D | S | RCS | CF, Gruters | Delete everything after | 01/23 | 05:30 PM |
| Tab 4 | SB 1486 by Collins; (Similar to H 01083) Child Permanency | | | | | | |
| 951078 | D | S | RS | CF, Collins | Delete everything after | 01/23 | 05:30 PM |
| 836544 | SD | S | RCS | CF, Collins | Delete everything after | 01/23 | 05:30 PM |
| Tab 5 | SB 1636 by Gruters; (Similar to H 01583) Substance Use Disorder Treatment Services | | | | | | |
| 667440 | A | S | RCS | CF, Rouson | Delete L.45 - 62: | 01/23 | 05:30 PM |
| Tab 6 | SB 1758 by Brodeur; (Similar to H 01271) Individuals with Disabilities | | | | | | |
| 931526 | D | S | RCS | CF, Brodeur | Delete everything after | 01/23 | 05:30 PM |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Garcia, Chair

Senator Thompson, Vice Chair

MEETING DATE: Tuesday, January 23, 2024

TIME: 3:30—5:30 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

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

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|---|----------------------------|
| 1 | SB 450 Wright (Similar H 875) | Sheltering or Aiding Unmarried Minors; Creating a presumption of knowledge upon proof that an unmarried minor has not attained 18 years of age for the purpose of unlawfully sheltering or aiding unmarried minors; providing a defense to unlawfully sheltering or aiding unmarried minors; increasing criminal penalties for unlawfully sheltering or aiding unmarried minors, etc. CJ 01/10/2024 Favorable CF 01/23/2024 Favorable RC | Favorable Yeas 7 Nays 0 |
| 2 | SB 534 Grall (Identical H 521) | Equitable Distribution of Marital Assets and Liabilities; Requiring a court to consider certain factors when determining if extraordinary circumstances exist; prohibiting certain interspousal gifts unless certain requirements are met; providing that certain actions do not change whether certain real property is marital property; providing that business interest in a closely held business is a marital asset, etc. JU 01/16/2024 Favorable CF 01/23/2024 Favorable RC | Favorable Yeas 7 Nays 0 |
| 3 | SB 1394 Gruters (Similar H 1309) | Mental Health; Requiring the Department of Children and Families to contract with managing entities to provide community mobile support teams; providing the purpose of the community mobile support teams; providing requirements for support team crisis counselors, etc. CF 01/23/2024 Fav/CS AHS FP | Fav/CS Yeas 7 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

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

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|--|-------------------------|
| 4 | SB 1486 Collins (Similar H 1083) | Child Permanency; Requiring the Department of Children and Families to conduct a records check through the Comprehensive Child Welfare Information System on all persons being considered for placement of a child; allowing any person to have access to certain identifying child records under specified circumstances; revising a criterion for guardianship assistance payments made to guardians who have entered into a guardianship assistance agreement; authorizing the court to review the department's denial of an application to adopt a child, etc. CF 01/17/2024 Temporarily Postponed CF 01/23/2024 Fav/CS AHS FP | Fav/CS Yeas 6 Nays 1 |
| 5 | SB 1636 Gruters (Similar H 1583, Compare H 1065, S 1180) | Substance Use Disorder Treatment Services; Creating the Substance Use Disorder Housing Advisory Council; authorizing addiction treatment services to be provided through for-profit providers; providing that the certification of recovery residences that meet specified standards protects certain persons, etc. CF 01/23/2024 Fav/CS AHS FP | Fav/CS Yeas 7 Nays 0 |
| 6 | SB 1758 Brodeur (Similar H 1271, Compare H 1047, S 1170) | Individuals with Disabilities; Requiring the Agency for Persons with Disabilities to develop and implement an online application process; revising which types of clients are eligible for an individual support plan; clarifying the timeframe within which a family or individual support plan must be developed, etc. CF 01/23/2024 Fav/CS FP | Fav/CS Yeas 7 Nays 0 |

Other Related Meeting Documents

By Senator Wright

8-00518-24

2024450__

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

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

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

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

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

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

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2024450__

lodgings.

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

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

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

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

985.731 Sheltering unmarried minors; aiding unmarried minor runaways; presumption; defense; penalty ~~violations.~~

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

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

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

8-00518-24

2024450__

age or acted in reckless disregard thereof.

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

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

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

APPEARANCE RECORD1/23/24

Meeting Date

SB 450

Bill Number or Topic

Children, Families & Elder

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Nancy Lawther, Ph.D. (Florida PTA)

Phone

Address

1747 Orlando Central Parkway

Email

legislation@floridaptar.org

Street

Orlando

City

FL

State

32809

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☒I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

01/23/2024

Meeting Date

Children, Families & Elder Affairs

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

450

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Lauren Jackson**

Phone **931-265-8999**

Address **205 S. Adams St.**

Email **lauren@ericksconsultants.com**

Street

Tallahassee

FL

32302

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Seminole County Sheriffs Office

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/23/2024
Meeting Date

SB450
Bill Number or Topic

Committee

Name Molly Hudson for Volusia Sheriff's Office

Amendment Barcode (if applicable)
(386) 214-5536
Phone

Address 123 W. Indiana
Street

Email mhudson@volusia-sheriff.gov

Deland fl.
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

January 23, 2024

APPEARANCE RECORD

450

Meeting Date

Children Families

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Smart Justice Alliance

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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.)

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

BILL: SB 450

INTRODUCER: Senator Wright

SUBJECT: Sheltering or Aiding Unmarried Minors

DATE: January 21, 2024

REVISED: _____

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

I. Summary:

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

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

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

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

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

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

The bill is effective October 1, 2024.

II. Present Situation:

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

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

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

Homeless and Runaway Children and Youth

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

Homeless Children and Youth

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

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

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

¹ 42 USC s. 11434a.

² *Id.*

³ Section 1003.01(4), F.S.

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

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

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

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

Runaway Youth

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

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

⁵ *Id.*

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

⁷ *Id.*

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

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

¹⁰ *Id.*

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

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

Risk of Human Trafficking

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

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

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

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

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

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

¹⁵ Section 787.06, F.S.

¹⁶ *Id.*

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

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

¹⁹ Section 787.06(2)(d), F.S.

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

Sheltering or Aiding Unmarried Minors

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

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

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

III. Effect of Proposed Changes:

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

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

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

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

²⁰ Section 787.06, F.S.

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

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

²³ Section 984.085, F.S.

²⁴ Section 985.731, F.S.

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

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

By Senator Grall

29-01012-24

2024534__

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

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

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

61.075 Equitable distribution of marital assets and
liabilities.—

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

29-01012-24

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

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

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

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

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

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

(6) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

145 1. Assets acquired and liabilities incurred by either party

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

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

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

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

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

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

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

1/23/24

The Florida Senate
APPEARANCE RECORD

534

Meeting Date

CHILDREN, FAMILIES

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Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

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For



Against



Information

OR

Waive Speaking:



In Support



Against

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S-001 (08/10/2021)

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.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 534

INTRODUCER: Senator Grall

SUBJECT: Equitable Distribution of Marital Assets and Liabilities

DATE: January 21, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Collazo | Cibula | JU | Favorable |
| 2. | Hall | Tuszynski | CF | Favorable |
| 3. | | | RC | |

I. Summary:

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

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

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

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

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

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

The bill takes effect on July 1, 2024.

II. Present Situation:

Dissolution of Marriage

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

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

Equitable Distribution

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

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

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

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

² *Id.*

³ Section 61.052(1), F.S.

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

⁵ Section 61.021, F.S.

⁶ Section 61.052(2), F.S.

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

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

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

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

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

Marital and Non-Marital Assets and Liabilities

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

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

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

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

¹¹ Section 61.075(1)(a)-(j), F.S.

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

¹³ Section 61.075(6)(a)1., F.S.

¹⁴ Section 61.075(6)(a)2.-3., F.S.

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

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

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

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

¹⁵ Section 61.075(6)(b), F.S.

¹⁶ Section 61.075(8), F.S.

¹⁷ 220 So. 3d 397 (Fla. 2017).

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

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

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

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

Interim Partial Distributions

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

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

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

III. Effect of Proposed Changes:

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

²¹ 120 So. 3d 31 (Fla. 4th DCA 2013).

²² *Id.* at 33.

²³ Section 61.075(5), F.S.

²⁴ *Id.*

²⁵ Section 61.075(5)(a), F.S.

²⁶ Section 61.075(5)(d), F.S.

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

²⁸ Section 61.075(5)(b), F.S.

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

³⁰ Section 61.075(5)(c), F.S.

Interim Partial Distributions

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

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

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

Marital Assets and Liabilities

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

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

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

Non-Marital Assets and Liabilities

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

Effective Date

The bill takes effect on July 1, 2024.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

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

³² Section 61.075, F.S.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 61.075 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Gruters

22-00928-24

20241394__

A bill to be entitled

An act relating to mental health; amending s. 394.495, F.S.; requiring the Department of Children and Families to contract with managing entities to provide community mobile support teams; providing the purpose of the community mobile support teams; providing requirements for support team crisis counselors; providing requirements for managing entities in creating the community mobile support teams; providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APPEARANCE RECORD

SB 1394

Bill Number or Topic

1/23/24

Meeting Date

Deliver both copies of this form to
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Children, Families, and

Committee

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☐

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☐

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In Support

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Against

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The Florida Senate

APPEARANCE RECORD

SB 1394

Bill Number or Topic

1/23/24

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Children, Families + Elder Affairs
Committee

Amendment Barcode (if applicable)

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For

☐

Against

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Waive Speaking:

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something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

January 23, 2024

Meeting Date

Children Families

Committee

Name **Barney Bishop III**

Address **1454 Vieux Carre Drive**

Street

Tallahassee

City

FL

State

32308

Zip

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1394

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **850-510-9922**

Email **Barney@BarneyBishop.com**

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Smart Justice Alliance

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the record of this meeting.

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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SB 1394

Bill Number or Topic

Amendment Barcode (if applicable)

1/23
CFS
Meeting Date

Committee

Name

DAVID MICA, JR

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FL Hospital Assn.

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/23/24

Meeting Date

1394

Bill Number or Topic

children families seniors

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Natalie Kelly

Phone 850 895 1313

Address 122 S. Calhoun st
Street

Email natalie@flmanaging
entities.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Association of Managing Entities

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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.)

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

BILL: CS/SB 1394

INTRODUCER: Children, Families, and Elder Affairs and Senator Gruters

SUBJECT: Mental Health

DATE: January 24, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Hall | Tuszynski | CF | Fav/CS |
| 2. | | | AHS | |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1394 requires the Department of Children and Families to contract with managing entities to place crisis counselors from community mental health centers within local law enforcement agencies. These crisis counselors to conduct follow-up contacts with children, adolescents, and adults who have been involuntarily committed under the Baker Act by a law enforcement officer and provide follow-up care to individuals in the community that law enforcement has identified as needing additional mental health support.

The bill details what services the community mobile support team is required to offer and also details the requirements of a community mental health center contracted by the managing entity.

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

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

II. Present Situation:

Mental Health and Mental Illness

Mental Health is a state of well-being in which the individual realizes his or her own abilities can cope with normal stresses of life, can work productively and fruitfully, and is able to contribute

to his or her community.¹ The primary indicators used to evaluate an individual's mental health are:²

- Emotional well-being: perceived life satisfaction, happiness, cheerfulness, peacefulness;
- Psychological well-being: self-acceptance, personal growth including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships; and
- Social well-being: social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, sense of community.

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

Mental Health Safety Net Services

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

Behavioral Health Managing Entities

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

DCF currently contracts with seven MEs for behavioral health services throughout the state. These entities do not provide direct services; rather, they allow the DCF's funding to be tailored

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

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

³ *Id.*

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

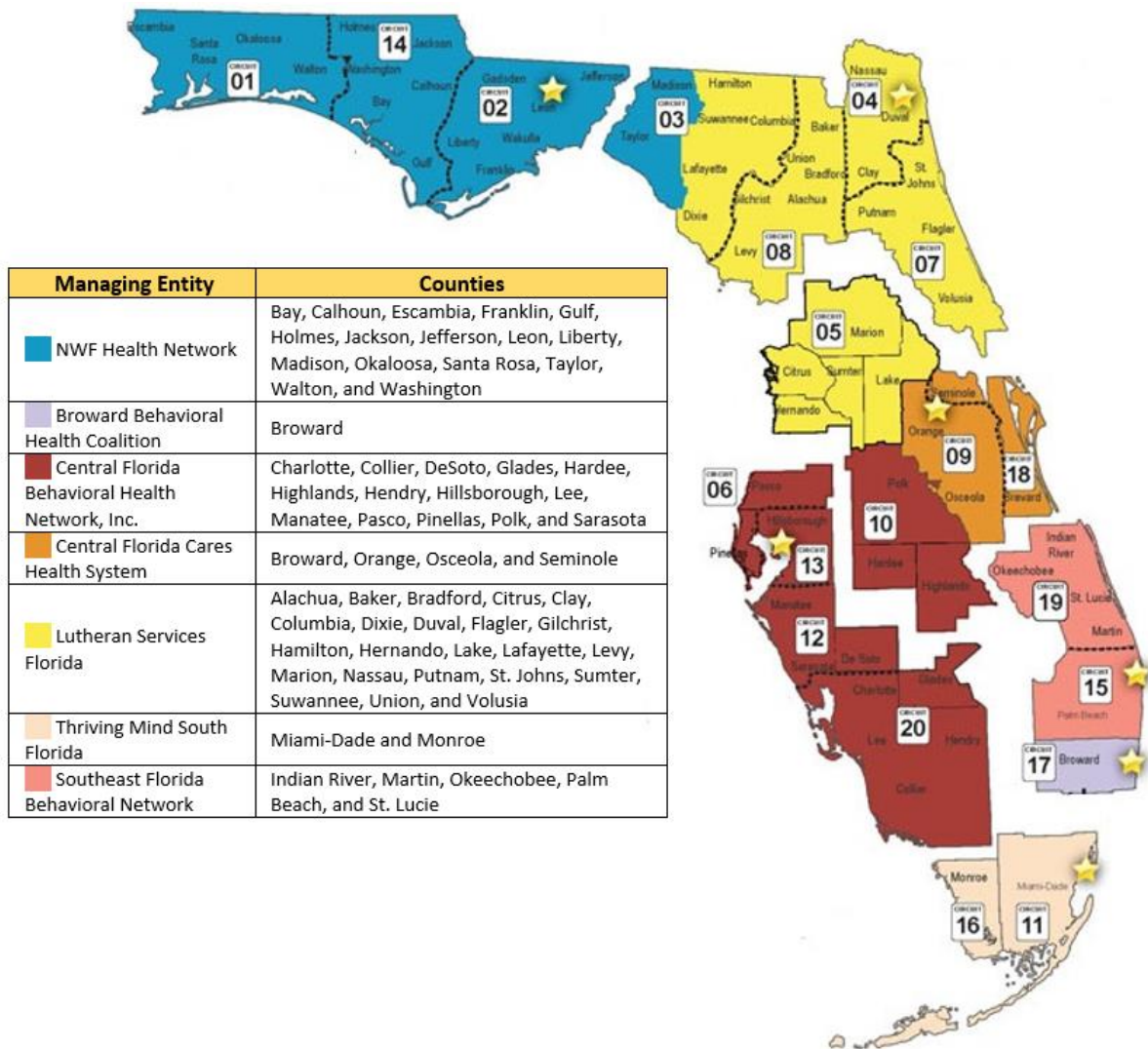
⁵ Any mental illness (AMI) is defined as a mental, behavioral, or emotional disorder. AMI can vary in impact, ranging from no impairment to mild, moderate, and even severe impairment (e.g., individuals with serious mental illness).

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

⁷ Ch. 2001-191, Laws of Fla.

⁸ Ch. 2008-243, Laws of Fla.

to the specific behavioral health needs of various regions of the state. The regions are as follows:⁹



Coordinated System of Care

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

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

¹⁰ Section 394.9082(5)(d), F.S.

¹¹ Section 394.4573(1)(c), F.S.

no-wrong-door model or to meet specific needs identified in DCF's assessment of behavioral health services in this state.¹² DCF must use performance-based contracts to awards grants.¹³

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

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

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

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

The Baker Act

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

¹² *Id.*

¹³ *Id.*

¹⁴ Section 394.4573(2), F.S.

¹⁵ Section 394.495(4), F.S.

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

¹⁷ Section 394.459, F.S.

Receiving Facilities

Individuals in an acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.¹⁸ Individuals receiving services on an involuntary basis must be taken to a facility that has been designated by DCF as a receiving facility.

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

Crisis Stabilization Units

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

Involuntary Examination

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

An involuntary examination may be initiated by:

- A court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;²⁴ or

¹⁸ Section 394.4625 and 394.463, F.S.

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

²⁰ Section 394.455(38), F.S.

²¹ R. 65E-5.400(2), F.A.C.

²² Section 394.875, F.S.

²³ Section 394.463(1), F.S.

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

- A physician, clinical psychologist, psychiatric nurse, an autonomous advanced practice registered nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination, including a statement of the professional's observations supporting such conclusion.²⁵

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

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

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

III. Effect of Proposed Changes:

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

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

The bill requires a crisis counselor to, at a minimum:

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

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

²⁶ Section 394.463(2)(a)2., F.S.

²⁷ Section 394.463(2)(g), F.S.

²⁸ Section 394.463(2)(f), F.S.

²⁹ Section 394.463(2)(g), F.S.

- Conduct home visits to assist individuals in connecting with appropriate aftercare services in his or her community following his or her discharge from a Baker Act receiving facility.
- Provide support to aid a person during the transition period his or her release from commitment under the Baker Act to connection with aftercare services.
- Provide brief crisis counseling and assessment for additional needs.

The bill requires a community mobile support team to offer, at a minimum, the following services:

- Crisis assessment.
- Community-based crisis counseling.
- In-person, follow-up care after involuntary commitment under the Baker Act by a law enforcement officer.
- Assistance with accessing and engaging in aftercare services.
- Assistance with obtaining other necessary community resources to maintain stability.
- Coordination of safety planning.

The bill requires the community mental health center contracted by the managing entity to, at a minimum:

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is an indeterminate, but likely significant, negative fiscal impact on state government. The language would require contracts between MEs and community mental health centers to employ specific people to perform the duties detailed within the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 394.495 of the Florida Statutes.

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

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

None.

B. Amendments:**CS by Children, Families, and Elder Affairs January 23, 2024:**

The committee substitute makes the following changes:

- Requires the community mobile support team crisis counselor to provide follow-up care to individuals in the community that law enforcement has identified as needing additional mental health support.
- Details what services the community mobile support team is required to offer.
- Details the requirements of a community mental health center contracted by the managing entity.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 01/23/2024 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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

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

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

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

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

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

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



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- 40 1. Crisis assessment.
- 41 2. Community-based crisis counseling.
- 42 3. In-person, follow-up care after involuntary commitment
43 under the Baker Act by a law enforcement officer.
- 44 4. Assistance with accessing and engaging in aftercare
45 services.
- 46 5. Assistance with obtaining other necessary community
47 resources to maintain stability.
- 48 6. Coordination of safety planning.
- 49 (d) A community mental health center contracted by a
50 managing entity to provide a community mobile support team must:
- 51 1. Collaborate with local law enforcement offices in the
52 planning, development, and program evaluation processes.
- 53 2. Require that services be made available 7 days a week.
- 54 3. Establish independent response protocols and memorandums
55 of understanding with local law enforcement agencies.
- 56 Section 2. This act shall take effect July 1, 2024.

57

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

59 And the title is amended as follows:

60 Delete everything before the enacting clause
61 and insert:

62 A bill to be entitled

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



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

By Senator Collins

14-00826A-24

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A bill to be entitled

An act relating to child permanency; amending s. 39.01, F.S.; defining the term "visitor"; amending s. 39.0138, F.S.; requiring the Department of Children and Families to conduct a records check through the Comprehensive Child Welfare Information System on all persons being considered for placement of a child; requiring the department to complete a name-based check of federal criminal history records for certain persons being considered for child placement when a child has been sheltered; requiring a specified entity to ensure that the fingerprints of the applicant and the members of the applicant's household are submitted to the Department of Law Enforcement by a specified time, unless certain exemptions apply; requiring the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation by a specified time; prohibiting the Department of Children and Families from placing a child in a home if certain requirements are not met; requiring the Department of Children and Families to seek a court order to remove a child from a placement if certain fingerprinting requirements are not met; amending s. 39.202, F.S.; allowing any person to have access to certain identifying child records under specified circumstances; creating s. 39.5035, F.S.; authorizing specified persons to file both a petition alleging dependency and a petition for permanent commitment of a child whose parents are deceased and who does not

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

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conduct a hearing if a finding of probable cause for the removal of the child is made and the child's placement is modified, unless certain parties waive this requirement; amending s. 39.6221, F.S.; revising a condition for the placement of a child in permanent guardianship; amending s. 39.6225, F.S.; revising a criterion for guardianship assistance payments made to guardians who have entered into a guardianship assistance agreement; amending s. 39.801, F.S.; authorizing the court to proceed with a hearing for the termination of parental rights under certain circumstances; amending s. 39.812, F.S.; authorizing the court to review the department's denial of an application to adopt a child; requiring that certain provisions be carried out upon the court's review of a denial of an application to adopt a child; revising the conditions under which the department may remove a child from the foster home the child was residing in or the custodian the child was residing with; requiring the department or its contracted licensed child-placing agency to make every reasonable effort to contact the adoptive family of the child once the adoption is finalized; requiring the department or its contracted licensed child-placing agency to record certain information; amending s. 63.032, F.S.; defining the term "licensed child-placing agency"; amending s. 63.062, F.S.; requiring the department to consent to an adoption or attach to the petition to adopt the court order finding that the adoption was

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unreasonably withheld in certain circumstances;
amending s. 63.093, F.S.; requiring the department to
contract with licensed child-placing agencies for
specified purposes beginning on a specified date;
requiring the department, through its contracted
licensed child-placing agency, to respond to certain
inquiries from an adoptive parent in a certain amount
of time; requiring the department, through its
contracted licensed child-placing agency, to refer an
adoptive parent to a certain training program;
requiring the department, through its contracted
licensed child-placing agency, to complete an adoptive
home study that must be updated on a specified
schedule; authorizing the updated placement or
licensing home study to serve as the adoption home
study under certain circumstances; requiring the
contracted licensed child-placing agency to approve or
deny a home study within a specified timeframe;
requiring the department to adopt certain rules to
eliminate certain practices; requiring the department
to annually report to the Governor and the Legislature
on the status of adoptions in this state; amending s.
63.097, F.S.; revising the amount of certain fees that
may be assessed without approval of the court;
prohibiting the court from approving certain fees if
the fees exceed the total amount of the Federal
Adoption Tax Credit for the current tax year; amending
s. 409.1451, F.S.; providing that aftercare services
are available to certain young adults who are eligible

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for either the Guardianship Assistance Program or the adoption assistance program; amending s. 409.166, F.S.; revising conditions for the department to provide adoption assistance payments to adoptive parents of certain children; repealing s. 409.1662, F.S., relating to the adoption incentive program; amending s. 409.1664, F.S.; defining the term "health care practitioner"; authorizing specified persons to receive a lump sum monetary benefit for the adoption of certain children in the welfare system; increasing the amount of a lump sum monetary benefit specified persons are authorized to receive for such adoptions; authorizing health care practitioners to apply for the monetary benefit if certain requirements are met; requiring a health care practitioner to apply to the Department of Health to obtain the benefit; allowing a health care practitioner to obtain adoption assistance for which he or she may qualify under applicable statutes; authorizing the department to adopt rules that may provide for an application process that health care practitioners may use to apply for monetary benefits; amending s. 409.988, F.S.; deleting provisions that require a lead agency to serve certain children; providing effective dates.

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

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

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

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

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

150 or

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

153 1. Five consecutive days; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39.5035 Deceased parents; special procedures.—

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

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

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

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

267 (a) Be in writing.

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

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

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

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

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

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

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

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

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

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

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

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

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

39.522 Postdisposition change of custody.—

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

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

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

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

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

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

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

39.6221 Permanent guardianship of a dependent child.—

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

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

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

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

39.6225 Guardianship Assistance Program.—

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

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

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

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

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

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

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

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

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

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

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

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

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

39.812 Postdisposition relief; petition for adoption.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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were successful;

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

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

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

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

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

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

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

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

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

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

63.093 Adoption of children from the child welfare system.—

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

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

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

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

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

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

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

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

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parent.

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

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

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

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

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

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

63.097 Fees.—

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

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

(b) \$800 in court costs; or

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

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

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

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

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

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

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

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

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pursuant to s. 1003.435;

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

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

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

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

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

(3) AFTERCARE SERVICES.—

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

a. Not in foster care.

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

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

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

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

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

1. Mentoring and tutoring.
2. Mental health services and substance abuse counseling.
3. Life skills classes, including credit management and preventive health activities.
4. Parenting classes.
5. Job and career skills training.
6. Counselor consultations.
7. Temporary financial assistance for necessities, including, but not limited to, education supplies, transportation expenses, security deposits for rent and utilities, furnishings, household goods, and other basic living expenses.
8. Temporary financial assistance to address emergency situations, including, but not limited to, automobile repairs or large medical expenses.
9. Financial literacy skills training under s. 39.6035(1) (c).

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

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

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

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

(4) ADOPTION ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A qualifying adoptive employee, veteran, ~~or~~ servicemember, law enforcement officer, or health care practitioner who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$25,000 ~~\$10,000~~ per such child, subject to applicable taxes. A ~~law enforcement officer who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$25,000 per such child, subject to applicable taxes.~~ A qualifying adoptive employee, veteran, ~~or~~ servicemember, law enforcement officer, or health care practitioner who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$10,000 ~~\$5,000~~ per such child, subject to applicable taxes. A ~~law enforcement officer who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$10,000 per each such child, subject to~~

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~~applicable taxes.~~ A qualifying adoptive employee of a charter school or the Florida Virtual School may retroactively apply for the monetary benefit provided in this subsection if such employee was employed by a charter school or the Florida Virtual School when he or she adopted a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. A veteran or servicemember may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2020. A law enforcement officer may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2022. A health care practitioner may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child in the child welfare system pursuant to chapter 63 on or after July 1, 2024.

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

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

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

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

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

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

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

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

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

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

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

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

(1) DUTIES.—A lead agency:

(a) ~~1-~~ Shall serve:

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

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

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

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

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

1/23/24

Meeting Date

CFE

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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Strike All

SB 1486 - 836544

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Sam Kerce

Phone

850-488-9410

Address

2415 N. Monroe Street

Email

Sam.Kerce@myflfamilies.com

Street

Tallahassee

City

FL

State

32303

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Department of
Children and Families

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/24/24

Meeting Date

CFEA

Committee

The Florida Senate
APPEARANCE RECORD

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1486

Bill Number or Topic

Amendment Barcode (if applicable)

Name

VICTORIA ZEPP

Phone

833 618 8180

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310 W. College Ave

Email

VICTORIA@Team180.com

Street

TLH

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FAMILY SUPPORT
SERVICES

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

January 23, 2024

Meeting Date

Children Families

Committee

Name **Barney Bishop III**

Address **1454 Vieux Carre Drive**

Street

Tallahassee

City

FL

State

32308

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1486

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **850-510-9922**

Email **Barney@BarneyBishop.com**

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Smart Justice Alliance

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the *Florida Senate* filing.

S-001 (08/10/2021)

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.)

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

BILL: CS/SB 1486

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Collins

SUBJECT: Child Permanency

DATE: January 24, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Rao | Tuszynski | CF | Fav/CS |
| 2. | | | AHS | |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

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

assigned to the dependency processing who has the most familiarity with the child and family.

- Removes the requirement for Community-based care (CBC) lead agencies to provide adoption services and, instead, requires the DCF to contract with a child-placing agency to provide such services.
- Reduces the fee amounts private adoption entities can charge prospective adoptive parents without court approval.
- Requires private adoption entities to quarterly report to the DCF all private adoptions, including certain information, and make the aggregate data available on its website.
- Expands those who may participate in the adoption benefits program to include certain health care practitioners and tax collector employees.
- Repeals the adoption incentive program that awarded incentive payments to CBCs.
- Expands independent living services for young adults aging out of foster care by decreasing the eligibility age for Postsecondary Education Services and Supports and allowing young adults to receive Aftercare if eligible for the extended GAP program or the extended adoption assistance program but is not participating in either program.

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

The bill has an effective date of July 1, 2024, with the exception of section 21 which has an effective date of July 1, 2025.

II. Present Situation:

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

The United States Congress appropriates federal funds through various grants to the DCF to supplement state general revenue funds for the implementation of child welfare programs.⁶ The

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

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

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

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

⁵ *Id.*

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

DCF uses these funds to contract with local community non-profits to provide child welfare services.⁷

The DCF uses a centralized child welfare information system known as Florida Safe Families Network (FSFN) and is in the middle of a multi-year project to transition from old federal guidelines that required a Statewide Automated Child Welfare System (SACWIS) to new federal guidelines that require a Comprehensive Child Welfare Information System (CCWIS).⁸ This transition will modernize and enhance the data capabilities of the DCF.

Florida's Child Welfare System – Generally

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

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

Department of Children and Families

The DCF's statutory mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹⁵ The DCF must develop a strategic plan to fulfill this mission

⁷ Part V of ch. 409, F.S.

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

⁹ Chapter 39, F.S.

¹⁰ Section 39.001(8), F.S.

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

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

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

¹⁴ *Id.*

¹⁵ Section 20.19(1)(a), F.S.

and establish measurable goals, objectives, performance standards, and quality assurance requirements to ensure the DCF is accountable to taxpayers.¹⁶

The DCF is required to provide services relating to¹⁷:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

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

Community-Based Care System

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

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

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

¹⁶ Section 20.19(1)(b), F.S.

¹⁷ Section 20.19(4)(a), F.S.

¹⁸ Section 20.19(1)(d), F.S.

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

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

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

²² Section 409.988(3), F.S.

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

The Dependency System Process – Generally

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

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.²⁴

| Dependency Proceeding | Description of Process | Controlling Statute(s) |
|---|--|------------------------|
| Removal | The DCF may remove a child from his or her home after a protective investigation determines that conditions in that child's home are unsafe and a safety plan cannot make the conditions safe. | s. 39.401, F.S. |
| Shelter Hearing | The court must hold a shelter hearing within 24 hours after removal. At this hearing, the judge determines whether there was probable cause to remove the child and whether to keep the child out-of-home. | s. 39.401, F.S. |
| Petition for Dependency | The DCF must file a petition for dependency within 21 days of the shelter hearing. This petition seeks to find the child dependent. | s. 39.501, F.S. |
| Arraignment Hearing and Shelter Review | The court must hold an arraignment and shelter review within 28 days of the shelter hearing. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any previous shelter placement. | s. 39.506, F.S. |
| Adjudicatory Trial | The court must hold an adjudicatory trial within 30 days of arraignment. The judge determines whether a child is dependent during this trial. | s. 39.507, F.S. |

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

| Dependency Proceeding | Description of Process | Controlling Statute(s) |
|--|---|---|
| Disposition Hearing | The court must hold a disposition hearing within 15 days of arraignment (if the parents admits or consents to adjudication) or 30 days of adjudication if a court finds the child dependent. At this hearing, the judge reviews the case plan and placement of the child and orders the case plan and the appropriate placement of the child. | s. 39.506, F.S. s. 39.521, F.S. |
| Postdisposition Change of Custody Hearing | The court may change the temporary out-of-home placement of a child at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing. | s. 39.522, F.S. |
| Judicial Review Hearings | The court must review the case plan and placement at least every 6 months, or upon motion of a party. | s. 39.701, F.S. |
| Petition for Termination of Parental Rights | If the DCF determines that reunification is no longer a viable goal and termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed. | s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S. |
| Advisory Hearing | The court must hold an advisory hearing as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights. | s. 39.808, F.S. |
| Adjudicatory Hearing | The court must hold an adjudicatory trial within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial. | s. 39.809, F.S. |

Central Abuse Hotline

The DCF is required to operate and maintain a central abuse hotline (hotline)²⁵ to receive reports of known or suspected instances of child abuse,²⁶ abandonment,²⁷ or neglect,²⁸ or instances when

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

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

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

²⁸ Section 39.01(50), F.S., states “neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly

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

If the hotline determines a report meets the statutory criteria for child abuse, abandonment, or neglect, a child protective investigation must be completed by a DCF child protective investigator (CPI).³² The CPI must either implement a safety plan for the child, which allows the child to remain in the home with in-home services or take the child into custody. If the child cannot safely remain in the home with a safety plan, the DCF must file a shelter petition and remove the child from his or her current home and temporarily places them in out-of-home care.³³

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

In-Home Services

The DCF is required to make all efforts to keep children with their families and provide interventions that allow children to remain safely in their own homes.³⁷ CPIs and CBC case

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

²⁹ Section 39.201(4), F.S.

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

³¹ Section 39.201(4) and (5), F.S.

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

³³ Section 39.201, F.S.

³⁴ Section 39.202(1), F.S.

³⁵ Section 39.202(2)(o), F.S.

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

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

managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes.

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

Out-of-Home Placements

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

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

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

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

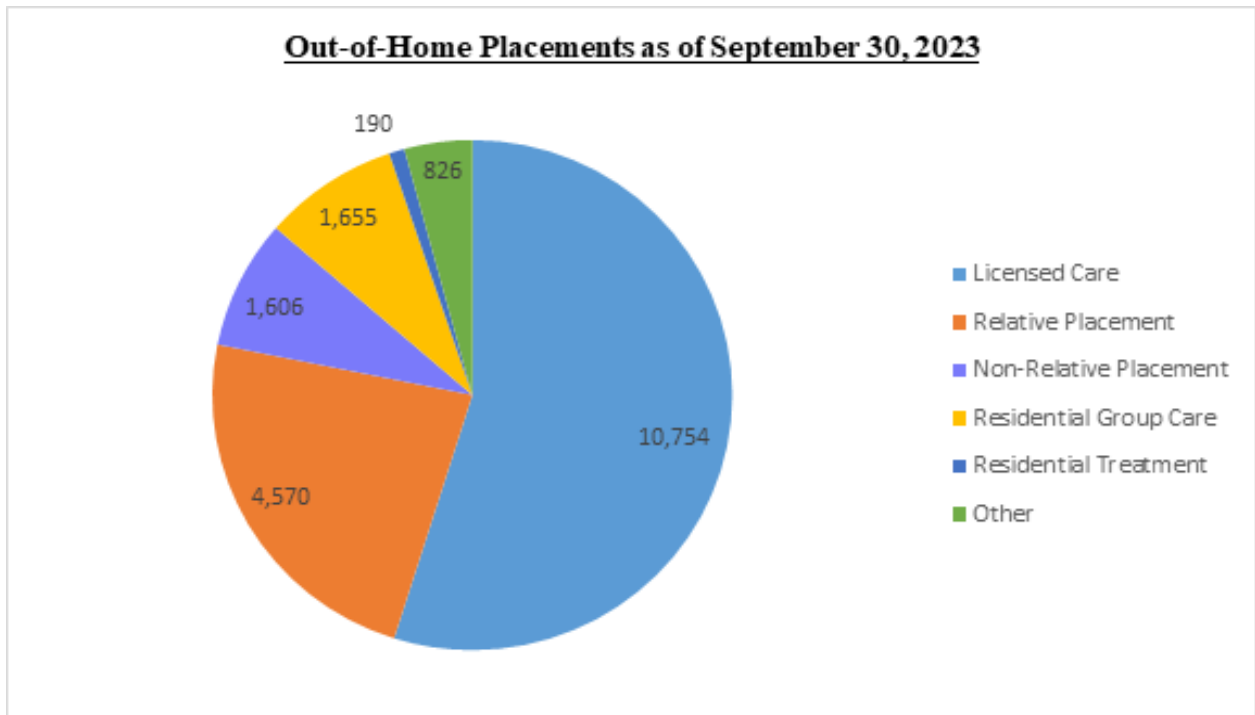
³⁸ The Department of Children and Families, Child Welfare Key Indicators Monthly Report October 2023, available at: <https://www.myflfamilies.com/KIDS/ROA/child-welfare-key-indicators-reports> (last visited Jan. 14, 2024).

³⁹ Section 39.4021, F.S.

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

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

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



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

Background Screening Requirements for Out-of-Home Placements

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

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

⁴³ Section 39.0138, F.S.

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

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

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

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

Emergency Postdisposition Change of Placements

Section 39.522, F.S., details the process for a dependency court to grant changes of placement for children who are in the dependency system. The law allows a petition to be brought before the court alleging the need for the change of placement of child who is placed by the DCF under protective supervision. If any party⁴⁷ to the child’s case or the current caregiver denies the need for the change, the court must hear from all parties through an evidentiary hearing. Upon the admission of a need for a change or after such hearing and finding of a need for change of placement, the court must enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for postdisposition change of placement is the best interests of the child.⁴⁸

When determining whether a change of legal custody or placement is in the best interests of the child, the court must consider 15 best interest factors,⁴⁹ and any report filed by the

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

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

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

⁴⁸ Section 39.01375, F.S.

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

multidisciplinary team. The court must also consider the priority of placements established in law when deciding what placement is in the child's best interest.⁵⁰

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

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

Termination of Parental Rights

To free a child for adoption, the DCF must terminate the legal relationship between the child and his or her parents in a proceeding known as a termination of parental rights. Once this process has occurred and parental rights have been terminated, the court retains jurisdiction over the child until the child is adopted.⁵⁴ The DCF, the guardian ad litem assigned to the child's case, or any other person knowledgeable of the facts of the case is permitted to file a petition for the termination of parental rights with the court.⁵⁵

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

proposed placement; the likely impact on the child's access to education, Medicaid, and independent living benefits if moved to the proposed placement; and any other relevant factor.

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

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

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Section 39.811, F.S.

⁵⁵ Section 39.802, F.S.

⁵⁶ Section 39.502(2), F.S.

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

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

Permanency

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

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

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

Adoptions

Child Welfare Adoptions and Adoption Decision Review Process

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

- The DCF under Chapter 39, F.S.;
- Child-placing agencies licensed by the DCF under s. 63.202, F.S.;
- Child-caring agencies registered under s. 409.176, F.S.;
- An attorney licensed to practice in Florida; or
- A child-placing agency licensed in another state which is licensed by the DCF to place children in Florida.

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

⁵⁹ Section 39.621 (1), F.S.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Section 39.621, F.S.

⁶³ Ch. 63, F.S.

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

⁶⁵ Section 39.01 (5), F.S.

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

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

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

Adoption Decision Review Process

When a child is available for adoption, the DCF, through its contractors, receives applications to adopt the child.⁶⁹ Some applicants are denied because their adoption home study is denied based on criminal history.⁷⁰ When there are two or more families with approved home studies, the DCF sends these conflicting applications through the adoption applicant review committee (AARC) for resolution.⁷¹ The decision of the AARC is then reviewed and the DCF issues its consent to one applicant while communicating its denial to the other applicants through certified letter.⁷²

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

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

⁶⁷ Section 39.811(9), F.S.

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

⁶⁹ Rule 65C-16.004, F.A.C.

⁷⁰ Rule 65C-16.007, F.A.C.

⁷¹ Rule 65C-16.005(9), F.A.C.

⁷² *Id.*

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

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

⁷⁵ Section 63.042(2), F.S.

that the DCF has unreasonably withheld its consent to the adoption.⁷⁶ Because Chapter 63, F.S., permits anyone who meets the requirements of s. 63.042(2), F.S., to adopt and any petitioner may argue the DCF's consent to the adoption should be waived because it was unreasonably withheld, multiple parties may file a petition to adopt the same child.⁷⁷

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

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

The chart below includes the number of 120 adoption denial cases the DCF commenced and concluded each year, of those the number of cases that resulted in a different decision than the AARC recommendation and the number of DCA appeals and the outcome decisions.⁷⁸

| Year | Chapter 120 Cases | AARC Decisions Overturned (by 120 Decision) | DCA Appeals | DCA Decisions Overturning Agency Decision |
|------|-------------------|---|-------------|---|
| 2019 | 58 | 0 | 2 | 0 |
| 2020 | 46 | 0 | 4 | 0 |
| 2021 | 42 | 1 | 2 | 0 |
| 2022 | 41 | 1 | 1 | 0 |
| 2023 | 41 | 1 | 1 | 0 |

This current process delays adoption. Between 2021 and 2022, the average length of time between the receipt of a chapter 120 hearing request and entry of a final order was 161 days⁷⁹. This does not include any additional delays caused by appeals to the District Court which adds, on average, an additional 323 days.⁸⁰

Adoption Costs

Private Adoptions

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

⁷⁶ Section 63.062(7), F.S.

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

⁷⁸ *Id.*

⁷⁹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 3-4, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸⁰ *Id.*

⁸¹ Section 63.302, F.S.

DCF; one private adoption agency registered under FACCCA, and over 100,000 attorneys licensed by the Florida Bar.⁸²

Current law allows adoption entities to assess fees, costs, and expenses for private adoptions, or they pay for the fees and services on behalf of the adoptive parents.⁸³ Private adoption services and fees vary, but it is estimated the total amount of fees and services paid by prospective adoptive parents can range from \$30,000 to \$60,000.⁸⁴ Section 63.097, F.S., allows private adoption entities may charge prospective adoptive families for:

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

Adoption entities seeking to charge fees, costs, or expenses for other items than those listed above require court approval prior to payment and a finding that the costs are based on a finding of extraordinary circumstances.⁸⁵

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

- \$5,000 in legal or other fees;
- \$800 in court costs; or
- \$5,000 in reasonable and necessary living and medical expenses.⁸⁶

In order to lessen the economic burden of private adoptions, adoptive parents may file for a federal adoption tax credit for qualifying adoption expenses⁸⁷ based on the adoptive parent's income. The 2023 federal adoption tax credit is approximately \$16,000.⁸⁸

Adoption from the Child Welfare System

⁸² The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 13, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸³ Section 63.097, F.S.

⁸⁴ Child Welfare Information Gateway, *Planning for Adoption: Knowing the Costs and Resources*, available at: <https://www.childwelfare.gov/resources/planning-adoption-knowing-costs-and-resources/> (last visited Jan. 14, 2024).

⁸⁵ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 10, (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸⁶ Section 63.097, F.S.

⁸⁷ Qualifying adoption expenses include adoption fees, attorney fees, court costs, travel expenses (including meals and lodging while away from the home), and re-adoption expenses relating to adoption of a foreign child.

⁸⁸ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 10, (on file with the Senate Committee on Children, Families, and Elder Affairs).

Adoption Assistance

Section 409.166, F.S., creates the adoption assistance program to provide financial assistance to adoptive parents who adopt a child from the foster care system.⁸⁹ Such assistance may include, but is not limited to, a monthly subsidy, medical assistance, Medicaid assistance, and reimbursement of nonrecurring expenses associated with the legal adoption.⁹⁰

Individuals who adopt a child from the child welfare system are eligible to receive \$5,000 annually, paid on a monthly basis, for the support and maintenance of the child until the child's 18th birthday.⁹¹ In the event the child was adopted after the age of 16, s. 409.166(4)(d), F.S., allows for the adoptive family to remain eligible for the adoption assistance payment until the child reaches 21 years of age, if the young adult is participating in specific programs or activities.⁹²

Beginning in 2000, Florida's Department of Management Services could administer adoption benefits to any state employee or water management district employee who adopted from the child welfare system.⁹³ The DCF overtook the administration of the adoption benefits program in 2007.⁹⁴ In 2010, the program was repealed, and funding ended.⁹⁵ However, in 2015, the Legislature reestablished the adoption benefit program to provide a one-time benefit to qualifying employees who adopt a child from the foster care system.⁹⁶

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

| Year | Employees Eligible for the Adoption Benefit under s. 409.1664, F.S. |
|-------------|---|
| 2015 | Full-time or part-time employee of a state agency who is paid from regular salary appropriations rather than a temporary employee. The term includes instructional personnel who are employed by the Florida School for the Deaf and Blind. ⁹⁷ |

⁸⁹ Section 409.166, F.S.

⁹⁰ *Id.*

⁹¹ Section 409.166(4)(c), F.S. The adoptive parents can receive an amount other than \$5,000 upon agreement by the DCF and memorialized in a written agreement between the adoptive parents and the DCF. The agreement must take into consideration the circumstances of the adoptive parents and the needs of the child being adopted. The amount of subsidy may be adjusted upon changes in the needs of the child or circumstances of the adoptive parents. In no case shall the amount of the monthly payment exceed the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home.

⁹² This program is known as the Extended Maintenance Adoption Subsidy (EMAS). The payments may be made to the adoptive parents until the child reaches 21 if the child is: completing secondary education or a program leading to an equivalent credential; enrolled in an institution that provides postsecondary or vocational education; participating in a program or activity designated to promote or eliminate barriers to employment; employed for at least 80 hours per month; or unable to participate in the following programs or activities full time due to a physical, an intellectual, an emotional, or psychiatric conditions that limits participation.

⁹³ Chapter 2000-241, Laws of Fla.

⁹⁴ Chapter 2010-158, Laws of Fla.

⁹⁶ Chapter 2015-130, Laws of Fla.

⁹⁷ Chapter 2015-130, Laws of Fla.

| | |
|------|---|
| 2017 | Full-time or part-time employees of charter schools or the Florida Virtual School to the list of eligible employees. ⁹⁸ |
| 2020 | Full-time or part-time employee from a state agency, charter school, or Florida Virtual School that is not an independent contractor. Other personal services employees who have been continuously employed full-time or part-time by a state agency for at least 1 year. Veterans and servicemembers that are domiciled in the state. ⁹⁹ |
| 2022 | Law enforcement officers. ¹⁰⁰ |

Qualifying adoptive employees, veterans, or servicemembers who adopt a child from the child welfare system, who is “difficult to place”¹⁰¹, is eligible to receive a one-time monetary benefit of \$10,000 per child, while law enforcement offices is eligible to \$25,000 per child.¹⁰² If the child being adopted is not considered “difficult to place,” a qualifying adoptive employee, veteran, or servicemember is eligible to receive \$5,000 per child, while a law enforcement officer is eligible to receive \$10,000 per child.¹⁰³

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

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

Statewide Adoption Services

Various adoption services may be provided at the time a child is permanently committed to DCF’s custody for subsequent adoption. To facilitate adoption, CBCs, or its subcontractors, are required to recruit prospective adoptive families; annually assess adoptive parent resource needs;

⁹⁸ Chapter 2017-140, Laws of Fla.

⁹⁹ Chapter 2020-22, Laws of Fla.

¹⁰⁰ Chapter 2022-23, Laws of Fla.

¹⁰¹ Section 409.166(2), F.S., defines “difficult to place” as a child whose (1) permanent custody has been awarded to the DCF or to a licensed child-placing agency; (2) has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she meet a specific category (eight years of age; developmentally disabled; physically or emotionally handicapped; a member of a racial group that is disproportionately represented among children available for adoption or a member of sibling group of any age provided two or more members of a sibling group remain together for purposes of adoption); and (3) for whom a reasonable but unsuccessful effort has been made to place the child without providing a benefit.

¹⁰² Section 409.1664, F.S.

¹⁰³ Section 409.1664, F.S.

¹⁰⁴ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 15, (on file with the Senate Committee on Children, Families, and Elder Affairs).

complete initial and final adoptive home studies; comply with adoption disclosure requirement; and implement and administer adoption assistance benefits.¹⁰⁵

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

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

To help eliminate barriers to timely adoption and permanency, the DCF and various stakeholders, including the Guardian ad Litem program, CBCs, case management organizations, and the judiciary identified the following barriers to finalizing adoptions¹¹¹:

- Multiple background screenings of prospective adoptive parents due to expiration;
- Adoption application packets were not uniform statewide and could range from 60-70 pages based on the CBC;
- Adoption home studies were not completed timely and compiling data for the child specific information for the home studies caused delays.

Based on these barriers to finalizing adoptions, in July 2023, the DCF launched a pilot in Circuits 6 and 13 to expedite adoptions, which included streamlining adoption procedures, clarifying requirements, meeting with stakeholders to address barriers, and brining in dedicated case management staff to focus on finalizing adoptions.¹¹² Circuits 6 and 13 were selected for the pilot due to both having the highest statewide pending adoption rates and both recently experiencing a turnover of its CBC.¹¹³

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

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

¹⁰⁵ R. 65C-16.004, F.A.C

¹⁰⁶ 65C-16.012 F.A.C.

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

¹⁰⁸ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 11, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

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

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

¹¹³ *Id.*

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

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

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

Statewide Adoption Exchange

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

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

Adoption Incentive Program

The Adoption Incentive Program aims to improve the achievement of permanency, stability, and well-being for children in foster care who cannot be reunified with their families.¹²⁰ Through the Adoption Incentive Program, the DCF can award CBCs, and subcontractors involved in the

¹¹⁴ *Id.*

¹¹⁵ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 11, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹¹⁶ Section 409.167(2), F.S.

¹¹⁷ Chapter 1983-246, Laws of Fla.

¹¹⁸ Chapters 1994-164, 1997-101, and 2014-19, Laws of Fla.

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

¹²⁰ Section 409.1662, F.S.

adoption process, with an incentive payment when achieving specific and measure adoption performance standards.¹²¹

Due to budgetary constraints, the DCF has been unable to award incentive payments to any CBC since State Fiscal Year 2019-20.¹²²

Adoption of Orphaned Children

Currently, when both parents of a child are deceased with no family member to serve as legal guardian or custodian through a probate or guardianship proceeding, the DCF can adjudicate a child dependent. However, there is no legal mechanism to permanently commit a child to the custody of the DCF for subsequent adoption.¹²³

In *F.L.M. v. Department of Children and Families*,¹²⁴ the court held that when the parents of a child have died they have not abandoned the child because the definition of "abandonment" in Ch. 39, F.S., contemplates the failure to provide a minor child with support and supervision while being able, and the parents who died are no longer able. Instead, the courts have held that an orphaned child without a legal custodian can be adjudicated dependent based on the child having no parent or legal custodian capable of providing supervision and care pursuant to s. 39.01(14)(e), F.S.¹²⁵ As such, the DCF relies upon this maltreatment to adjudicate orphaned children dependent.¹²⁶

Section 39.811(2), F.S., allows a court to commit a child to DCF's custody for subsequent adoption if the court finds by clear and convincing evidence that the grounds for termination of parental rights are established. Section 39.806(1), F.S., outlines various grounds for termination of parental rights. However, all available grounds require that a parent engage in behavior that puts a child at risk. This prevents the DCF from seeking termination of a deceased parent's parental rights based on available grounds because a deceased parent has not engaged in behavior that puts a child at risk. Furthermore, even if there were a statutory ground to seek the termination of a deceased parent's rights, there are benefits that a child may be receiving, such as social security benefits or an inheritance, and termination of the deceased parent's rights would disrupt those benefits.¹²⁷

Currently, courts are permanently committing children to DCF's custody without meeting the requirements of s. 39.811(2), F.S., which requires termination of parental rights by clear and convincing evidence that the grounds for termination of parental rights are established.¹²⁸

¹²¹ Section 409.1662(3), F.S.

¹²² The Department of Children and Families, *Adoption Incentive Reports 2019-20, 2020-21, 2021-22, 2022-23*, available at: <https://www.myflfamilies.com/services/child-family/lmr> (last visited Jan. 12, 2024).

¹²³ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 4, (on file with the Senate Committee on Children, Families, and Elder Affairs).

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

¹²⁵ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 4, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹²⁶ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 4-6, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹²⁷ *Id.*

¹²⁸ *Id.*

Florida's Independent Living Services

The DCF strives to achieve permanency for all children in care before their 18th birthday.¹²⁹ However, a child will age out of care upon reaching 18 years of age if a permanent placement is not found.¹³⁰ From October 1, 2022, to September 30, 2023, there were 801 young adults who aged out of Florida's foster care system.¹³¹

Florida provides independent living services to young adults to help them transition out of foster care and to prepare them to become self-sufficient adults. Florida's independent living services include extended foster care (EFC), which applies to young adults who were in licensed foster care upon turning 18 years of age.¹³² Florida also offers two other independent living programs: Postsecondary Education Services and Support (PESS) and Aftercare services (Aftercare). The following tables provides information on the eligibility requirements to participate in Florida's independent living programs and the services provided by each.

| Program | Eligibility | Services |
|--|---|--|
| Extended Foster Care (EFC) ¹³³ | <p>Young adults who turned 18 in foster care and are:</p> <ul style="list-style-type: none"> • Completing high school or its equivalent; or • Enrolled in college or vocational schooling; or • Working at least 80 hours per month. <p>To stay in EFC, the young adult must:</p> <ul style="list-style-type: none"> • Meet with a case manager every month. • Continue to participate in a required activity. • Attend court reviews every six months. | Young adults may choose to remain in licensed foster care and receive foster care services until the age of 21 (22 with a disability). |
| Postsecondary Education Services and Support (PESS) ¹³⁴ | <ol style="list-style-type: none"> 1. Young adults who turned 18 in foster care and spent at least 6 months in licensed out-of-home care before turning 18. 2. Young adults who are at least 18 and were adopted from foster care after age 16 or were placed with a court-approved guardian after spending at least 6 months in licensed foster care within the 12 months immediately preceding such adoption or placement; and <ul style="list-style-type: none"> • Have earned a high school diploma or equivalent; and | <p>\$1,720 per month for:</p> <ul style="list-style-type: none"> • Housing • Utilities • Living expenses <p>Available until the age 23.</p> |

¹²⁹ Section 39.01, F.S. Section 39.621, F.S., lists the permanency goals in order of preference as 1. reunification; 2. adoption, if a petition for termination of parental rights has been or will be filed; 3. permanent guardianship; 4. permanent placement with a fit and willing relative; or 5. placement in another planned permanent living arrangement.

¹³⁰ Rule 65C-30.022, F.A.C.

¹³¹ Florida Department of Children and Families, *Office of Child and Family Well-Being Dashboard*, available at: <https://www.myflfamilies.com/ocfw-dashboard> (last visited Jan. 12, 2024).

¹³² Chapter 2013-178, Laws of Florida

¹³³ Section 39.6251, F.S.

¹³⁴ Section 409.1451(2), F.S.

| Program | Eligibility | Services |
|--------------------------|--|--|
| | <ul style="list-style-type: none"> Are attending a college or vocational school that is Florida Bright Futures eligible. | |
| Aftercare ¹³⁵ | <p>Young adults who turned 18 while in licensed foster care, but are not yet 23, and</p> <ul style="list-style-type: none"> Are not in EFC; or Are not in PESS. | <p>Mentoring Tutoring Substance abuse treatment Counseling Job and career skills training Temporary financial assistance for necessities</p> |

III. Effect of Proposed Changes:

Background Screenings (Sections 1 and 2)

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

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

This change (along with the changes in section 2) will make Florida statutes compliant with federal requirements and allow the DCF to continue to use the FBI’s federal database to conduct and complete required background screenings for out-of-home placements.¹³⁶

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

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

- Requiring the DCF to complete a name-based check of federal criminal history records if a child has been sheltered and must be placed in out-of-home care, such as an emergency placement in the home of private individuals including neighbors, friends, or relatives, due to an emergency.
- Requiring fingerprints of the out-of-home placement applicant and all other adult members of the applicant’s household to be submitted to the FDLE within seven calendar days after receipt of the results of the name-based check, unless an individual is exempted from fingerprinting requirements.

¹³⁵ Section 409.1451(3), F.S.

¹³⁶ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 3, (on file with the Senate Committee on Children, Families, and Elder Affairs).

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

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

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

The bill requires the DCF to seek a court order to immediately remove a child from that placement if an applicant or any other adult household member does not submit the required fingerprints to the FDLE within 15 calendar days after the name-based check is conducted, provided that such persons are not exempt from a criminal history records check.

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

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

Adoption of Orphaned Children (Section 3)

Section 3 of the bill creates s. 39.5035, F.S. to allow a court to permanently commit a child whose parents are deceased to DCF's custody. This change allows a child to find permanency when there's no legal custodian available to care the child after the death of his or her parents and to allow the child to continue to receive death benefits without terminating the deceased parent's parental rights.

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

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

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

- Identification of the deceased parent or parents;
- Facts that establish both parents of the child;

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

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

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

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

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

- **If the court finds the petitioner has met the clear and convincing standard:** the bill requires the court to enter a written order adjudicating the child dependent and permanently committing the child to DCF's custody for subsequent adoption. The court must schedule a disposition hearing no later than 30 days after the entry of the order, where the DCF must provide the court with a case plan for the child. The bill requires the DCF to make reasonable efforts to place the child in a timely manner and finalize the permanent placement of the child. The court must hold hearings every 6 months to review the progress of the child's case plan permanency goal, until the child reaches 18 years of age, or the adoption of the child is finalized.
- **If the court finds the petitioner has not met the clear and convincing standard, but that a preponderance of the evidence establishes that the child does not have a parent of legal custodian capable of providing supervision of care:** the bill requires the court to enter a written order adjudicating the child dependent. A disposition hearing must be scheduled no later than 30 days after the entry of the order.
- **If the court finds the petitioner has not met the clear and convincing standard and that a preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision of care:** the bill requires the court to enter a written order dismissing the petition.

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

- **If the court finds the petitioner has met the clear and convincing standard:** the bill requires the court to enter a written order permanently committing the child to DCF custody for the purposes of adoption. The court must schedule a disposition hearing no later than 30

days after the entry of the order, where the DCF must provide the court with a case plan that identifies the permanency goal for the child. The bill requires the DCF to make reasonable efforts to place the child and finalize the permanent placement. The court must hold hearings every 6 months to review the progress of the child's case plan permanency goal, until the child reaches 18 years of age, or the adoption of the child is finalized.

- **If the court finds that clear and convincing evidence does not establish that both parents of the child are deceased or that the last known living parent is deceased and the other parent cannot be found after a diligent search or inquiry:** the bill requires the court to enter a written order denying the petition.

Emergency Postdisposition Change of Placement (Sections 4 and 5)

Section 4 of the bill amends s. 39.521, F.S., to make conforming changes that reflect the shift to utilizing the Comprehensive Child Welfare Information System, rather than the State Automated Child Welfare Information System when conducting records checks when a child will be remaining with an adult approved by the court.

Section 5 of the bill amends s. 39.522, F.S. to create process for emergency modification of a child's court-ordered placement. The bill allows a child's case manager, authorized DCF agent, or law enforcement officer to remove a child from a placement if the current caregiver requests immediate removal of the child or if the circumstances meet the criteria of a shelter pursuant to s. 39.401(1)(b), F.S.¹³⁷

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

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

¹³⁷ Pursuant to s. 39.401(1)(b), F.S., there must be probable cause that supports that the child has been (1) abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment; (2) the parent or legal custodian has materially violated a condition of placement imposed by the court; or (3) that the child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision or care.

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

Section 6 of the bill amends s. 39.6221, F.S., to allow the court to close a case to permanent guardianship if the child was placed with a relative or other approved adult for the preceding three months and that person was named on the child's guardianship assistance agreement. This change allows children to achieve permanency with a guardian that has already been vetted through the background screening requirements of the Guardianship Assistance Agreement, without having to unnecessarily return to the child welfare system.

Section 7 of the bill amends s. 39.6225, F.S. to expand the eligibility of guardianship assistance payments by reducing the age requirement a child must be for a guardian to receive payments. The bill only allows a guardian who entered into a guardianship assistance agreement when a child was 14 to receive guardianship assistance payments, rather than when the child was 16 years of age. This increases the eligible population by 782 individuals, with an expected 235 of those choosing to participate in the program.¹³⁸

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

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

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

Child Welfare Adoptions and Adoption Decision Review Process (Sections 9 and 12)

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

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

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

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

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

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

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

Section 12 of the bill amends s. 63.062, F.S. to reflect the changes to the Chapter 120 hearing changes in Section 9 of the bill. The bill establishes that if parental rights to the minor have been terminated and the minor has been permanently committed to the DCF for subsequent adoption, the DCF must provide consent to the adoption, or the petitioner must include the court order finding the DCF unreasonably withheld consent as well as a favorable preliminary adoptive home study in the petition to adopt. This change ensures there is only one adoption petition filed for each child.¹³⁹

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

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

Section 13 of the bill amends s. 63.093, F.S. to require the DCF to contract with one or more licensed child-placing agencies to provide adoptive services, complete the adoption processes for children permanently committed to the DCF, and to support adoptive families, beginning July 1, 2025. The bill allows a contracted licensed child-placing agency to subcontract for the provision of adoptive services.

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

- Respond to an initial inquiry from a prospective adoptive parent within seven business days after receipt of the inquiry to inform the prospective adoptive parent of the adoption process and requirements for adopting a child from the child welfare system.
- Refer a prospective adoptive parent interested in adopting a child in DCF's custody to a DCF-approved adoptive parent training program.

¹³⁹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 9-10, (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Complete an adoptive home study of a prospective adoptive parent that includes observation, screening, and evaluation of the child and the prospective adoptive parent. The bill allows the home study to serve as the adoptive home study if the child was placed in the home prior to the termination of parental rights.
- Complete a preparation process, as established by DCF rule, with the prospective adoptive parent.
- Approve or deny the home study within 14 business days after receipt of the recommendation of approval of the prospective adoptive parent's appropriateness to adopt.

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

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

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

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

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

Section 18 of the bill repeals s. 409.1662, F.S. that requires the DCF to create an adoption incentive program that awards incentive payments to CBCs for specific adoption performance standards.

Section 20 of the bill amends s. 409.167, F.S., to require the statewide adoption exchange to be in accordance with the rules adopted by the DCF.

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

Section 21 amends s. 409.988, F.S. to remove the requirement of CBCs to serve children who were adopted from the child welfare system and families that require postadoption services.

This section has an effective date of July 1, 2025

Adoption Costs and Adoption Benefits (Sections 14, 15, 17, and 19)

Section 14 amends s. 63.097(3), F.S. to include preliminary home studies and final home investigations as a preplacement and postplacement social service within the list of fees the DCF must approve within the process of licensing an adoption agency.

The bill requires the DCF to adopt rules to implement this change to ensure all fees assessed are reasonable and that the total fees assessed do not exceed the federal adoption tax credit, which is currently \$15,950 per child.¹⁴⁰ The bill requires the DCF to adopt rules that require agencies to report quarterly to the DCF the number of adoptions in which a court enters an order that approves fees that exceed the statutory limits.

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

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

Section 15 amends s. 63.132, F.S., to require a written order by a court containing competent and substantial evidence of reasonableness resulting from extraordinary circumstances for fees that exceed statutory limits. An affidavit seeking fees, costs, or expenses that exceed statutory limits is per se unreasonable and must be denied, absent this written order.

Section 17 amends s. 409.166(4), F.S., to expand the eligibility for adoption assistance by reducing the age requirement a child must be for an adoptive parent to receive payments. The bill allows an adoptive parent who entered into an initial adoption assistance agreement when a child was 14 to receive adoption assistance payments, rather than when the child was 16. The DCF estimates this will increase the eligible population by 550 individuals, with 165 participating in the program.¹⁴¹

Section 19 amends s. 409.1664, F.S. to make health care practitioners¹⁴² as listed in s. 456.001(4), F.S., who hold an active status license from the Department of Health (DOH) and whose individual income does not exceed \$150,000, and tax collector employees who are an employee of an office of county tax collector in the state, to be eligible to receive adoption benefits when

¹⁴⁰ Internal Revenue Service, *Topic No. 607, Adoption Credit and Adoption Assistance Programs*, available at: <https://www.irs.gov/taxtopics/tc607> (last visited Jan. 14, 2024).

¹⁴¹ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 8, (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁴² Section 456.001(4) defines health care practitioner as any person licensed under chapters 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, part I, part II, part III, part V, part X, part XII, part XIV of chapter 468, 478, 480, part I, part II, and part III of chapter 483, 484, 486, 490, or 491.

adopting a child from the child welfare system. The bill increases the amount of the adoption benefit from \$10,000 to \$25,000 when the child being adopted is “difficult to place” and from \$5,000 to \$10,000 when the child being adopted is not “difficult to place.”

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

Independent Living Services (Section 16)

Section 16 of the bill amends s. 409.1451(2), F.S. to increase the number of young adults eligible to receive PESS by allowing a young adult who was at least 14 years of age (rather than 16 years of age) to receive services, provided other eligibility requirements are met. The DCF estimates this will make an additional 351 young adults eligible to receive PESS services, with an estimated 71 choosing to participate in the program.¹⁴³

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

Effective Dates

The bill provides an effective date of July 1, 2024, notwithstanding Section 21, which has an effective date of July, 1, 2025.

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.

¹⁴³ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), p. 8, (on file with the Senate Committee on Children, Families, and Elder Affairs).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Community-Based Care Lead Agencies

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

Child-Placing Agencies

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

Adoption Entities

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

C. Government Sector Impact:

Expansion of Independent Living Services

The DCF estimates a significant negative fiscal impact due to the expansion of independent living services.¹⁴⁴

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

Expansion of the Adoption Benefits Program

¹⁴⁴ The Department of Children and Families, *SB 1486 Agency Bill Analysis* (January 2024), pp. 18-19, (on file with the Senate Committee on Children, Families, and Elder Affairs).

There is a significant negative fiscal impact due to making health care practitioners and tax collector employees eligible to receive adoption benefits when adopting a child from the child welfare system.

There is also a negative fiscal impact due to increasing the monetary amounts that eligible employees can receive.

The DCF estimates the fiscal impact of including health care practitioners and tax collector employees and increasing lump sum amounts for eligible employees will be \$9,822,530, recurring.¹⁴⁵

Court System

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

This bill creates s. 39.5035, Florida Statutes.

This bill repeals s. 409.1662, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

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

The CS makes the following changes:

- Lowers the age of who falls under the definition of “visitor” for the purpose of background screening requirements from 14 years of age to 12 years of age.
- Requires the DCF to conduct a criminal history records check on all visitors in a home considered for placement.

¹⁴⁵ The Department of Children and Families, *SB 1486 Agency Bill Analysis*, p. 19 (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Requires that the DCF submit fingerprints to the FDLE within 7 “calendar” days after receipt of results of a name-based check rather than 7 days.
- Requires the FDLE to forward fingerprints to the FBI within 15 calendar days after conducting the name-based check.
- Requires the DCF to seek a court order for immediate removal of a child if fingerprints are not provided within 15 calendar days after the FDLE conducted a name-based check and such person was not exempted from a criminal history records check.
- Requires the court to enter a written order within 15 “business” days after a hearing that considers whether the DCF unreasonably withheld its consent for adoption.
- Changes the definition of “agency” in Ch. 63, F.S., (adoption statutes) to “child-placing agency” to mean an agency licensed by the DCF pursuant to s. 63.202 to place minors for adoption.
- Adds tax collector employees as eligible for adoption benefits when adopting a child from the child welfare system and requires tax collector employees to apply to the DCF to obtain an adoption benefit.
- Requires the adoption exchange, which provides information on children in DCF’s custody available for adoption, to be in accordance with rules adopted by the DCF.
- Prohibits the photo-listing component of the adoption exchange from being accessible by the public and only accessible to persons who have completed or are in the process of completing an adoption home study.
- Requires the photo-listing component of the adoption exchange to facilitate family-matching between children and prospective adoptive parents and requires the DCF to consult with any child 12 years of age or older during the development of his or her description on the statewide adoption exchange, and allows a child 12 years of age or older to request a specific photo for his or her adoption exchange photo listing.
- Removes the requirement that child abuse records in the case of a child’s death be available only upon the DCF’s closure of its investigation.
- Creates a new section of law that requires a licensed adoption entity to report all private adoptions to the DCF on a quarterly basis, with specified information. The amendment permits DCF to adopt rules to implement this section and requires the DCF to make the aggregate information available on its website.
- Requires the DCF to adopt rules that regulate the fees charged by adoption agencies, and requires adoption agencies to report the number of adoptions in which a court enters an order that approves fees that exceed current statutory limits.
- Requires a court order, rather than simple court approval, when fees that adoption entities assess exceed the current statutory limits.
- Requires an affidavit seeking fees above current statutory limits be per se unreasonable and denied absent a written finding with competent and substantial evidence of reasonableness resulting from extraordinary circumstances.

B. Amendments:

None.



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LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(88) "Visitor" means a person who:

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



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

1. Five consecutive days; or

2. Seven days or more in 1 month.

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

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

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



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

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

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



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

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

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

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

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

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



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

39.5035 .Deceased parents; special procedures.—

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

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

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

(2) The petition must be:

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



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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

39.522 Postdisposition change of custody.—

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

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



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

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

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

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

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

39.6221 Permanent guardianship of a dependent child.—

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



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

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

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

39.6225 Guardianship Assistance Program.—

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

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

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

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

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

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

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



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more life activities.

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

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

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

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

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

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



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Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

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

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

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

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

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



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

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

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

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

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



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foster home or custodian, except when:

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

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

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

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

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

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



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

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

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

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

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

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



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amended to read:

63.032 Definitions.—As used in this chapter, the term:
~~(7)(6)~~ “Child-placing agency” means an any child-placing
agency licensed by the department pursuant to s. 63.202 to place
minors for adoption.

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

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

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

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

63.093 Adoption of children from the child welfare system.—

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



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

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

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

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

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

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

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



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department, through its contracted child-placing agency,
~~community-based care lead agency or its subcontracted agency~~
must complete an adoptive home study of a prospective adoptive
parent that includes observation, screening, and evaluation of
the child and the prospective adoptive parent. An adoptive home
study must be updated every ~~is valid for~~ 12 months after the
date on which the study was approved. If the child was placed
before the termination of parental rights, the updated placement
or licensed home study may serve as the adoption home study. In
addition, the department, through its contracted child-placing
agency, ~~community-based care lead agency or its subcontracted~~
~~agency~~ must complete a preparation process, as established by
department rule, with the prospective adoptive parent.

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

(7) The department shall adopt rules to eliminate
duplicative practices and delays in the adoption home study
process for a member of a uniformed service on active duty
seeking to adopt in the state, including, but not limited to,



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providing a credit for adoption classes that have been taken in another state which substantially cover the preservice training required under s. 409.175(14) (b).

(8) By November 15 of each year, the department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of adoptions within the state.

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

Section 13. Subsections (6) of section 63.097, Florida Statutes, is renumbered as subsection (7), paragraphs (a) and (c) of subsection (3) are amended, and a new subsection (6) is added to that section, to read:

63.097 Fees.—

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

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

(b) \$800 in court costs; or

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

(6) Excluding reasonable medically necessary expenses, the court may not approve the fees per child specified in this section if the fees exceed the total amount of the federal adoption tax credit for the current tax year.

(7) ~~(6)~~ Unless otherwise indicated in this section, when an adoption entity uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to



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s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation.

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

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

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

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

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

3. Earned a standard high school diploma pursuant to s. 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent pursuant to s. 1003.435;

4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533. For purposes of this section, the term "full-time" means 9 credit hours or the vocational school equivalent. A student may enroll part-time if



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he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time attendance. A student needing to enroll part-time for any reason other than having a recognized disability must get approval from his or her academic advisor;

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

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

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

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

(3) AFTERCARE SERVICES.—

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

a. Not in foster care.

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

c. Eligible for the Extended Guardianship Assistance Program under s. 39.6225(9) or the extended adoption assistance program under s. 409.166(4), but is not participating in either program.

2. Subject to available funding, aftercare services as specified in subparagraph (b)8. are also available to a young adult who is between the ages of 18 and 22, is receiving financial assistance under subsection (2), is experiencing an



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emergency situation, and whose resources are insufficient to meet the emergency situation. Such assistance shall be in addition to any amount specified in paragraph (2)(b).

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

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

(4) ADOPTION ASSISTANCE.—

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

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

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

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

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

5. Unable to participate in programs or activities listed in subparagraphs 1.-4. full time due to a physical, an intellectual, an emotional, or a psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, an intellectual, an emotional, or a psychiatric condition that impairs the child's ability to perform one or more life activities.



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Section 16. Section 409.1662, Florida Statutes, is repealed.

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

409.1664 Adoption benefits for qualifying adoptive employees of state agencies, veterans, servicemembers, ~~and~~ law enforcement officers, health care practitioners, and tax collector employees.—

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

(a) “Child within the child welfare system” has the same meaning as provided in s. 409.166(2).

(b) “Health care practitioner” means a person listed in s. 456.001(4) who holds an active license from the Department of Health and whose gross income does not exceed \$150,000 per year.

(c) ~~(b)~~ “Law enforcement officer” has the same meaning as provided in s. 943.10(1).

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

(e) ~~(d)~~ “Servicemember” has the same meaning as in s. 250.01(19).



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

(g) "Tax collector employee" means an employee of an office of county tax collector in the state.

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

(2) A qualifying adoptive employee, veteran, law enforcement officer, health care practitioner, tax collector employee, or servicemember who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$25,000 ~~\$10,000~~ per such child, subject to applicable taxes. ~~A law enforcement officer who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$25,000 per such child, subject to applicable taxes.~~ A qualifying adoptive employee, veteran, law enforcement officer, health care practitioner, tax collector employee, or servicemember who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$10,000 ~~\$5,000~~ per such child, subject to applicable taxes. ~~A law enforcement officer who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary~~



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~~benefit in the amount of \$10,000 per each such child, subject to applicable taxes.~~ A qualifying adoptive employee of a charter school or the Florida Virtual School may retroactively apply for the monetary benefit provided in this subsection if such employee was employed by a charter school or the Florida Virtual School when he or she adopted a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. A veteran or servicemember may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2020. A law enforcement officer may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2022. A health care practitioner and tax collector employee may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2024.

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

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

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



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purpose.

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

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

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

(6) The department may adopt rules to administer this section. The rules may provide for an application process such as, but not limited to, an open enrollment period during which qualifying adoptive employees, veterans, servicemembers, health



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care practitioners, tax collector employees, or law enforcement
officers may apply for monetary benefits under this section.

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

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

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

Section 18. Subsections (1) through (4) of section 409.167, Florida Statutes, are amended to read:

409.167 Statewide adoption exchange; establishment; responsibilities; registration requirements; rules.—

(1) The Department of Children and Families shall establish, either directly or through purchase, a statewide adoption exchange, with a photo listing component, which serves ~~shall serve~~ all authorized licensed child-placing agencies in the state as a means of recruiting adoptive families for



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children who have been legally freed for adoption and who have been permanently placed with the department or a licensed child-placing agency. The statewide adoption exchange must ~~shall~~ provide, in accordance with rules adopted by the department, descriptions and photographs of such children, as well as any other information deemed useful in the recruitment of adoptive families for each child. The photo listing component of the statewide adoption exchange must be updated monthly and may not be accessible to the public, except to persons who have completed or are in the process of completing an adoption home study.

(2)(a) Each district of the department shall refer each child in its care who has been legally freed for adoption to the statewide adoption exchange no later than 30 days after the date of acceptance by the department for permanent placement. The referral must be accompanied by a photograph and description of the child.

(b) The department shall establish criteria by which a district may determine that a child need not be registered with the statewide adoption exchange. Within 30 days after the date of acceptance by the department for permanent placement, the name of the child accepted for permanent placement must be forwarded to the statewide adoption exchange by the district together with reference to the specific reason why the child should not be placed on the statewide adoption exchange. If the child has not been placed for adoption within 3 months after the date of acceptance by the department for permanent placement, the district must ~~shall~~ provide the statewide adoption exchange with the necessary photograph and information for registration



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of the child with the statewide adoption exchange and the child must ~~shall~~ be placed on the statewide adoption exchange. The department shall establish procedures for monitoring the status of children who are not placed on the statewide adoption exchange within 30 days after the date of acceptance by the department for permanent placement.

(3) In accordance with rules established by the department, the statewide adoption exchange may accept, from licensed child-placing agencies, information pertaining to children meeting the criteria of this section, and to prospective adoptive families, for registration with the statewide adoption exchange.

(4) For purposes of facilitating family-matching between children and prospective adoptive parents, the statewide adoption exchange must ~~shall~~ provide the photo listing component service to all licensed child-placing agencies and, in accordance with rules adopted ~~established~~ by the department, to all appropriate citizen groups and other organizations and associations interested in children's services. The photo listing component of the statewide adoption exchange may not be accessible to the public, except to persons who have completed or are in the process of completing an adoption home study.

Section 19. Effective July 1, 2025, paragraph (a) of subsection (1) of section 409.988, Florida Statutes, is amended to read:

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

(1) DUTIES.—A lead agency:

(a)1. Shall serve+

~~a.~~ all children referred as a result of a report of abuse,



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neglect, or abandonment to the department's central abuse hotline, including, but not limited to, children who are the subject of verified reports and children who are not the subject of verified reports but who are at moderate to extremely high risk of abuse, neglect, or abandonment, as determined using the department's risk assessment instrument, regardless of the level of funding allocated to the lead agency by the state if all related funding is transferred.

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

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

Section 20. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled
An act relating to permanency for children; amending s. 39.01, F.S.; defining the term "visitor"; amending s. 39.0138, F.S.; renaming the "State Automated Child Welfare Information System" as the "Comprehensive Child Welfare Information System"; requiring the Department of Children and Families to conduct a criminal history records check of certain frequent



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visitors to a home in which a child is placed;
requiring the department to conduct a name-based check
of criminal history records of all visitors to such
home and certain other persons in specified
circumstances; requiring certain persons to submit
their fingerprints to the department or other
specified entities; requiring the department or such
entities to submit such fingerprints to the Department
of Law Enforcement for state processing within a
specified timeframe; requiring the Department of Law
Enforcement to forward such fingerprints to the
Federal Bureau of Investigation within a specified
timeframe; requiring a child to be immediately removed
from a home if certain persons fail to provide their
fingerprints and are not otherwise exempt from a
criminal history records check; amending s. 39.202,
F.S.; authorizing certain information to be provided
to any person in the event of the death of a child if
the department concludes that the death was a result
of abuse, abandonment, or neglect; creating s.
39.5035, F.S.; providing procedures and requirements
relating to deceased parents of a dependent child;
amending s. 39.522, F.S.; authorizing certain persons
to remove a child from a court-ordered placement under
certain circumstances; requiring the Department of
Children and Families to file a specified motion, and
the court to set a hearing, within specified
timeframes under certain circumstances; requiring a
certain determination by the court to support



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immediate removal of a child; authorizing the court to base its determination on certain evidence; requiring the court to enter certain orders and conduct certain hearings under certain circumstances; amending s. 39.6221, F.S.; revising a requisite condition for placing a child in a permanent guardianship; amending s. 39.6225, F.S.; revising eligibility for payments under the Guardianship Assistance Program; amending s. 39.801, F.S.; providing that service of process is not necessary under certain circumstances; amending s. 39.812, F.S.; authorizing the court to review the Department of Children and Families' denial of an application to adopt a child; requiring the department to file written notification of its denial with the court and provide copies to certain persons within a specified timeframe; authorizing a denied applicant to file a motion to review such denial within a specified timeframe; requiring the court to hold a hearing within a specified timeframe; providing standing to certain persons; authorizing certain persons to participate in the hearing under certain circumstances; requiring the court to enter an order within a specified timeframe; providing an exception to authorize the department to remove a child from his or her foster home or custodian; requiring the department or its contracted child-placing agency to conduct certain postadoption duties; conforming provisions to changes made by the act; amending s. 63.032, F.S.; revising a definition; amending s.



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63.062, F.S.; conforming provisions to changes made by the act; amending s. 63.093, F.S.; requiring the Department of Children and Families to contract with one or more child-placing agencies to provide adoption services; authorizing such agency to subcontract with other entities to provide certain duties; requiring an adoptive home study to be updated every 12 months after the date on which the first study was approved; requiring the department to adopt certain rules; requiring the department to submit an annual report to the Governor and Legislature by a specified date; conforming provisions to changes made by the act; amending s. 63.097, F.S.; revising and prohibiting certain fees; amending s. 409.1451, F.S.; revising the age requirements for receiving postsecondary education services and support; revising the requirements for receiving aftercare services; amending s. 409.166, F.S.; revising the age requirements for receiving adoption assistance; repealing s. 409.1662, F.S., relating to children within the child welfare system and the adoption incentive program; amending s. 409.1664, F.S.; providing definitions; providing certain adoption benefits to health care practitioners and tax collector employees; specifying methods for such persons to apply for such benefits; increasing the amount of monetary adoption benefits certain persons are eligible to receive; conforming provisions to changes made by the act; amending s. 409.167, F.S.; providing requirements for the statewide adoption



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968 exchange and its photo listing component; authorizing
969 only certain persons to access such photo listing
970 component; conforming provisions to changes made by
971 the act; amending s. 409.988, F.S.; revising the
972 children a community-based care lead agency must
973 serve; providing effective dates.
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LEGISLATIVE ACTION

| | | |
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| Senate | . | House |
| Comm: RCS | . | |
| 01/23/2024 | . | |
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The Committee on Children, Families, and Elder Affairs (Collins) recommended the following:

Senate Substitute for Amendment (951078) (with title amendment)

Delete everything after the enacting clause and insert:

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

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

(88) "Visitor" means a person who:



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

- 14 1. Five consecutive days; or
15 2. Seven days or more in 1 month.

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

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

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



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results, unless additional information is required to complete the processing. The department shall establish by rule standards for evaluating any information contained in the automated system relating to a person who must be screened for purposes of making a placement decision.

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

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



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

(c) The department shall seek a court order to immediately remove the child from the home if the person with whom the child was placed or any other adult household members or visitors of the home fail to provide their fingerprints within 15 calendar days after the name-based check is conducted if such persons are not exempt from a criminal history records check.

Section 3. Section 39.5035, Florida Statutes, is created to read:

39.5035 Deceased parents; special procedures.—

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

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



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petition for adjudication and permanent commitment.

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

(2) The petition must:

(a) Be in writing, identify the alleged deceased parents, and provide facts that establish that both parents of the child are deceased or the last known living parent is deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

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

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

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

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

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



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inquiry.

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

(5) The court shall conduct adjudicatory hearings without a jury and apply the rules of evidence in use in civil cases, adjourning the hearings as necessary. The court shall determine whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased, or that the last known living parent is deceased and the other parent cannot be found after a diligent search or inquiry, and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding. A certified copy of the death certificate for each parent is sufficient evidence of the parents' deaths.

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

(a) If the court finds that the petitioner has met the clear and convincing standard, the court must enter a written order adjudicating the child dependent and permanently committing the child to the custody of the department for the purpose of adoption. A disposition hearing must be scheduled no later than 30 days after the entry of the order, in which the department must provide a case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the



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age of 18 years, whichever occurs first, the court must hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased, or that the last known living parent is deceased and the other parent cannot be found after a diligent search or inquiry, and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, but that a preponderance of the evidence establishes that the child does not have a parent or legal custodian capable of providing supervision or care, the court must enter a written order adjudicating the child dependent. A disposition hearing must be scheduled no later than 30 days after the entry of the order as provided in s. 39.521.

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

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

(a) If the court finds that the petitioner has met the clear and convincing standard, the court must enter a written order permanently committing the child to the custody of the department for purposes of adoption. A disposition hearing must be scheduled no later than 30 days after the entry of the order, in which the department must provide an amended case plan that



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identifies the permanency goal for the child to the court.
Reasonable efforts must be made to place the child in a timely
manner in accordance with the permanency plan and to complete
all steps necessary to finalize the permanent placement of the
child. Thereafter, until the adoption of the child is finalized
or the child reaches the age of 18 years, whichever occurs
first, the court must hold hearings every 6 months to review the
progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence
does not establish that both parents of a child are deceased or
that the last known living parent is deceased and the other
parent cannot be found after a diligent search or inquiry, the
court must enter a written order denying the petition. The order
has no effect on the child's prior adjudication. The order does
not bar the petitioner from filing a subsequent petition for
permanent commitment based on newly discovered evidence that
establishes that both parents of a child are deceased, or that
the last known living parent is deceased, and that a legal
custodian has not been appointed for the child through a probate
or guardianship proceeding.

Section 4. Paragraph (o) of subsection (2) of section
39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(2) The family functioning assessment must provide the
court with the following documented information:

(o) If the child has been removed from the home and will be
remaining with a relative, parent, or other adult approved by
the court, a home study report concerning the proposed placement
shall be provided to the court. Before recommending to the court



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any out-of-home placement for a child other than placement in a licensed shelter or foster home, the department shall conduct a study of the home of the proposed legal custodians, which must include, at a minimum:

1. An interview with the proposed legal custodians to assess their ongoing commitment and ability to care for the child.

2. Records checks through the Comprehensive State Automated Child Welfare Information System ~~(SACWIS)~~, and local and statewide criminal and juvenile records checks through the Department of Law Enforcement, on all household members 12 years of age or older. In addition, the fingerprints of any household members who are 18 years of age or older may be submitted to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information. The department has the discretion to request Comprehensive State Automated Child Welfare Information System ~~(SACWIS)~~ and local, statewide, and national criminal history checks and fingerprinting of any other visitor to the home who is made known to the department. Out-of-state criminal records checks must be initiated for any individual who has resided in a state other than Florida if that state's laws allow the release of these records. The out-of-state criminal records must be filed with the court within 5 days after receipt by the department or its agent.

3. An assessment of the physical environment of the home.

4. A determination of the financial security of the proposed legal custodians.

5. A determination of suitable child care arrangements if



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the proposed legal custodians are employed outside of the home.

6. Documentation of counseling and information provided to the proposed legal custodians regarding the dependency process and possible outcomes.

7. Documentation that information regarding support services available in the community has been provided to the proposed legal custodians.

8. The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

The department may not place the child or continue the placement of the child in a home under shelter or postdisposition placement if the results of the home study are unfavorable, unless the court finds that this placement is in the child's best interest.

Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as otherwise specifically provided, nothing in this section prohibits the publication of proceedings in a hearing.

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

39.522 Postdisposition change of custody.—

(7) Notwithstanding any other provision of this section, a child's case manager, an authorized agent of the department, or



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a law enforcement officer may, at any time, remove a child from a court-ordered placement and take the child into custody if the court-ordered caregiver of the child requests immediate removal of the child from the home. Additionally, an authorized agent of the department or a law enforcement officer may, at any time, remove a child from a court-ordered placement and take the child into custody if there is probable cause as required under s. 39.401(1)(b).

(a) If, at the time of the removal, the child was not placed in licensed care in the department's custody, the department must file a motion to modify placement within 1 business day after the child is taken into custody. The court must then set a hearing within 24 hours after the motion is filed unless all of the parties and the current caregiver agree to the change of placement. At the hearing, the court must determine whether the department has established probable cause to support the immediate removal of the child from his or her current placement. The court may base its determination on a sworn petition or affidavit or on testimony and may hear all relevant and material evidence, including oral or written reports, to the extent of their probative value, even if such evidence would not be competent evidence at an adjudicatory hearing.

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



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subsection (2).

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

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

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

39.6221 Permanent guardianship of a dependent child.—

(1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:

(a) The child has been in the placement for not less than the preceding 6 months, or the preceding 3 months if the caregiver is already known by the child and the caregiver has been named as the successor guardian on the child's guardianship assistance agreement.

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

39.6225 Guardianship Assistance Program.—

(9) Guardianship assistance payments may not ~~shall only~~ be made for a young adult unless the young adult's ~~whose~~ permanent



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guardian entered into a guardianship assistance agreement after the child attained 14 ~~16~~ years of age but before the child attained 18 years of age and if the child is:

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

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

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

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

(e) Unable to participate in programs or activities listed in paragraphs (a)-(d) full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, intellectual, emotional, or psychiatric condition that impairs the child's ability to perform one or more life activities.

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

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

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

(d) Personal appearance of a person at the advisory hearing as provided in s. 39.013(13) obviates the necessity of serving



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process on that person and the court may proceed with the
advisory hearing and any subsequently noticed hearing.

Section 9. Subsections (4), (5), and (6) of section 39.812,
Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

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

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

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

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

2. A denied applicant may file a motion to have the court
review the department's denial within 30 business days after the
issuance of the department's written notification of its
decision to deny the application to adopt a child. The motion to
review must allege that the department unreasonably denied the



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application to adopt and request that the court allow the denied applicant to file a petition to adopt the child under chapter 63 without the department's consent.

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

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

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

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

(5) When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of



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the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

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

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

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

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

(6) ~~(5)~~ The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted pursuant to s. 47.122. A copy of the consent to adopt executed by the department must be attached to the petition, unless such consent is waived under ~~pursuant to~~ s. 63.062(7). The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the



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judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

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

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

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

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

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



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Section 10. Present subsection (6) and (7) of section 63.032, Florida Statutes, are redesignated as subsections (7) and (6), respectively, and present subsection (6) of that section is amended to read:

63.032 Definitions.—As used in this chapter, the term:
(7) ~~(6)~~ “Child-placing agency” means an ~~any child-placing~~
agency licensed by the department pursuant to s. 63.202 to place minors for adoption.

Section 11. Present subsections (3), (4), and (5) of section 63.039, Florida Statutes, are redesignated as subsections (4), (5), and (6), respectively, and a new subsection (3) is added to that section, to read:

63.039 Duty of adoption entity to prospective adoptive parents; sanctions.—

(3) A licensed adoption entity must, on a quarterly basis, report to the department all private adoptions that were finalized in the preceding quarter. Information must include the age of the child, race of the child, ethnicity of the child, sex of the child, county of birth of the child, and county of adoptive family of the child. The department may adopt rules to implement this section. The department shall make this information available as aggregate data on its website.

Section 12. Subsection (7) of section 63.062, Florida Statutes, is amended to read:

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

(7) If parental rights to the minor have previously been terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the



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adoption. In such case, no other consent is required. If the
minor has been permanently committed to the department for
subsequent adoption, the department must consent to the adoption
The court order finding that the department unreasonably denied
the application to adopt entered under s. 39.812(4) must be
attached to the petition to adopt, and ~~The consent of the~~
~~department shall be waived upon a determination by the court~~
~~that such consent is being unreasonably withheld and if the~~
petitioner must file ~~has filed~~ with the court a favorable
preliminary adoptive home study as required under s. 63.092.

Section 13. Section 63.093, Florida Statutes, is amended to
read:

63.093 Adoption of children from the child welfare system.—

(1) Beginning July 1, 2025, the department shall contract
with one or more child-placing agencies to provide adoptive
services to prospective adoptive parents, complete the adoption
processes for children permanently committed to the department,
and support adoptive families. The department may allow a
contracted child-placing agency to subcontract with other
entities to fulfill the duties imposed in this section.

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

(3)(2) The department, through its contracted child-placing



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~~agency or community-based care lead agency, or its subcontracted~~
~~agency,~~ must refer a prospective adoptive parent who is
interested in adopting a child in the custody of the department
to a department-approved adoptive parent training program. A
prospective adoptive parent must successfully complete the
training program, unless the prospective adoptive parent is a
licensed foster parent or a relative or nonrelative caregiver
who has:

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

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

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

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



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department rule, with the prospective adoptive parent.

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

(7) The department shall adopt rules to eliminate duplicative practices and delays in the adoption home study process for a member of a uniformed service on active duty seeking to adopt in the state, including, but not limited to, providing a credit for adoption classes that have been taken in another state which substantially cover the preservice training required under s. 409.175(14) (b) .

(8) By November 15 of each year, the department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of adoptions within this state.

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

Section 14. Section 63.097, Florida Statutes, is amended to



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read:

63.097 Fees.—

(1) When the adoption entity is an agency, fees may be assessed if such fees ~~they~~ are approved by the department within the process of licensing the agency and if such fees ~~they~~ are for:

(a) Foster care expenses;

(b) Preplacement and postplacement social services, including a preliminary home study under s. 63.092 and a final home investigation under s. 63.125; and

(c) Agency facility and administrative costs.

The department shall adopt rules to implement this subsection, including a rule establishing standards and fee schedules that ensure all fees assessed are reasonable and the total fees assessed do not exceed the federal adoption tax credit and a rule requiring agencies to report quarterly to the department the number of adoptions in which a court enters an order that approves fees that exceed the limits established in subsection (3).

(2) The following fees, costs, and expenses may be assessed by the adoption entity or paid by the adoption entity on behalf of the prospective adoptive parents:

(a) Reasonable living expenses of the birth mother which the birth mother is unable to pay due to unemployment, underemployment, or disability. Reasonable living expenses are rent, utilities, basic telephone service, food, toiletries, necessary clothing, transportation, insurance, and expenses found by the court to be necessary for the health and well-being



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of the birth mother and the unborn child. Such expenses may be paid during the pregnancy and for a period of up to 6 weeks postpartum.

(b) Reasonable and necessary medical expenses. Such expenses may be paid during the pregnancy and for a period of up to 6 weeks postpartum.

(c) Expenses necessary to comply with the requirements of this chapter, including, but not limited to, service of process under s. 63.088, investigator fees, and a diligent search under s. 63.088, ~~a preliminary home study under s. 63.092, and a final home investigation under s. 63.125.~~

(d) Court filing expenses, court costs, and other litigation expenses and birth certificate and medical record expenses.

(e) Costs associated with advertising under s. 63.212(1)(g).

(f) The following professional fees:

1. A reasonable hourly fee or flat fee necessary to provide legal representation to the adoptive parents or adoption entity in a proceeding filed under this chapter.

2. A reasonable hourly fee or flat fee for contact with the parent related to the adoption. In determining a reasonable hourly fee under this subparagraph, the court must consider if the tasks done were clerical or of such a nature that the matter could have been handled by support staff at a lesser rate than the rate for legal representation charged under subparagraph 1. Such tasks include, but need not be limited to, transportation, transmitting funds, arranging appointments, and securing accommodations.



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3. A reasonable hourly fee for counseling services provided to a parent or a prospective adoptive parent by a psychologist licensed under chapter 490 or a clinical social worker, marriage and family therapist, or mental health counselor licensed under chapter 491, or a counselor who is employed by an adoption entity accredited by the Council on Accreditation of Services for Children and Families to provide pregnancy counseling and supportive services.

(3) The court must issue an order pursuant to s. 63.132(3) when approval of the court is not required until the total of amounts permitted under subsection (2) exceeds:

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

(4) Any fees, costs, or expenses not included in subsection (2) ~~or prohibited under subsection (5)~~ require court approval and entry of an order pursuant to s. 63.132(3) prior to payment and must be based on a finding of extraordinary circumstances.

(5) The following fees, costs, and expenses are prohibited:

- (a) Any fee or expense that constitutes payment for locating a minor for adoption.
- (b) Any payment which is not itemized and documented on the affidavit filed under s. 63.132.
- (c) Any fee on the affidavit which is not a fee of the adoption entity, is not supported by a receipt, and does not specify the service that was provided and for which the fee is being charged, such as a fee for facilitation, acquisition, or other similar service, or which does not identify the date the



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service was provided, the time required to provide the service, the person or entity providing the service, and the hourly fee charged.

(6) Unless otherwise indicated in this section, when an adoption entity uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation.

Section 15. Subsection (3) of section 63.132, Florida Statutes, is amended to read:

63.132 Affidavit of expenses and receipts.—

(3) The court must issue a separate order approving or disapproving the fees, costs, and expenses itemized in the affidavit. The court may approve only fees, costs, and expenditures allowed under s. 63.097. Any affidavit seeking fees, costs, or expenses that exceed the limits set in s. 63.097 is per se unreasonable and therefore denied, absent a written finding by the court of reasonableness resulting from extraordinary circumstances. Any order approving fees, costs, or expenses that exceed the limits set in s. 63.097(3) must include the specific competent and substantial evidence upon which the court relied to make a finding of both reasonableness and the extraordinary circumstances. The court may reject in whole or in part any fee, cost, or expenditure listed if the court finds that the expense is any of the following:



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(a) Contrary to this chapter.

(b) Not supported by a receipt, ~~if requested~~, if the expense is not a fee of the adoption entity.

(c) Not a reasonable fee or expense, considering the requirements of this chapter and the totality of the circumstances.

Section 16. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 409.1451, Florida Statutes, are amended to read:

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

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

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

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

3. Earned a standard high school diploma pursuant to s. 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent pursuant to s. 1003.435;

4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533. For purposes of this section, the term "full-time" means 9 credit hours or the vocational school equivalent. A student may enroll part-time if



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he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time attendance. A student needing to enroll part-time for any reason other than having a recognized disability must get approval from his or her academic advisor;

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

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

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

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

(3) AFTERCARE SERVICES.—

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

a. Not in foster care.

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

c. Eligible for extended guardianship assistance payments under s. 39.6225(9) or extended adoption assistance under s. 409.166(4), but is not participating in either program.

2. Subject to available funding, aftercare services as specified in subparagraph (b)8. are also available to a young adult who is between the ages of 18 and 22, is receiving financial assistance under subsection (2), is experiencing an emergency situation, and whose resources are insufficient to



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meet the emergency situation. Such assistance shall be in addition to any amount specified in paragraph (2)(b).

Section 17. Paragraph (d) of subsection (4) of section 409.166, Florida Statutes, is amended to read:

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

(4) ADOPTION ASSISTANCE.—

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

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

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

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

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

5. Unable to participate in programs or activities listed in subparagraphs 1.-4. full time due to a physical, an intellectual, an emotional, or a psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, an intellectual, an emotional, or a psychiatric condition that impairs the child's ability to perform one or more life activities.

Section 18. Section 409.1662, Florida Statutes, is



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repealed.

Section 19. Section 409.1664, Florida Statutes, is amended to read:

409.1664 Adoption benefits for qualifying adoptive employees of state agencies, veterans, servicemembers, ~~and~~ law enforcement officers, health care practitioners, and tax collector employees.—

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

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

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

(c) "Law enforcement officer" has the same meaning as provided in s. 943.10(1).

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

(e)~~(d)~~ "Servicemember" has the same meaning as in s. 250.01(19).

(f)~~(e)~~ "State agency" means a branch, department, or agency



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of state government for which the Chief Financial Officer processes payroll requisitions, a state university or Florida College System institution as defined in s. 1000.21, a school district unit as defined in s. 1001.30, or a water management district as defined in s. 373.019.

(g) "Tax collector employee" means an employee of an office of county tax collector in this state.

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

(2) A qualifying adoptive employee, veteran, law enforcement officer, health care practitioner, tax collector employee, or servicemember who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$25,000 ~~\$10,000~~ per such child, subject to applicable taxes. ~~A law enforcement officer who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$25,000 per such child, subject to applicable taxes.~~ A qualifying adoptive employee, veteran, law enforcement officer, health care practitioner, tax collector employee, or servicemember who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$10,000 ~~\$5,000~~ per such child, subject to applicable taxes. ~~A law enforcement officer who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$10,000 per each such child, subject to~~



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~~applicable taxes.~~ A qualifying adoptive employee of a charter school or the Florida Virtual School may retroactively apply for the monetary benefit provided in this subsection if such employee was employed by a charter school or the Florida Virtual School when he or she adopted a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. A veteran or servicemember may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2020. A law enforcement officer may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2022. A health care practitioner or tax collector employee may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2024.

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

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

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



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

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

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

(6) The department may adopt rules to administer this section. The rules may provide for an application process such as, but not limited to, an open enrollment period during which qualifying adoptive employees, veterans, servicemembers, health care practitioners, tax collector employees, or law enforcement



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officers may apply for monetary benefits under this section.

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

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

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

Section 20. Subsections (1) through (4) of section 409.167, Florida Statutes, are amended to read:

409.167 Statewide adoption exchange; establishment; responsibilities; registration requirements; rules.—

(1) The Department of Children and Families shall establish, either directly or through purchase, a statewide adoption exchange, with a photo listing component, which serves ~~shall serve~~ all authorized licensed child-placing agencies in the state as a means of recruiting adoptive families for children who have been legally freed for adoption and who have



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been permanently placed with the department or a licensed child-placing agency. The statewide adoption exchange must ~~shall~~ provide, in accordance with rules adopted by the department, descriptions and photographs of such children, as well as any other information deemed useful in the recruitment of adoptive families for each child. The photo listing component of the statewide adoption exchange must be updated monthly and may not be accessible to the public, except to persons who have completed or are in the process of completing an adoption home study.

(2)(a) Each district of the department shall refer each child in its care who has been legally freed for adoption to the statewide adoption exchange no later than 30 days after the date of acceptance by the department for permanent placement. The referral must be accompanied by a photo listing ~~photograph~~ and description of the child. Any child 12 years of age or older may request that a specific photo be used for their entry and must be consulted during the development of their description.

(b) The department shall establish criteria by which a district may determine that a child need not be registered with the statewide adoption exchange. Within 30 days after the date of acceptance by the department for permanent placement, the name of the child accepted for permanent placement must be forwarded to the statewide adoption exchange by the district together with reference to the specific reason why the child should not be placed on the statewide adoption exchange. If the child has not been placed for adoption within 3 months after the date of acceptance by the department for permanent placement, the district must ~~shall~~ provide the statewide adoption exchange



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with the necessary photograph and information for registration of the child with the statewide adoption exchange and the child ~~must~~ ~~shall~~ be placed on the statewide adoption exchange. The department shall establish procedures for monitoring the status of children who are not placed on the statewide adoption exchange within 30 days after the date of acceptance by the department for permanent placement.

(3) In accordance with rules established by the department, the statewide adoption exchange may accept, from licensed child-placing agencies, information pertaining to children meeting the criteria of this section, and to prospective adoptive families, for registration with the statewide adoption exchange.

(4) For purposes of facilitating family-matching between children and prospective adoptive parents, the statewide adoption exchange must shall provide the photo listing component service to all licensed child-placing agencies and, in accordance with rules adopted established by the department, to all appropriate citizen groups and other organizations and associations interested in children's services. The photo listing component of the statewide adoption exchange may not be accessible to the public, except to persons who have completed or are in the process of completing an adoption home study.

Section 21. Effective July 1, 2025, paragraph (a) of subsection (1) of section 409.988, Florida Statutes, is amended to read:

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

(1) DUTIES.—A lead agency:

(a)1. Shall serve÷



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~~a.~~ all children referred as a result of a report of abuse, neglect, or abandonment to the department's central abuse hotline, including, but not limited to, children who are the subject of verified reports and children who are not the subject of verified reports but who are at moderate to extremely high risk of abuse, neglect, or abandonment, as determined using the department's risk assessment instrument, regardless of the level of funding allocated to the lead agency by the state if all related funding is transferred.

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

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

Section 22. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled
An act relating to permanency for children; amending s. 39.01, F.S.; defining the term "visitor"; amending s. 39.0138, F.S.; renaming the "State Automated Child Welfare Information System" as the "Comprehensive Child Welfare Information System"; requiring the Department of Children and Families to conduct a



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1026 criminal history records check of certain persons;
1027 defining the term "emergency placement"; requiring
1028 certain persons to submit their fingerprints to the
1029 department or other specified entities; requiring the
1030 department or such entities to submit such
1031 fingerprints to the Department of Law Enforcement for
1032 state processing within a specified timeframe;
1033 requiring the Department of Law Enforcement to forward
1034 such fingerprints to the Federal Bureau of
1035 Investigation within a specified timeframe; requiring
1036 a child to be immediately removed from a home if
1037 certain persons fail to provide their fingerprints and
1038 are not otherwise exempt from a criminal history
1039 records check; creating s. 39.5035, F.S.; providing
1040 procedures and requirements relating to deceased
1041 parents of a dependent child; amending s. 39.521,
1042 F.S.; conforming provisions to changes made by the
1043 act; amending s. 39.522, F.S.; authorizing certain
1044 persons to remove a child from a court-ordered
1045 placement under certain circumstances; requiring the
1046 Department of Children and Families to file a
1047 specified motion, and the court to set a hearing,
1048 within specified timeframes under certain
1049 circumstances; requiring a certain determination by
1050 the court to support immediate removal of a child;
1051 authorizing the court to base its determination on
1052 certain evidence; requiring the court to enter certain
1053 orders and conduct certain hearings under certain
1054 circumstances; amending s. 39.6221, F.S.; revising a



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1055 requisite condition for placing a child in a permanent
1056 guardianship; amending s. 39.6225, F.S.; revising
1057 eligibility for payments under the Guardianship
1058 Assistance Program; amending s. 39.801, F.S.;
1059 providing that service of process is not necessary
1060 under certain circumstances; amending s. 39.812, F.S.;
1061 authorizing the court to review the departments'
1062 denial of an application to adopt a child; requiring
1063 the department to file written notification of its
1064 denial with the court and provide copies to certain
1065 persons within a specified timeframe; authorizing a
1066 denied applicant to file a motion to review such
1067 denial within a specified timeframe; establishing
1068 requirements for standing; requiring the court to hold
1069 a hearing within a specified timeframe; providing
1070 standing to certain persons; authorizing certain
1071 persons to participate in the hearing under certain
1072 circumstances; requiring the court to enter an order
1073 within a specified timeframe; providing an exception
1074 to authorize the department to remove a child from his
1075 or her foster home or custodian; requiring the
1076 department or its contracted child-placing agency to
1077 conduct certain postadoption duties; conforming
1078 provisions to changes made by the act; amending s.
1079 63.032, F.S.; revising a definition; amending s.
1080 63.039, F.S.; requiring private adoptions to be
1081 reported to the department; amending s. 63.062, F.S.;
1082 conforming provisions to changes made by the act;
1083 amending s. 63.093, F.S.; requiring the department to



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1084 contract with one or more child-placing agencies to
1085 provide adoption services; authorizing such agency to
1086 subcontract with other entities to provide certain
1087 duties; requiring that an adoptive home study be
1088 updated every 12 months after the date on which the
1089 first study was approved; requiring the department to
1090 adopt certain rules; requiring the department to
1091 submit an annual report to the Governor and
1092 Legislature by a specified date; conforming provisions
1093 to changes made by the act; amending s. 63.097, F.S.;
1094 revising and prohibiting certain fees; amending s.
1095 63.132, F.S.; providing that any affidavit seeking
1096 certain fees, costs, or expenses is unreasonable;
1097 requiring a court order approving fees, costs, or
1098 expenses that exceed a certain amount to include
1099 certain evidence; requiring that such order include
1100 certain evidence; amending s. 409.1451, F.S.; revising
1101 the age requirements for receiving postsecondary
1102 education services and support; revising the
1103 requirements for receiving aftercare services;
1104 amending s. 409.166, F.S.; revising the age
1105 requirements for receiving adoption assistance;
1106 repealing s. 409.1662, F.S., relating to children
1107 within the child welfare system and the adoption
1108 incentive program; amending s. 409.1664, F.S.;
1109 defining terms; providing certain adoption benefits to
1110 health care practitioners and tax collector employees;
1111 specifying methods for such persons to apply for such
1112 benefits; increasing the amount of monetary adoption



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1113 benefits certain persons are eligible to receive;
1114 conforming provisions to changes made by the act;
1115 amending s. 409.167, F.S.; providing requirements for
1116 the statewide adoption exchange and its photo listing
1117 component; authorizing only certain persons to access
1118 such photo listing component; requiring consultation
1119 with children of a certain age during development of
1120 their description; conforming provisions to changes
1121 made by the act; amending s. 409.988, F.S.; revising
1122 the list of children a community-based care lead
1123 agency must serve; providing effective dates.

By Senator Gruters

22-01411-24

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A bill to be entitled

An act relating to substance use disorder treatment services; creating s. 397.342, F.S.; creating the Substance Use Disorder Housing Advisory Council; providing legislative findings and intent; providing for membership; requiring the University of South Florida College of Public Health to assist the advisory council in conducting a study to evaluate national best practice standards for specified purposes; providing for funding of the study; requiring the advisory council to conduct a review of statewide zoning codes for specified purposes; providing for reports by specified dates; providing for future repeal; amending s. 397.305, F.S.; revising and providing legislative findings and intent; authorizing addiction treatment services to be provided through for-profit providers; amending s. 397.487, F.S.; providing that the certification of recovery residences that meet specified standards protects certain persons; requiring certain recovery residences to keep specified records confidential; prohibiting a local law, ordinance, or regulation from regulating the duration or frequency of resident stay at certain recovery residences; providing applicability; providing an effective date.

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

Section 1. Section 397.342, Florida Statutes, is created to

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30 read:

31 397.342 Substance Use Disorder Housing Advisory Council.—

32 (1) The Substance Use Disorder Housing Advisory Council, an
33 advisory council as defined in s. 20.03(7), is created within
34 the department.

35 (a) The Legislature finds that the state has a legitimate
36 interest in protecting persons in recovery residences by
37 requiring such homes to meet national best practice standards.

38 (b) The Legislature intends for this advisory council to
39 ensure state standards for recovery residences conform to
40 national best practice standards to the greatest extent possible
41 and to study local governmental obstructions to achieving these
42 national best practice standards through zoning regulations.

43 (2) Except as otherwise provided in this section, the
44 advisory council shall operate in accordance with s. 20.052.

45 (3) The advisory council shall be composed of seven
46 members, to be appointed for staggered terms of not more than 4
47 years, as follows:

48 (a) A representative of the Executive Office of the
49 Governor, appointed by the Governor.

50 (b) A member of the Senate, appointed by the President of
51 the Senate.

52 (c) A member of the House of Representatives, appointed by
53 the Speaker of the House of Representatives.

54 (d) A representative from the department, appointed by the
55 Governor.

56 (e) A representative from the Agency for Health Care
57 Administration, appointed by the Governor.

58 (f) A representative of the Florida Association of Recovery

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Residences, appointed by the Governor.

(g) A representative of the Palm Beach County State Attorney Addiction Recovery Task Force, appointed by the Governor.

(4) The advisory council shall appoint a chair and vice chair from the members of the council and shall meet at least monthly.

(5) Members of the advisory council shall serve without compensation, but shall be entitled to necessary expenses incurred in the discharge of their duties pursuant to s. 112.061.

(6) (a) The University of South Florida College of Public Health shall assist the advisory council in conducting a study to evaluate the national best practice standards from the Substance Abuse and Mental Health Services Administration, with the goal of removing obstacles to therapeutic housing within this state to be in compliance with the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. ss. 12101 et seq., and the Fair Housing Amendments Act of 1988. Costs of implementing the study shall be paid by the department from funds appropriated for this purpose.

(b) The advisory council shall also conduct a review of statewide zoning codes to determine what effect, if any, local laws have on the ability of private sector licensed service providers to provide modern, evidence-based, effective treatment and ancillary therapeutic housing to persons in this state.

(c) By June 1, 2027, the department, in conjunction with the Agency for Health Care Administration, shall provide a preliminary report based upon the findings and recommendations

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of the advisory council to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(d) By September 1, 2027, the advisory council shall provide a final report based upon the findings and recommendations of the advisory council to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(7) This section is repealed September 1, 2027, unless reviewed and saved from repeal by the Legislature.

Section 2. Section 397.305, Florida Statutes, is amended to read:

397.305 Legislative findings, intent, and purpose.—

(1)(a) Addiction ~~Substance abuse~~ is a major health problem that affects multiple service systems and leads to such profoundly disturbing consequences as serious impairment, chronic addiction, criminal behavior, vehicular casualties, spiraling health care costs, AIDS, and business losses, and significantly affects the culture, socialization, and learning ability of children within our schools and educational systems. Addiction ~~Substance abuse impairment~~ is a disease which affects the whole family and the whole society and requires a system of care that includes prevention, intervention, clinical treatment, and recovery support services, including recovery residences, that support and strengthen the family unit. Further, it is the intent of the Legislature to require the collaboration of state agencies, service systems, and program offices to achieve the goals of this chapter and address the needs of the public; to establish a comprehensive system of care for substance use disorder ~~abuse~~; and to reduce duplicative requirements across

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state agencies. This chapter is designed to provide for public
and private substance use disorder treatment ~~abuse~~ services.

(b) The Legislature finds that addiction treatment services
are a fully integrated part of the private and public health
care system. Further, the Legislature finds that service
providers licensed under this chapter and community housing
certified under this chapter are deemed a necessary part of the
private and public health care system. The Legislature intends
to identify and remove barriers that prevent coordinated health
care between medical and clinical providers to persons with
substance use disorders.

(2) It is the goal of the Legislature to educate the public
about the negative consequences of ~~discourage~~ substance use
disorders ~~abuse~~ by promoting healthy lifestyles; healthy
families; and drug-free schools, workplaces, and communities.

(3) It is the purpose of this chapter to provide for a
comprehensive continuum of accessible and quality addiction
~~substance abuse~~ prevention, intervention, clinical treatment,
and recovery support services in the least restrictive
environment which promotes long-term recovery while protecting
and respecting the rights of individuals, ~~primarily~~ through for-
profit providers and community-based ~~private~~ not-for-profit
providers working with local governmental programs involving a
wide range of agencies from both the public and private sectors.

(4) It is the intent of the Legislature that licensed,
qualified health professionals be authorized to practice to the
full extent of their education and training in the performance
of professional functions necessary to carry out the intent of
this chapter.

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(5) It is the intent of the Legislature to establish expectations that services provided to persons in this state use national best practice standards and the coordination-of-care principles characteristic of recovery-oriented services and include social support services, such as housing support, life skills and vocational training, and employment assistance necessary for persons who have substance use disorders or co-occurring substance use and mental health disorders to live successfully in their communities.

(6) It is the intent of the Legislature to ensure within available resources a full system of care for substance use disorder treatment ~~abuse~~ services based on identified needs, delivered without discrimination and with adequate provision for specialized needs.

(7) It is the intent of the Legislature to establish services for persons who have ~~individuals with~~ co-occurring substance use ~~abuse~~ and mental health disorders.

(8) It is the intent of the Legislature to provide an alternative to criminal imprisonment for substance ~~abuse~~ impaired adults and juvenile offenders by encouraging the referral of such offenders to service providers not generally available within the juvenile justice and correctional systems, instead of or in addition to criminal penalties.

(9) It is the intent of the Legislature to provide, within the limits of appropriations and safe management of the juvenile justice and correctional systems, addiction treatment ~~substance abuse~~ services to substance ~~abuse~~ impaired offenders who are placed by the Department of Juvenile Justice or who are incarcerated within the Department of Corrections, in order to

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175 better enable these offenders or inmates to adjust to the
176 conditions of society presented to them when their terms of
177 placement or incarceration end.

178 (10) It is the intent of the Legislature to provide for
179 assisting substance ~~abuse~~ impaired persons primarily through
180 health and other rehabilitative services in order to relieve the
181 police, courts, correctional institutions, and other criminal
182 justice agencies of a burden that interferes with their ability
183 to protect people, apprehend offenders, and maintain safe and
184 orderly communities.

185 (11) It is the intent of the Legislature that the freedom
186 of religion of all citizens shall be inviolate. ~~Nothing in~~ This
187 act does not ~~shall~~ give any governmental entity jurisdiction to
188 regulate religious, spiritual, or ecclesiastical services.

189 Section 3. Subsection (1) of section 397.487, Florida
190 Statutes, is amended, and subsections (13) and (14) are added to
191 that section, to read:

192 397.487 Voluntary certification of recovery residences.—

193 (1) The Legislature finds that a person suffering from
194 addiction has a higher success rate of achieving long-lasting
195 sobriety when given the opportunity to build a stronger
196 foundation by living in a recovery residence while receiving
197 treatment or after completing treatment. The Legislature further
198 finds that this state and its subdivisions have a legitimate
199 state interest in protecting these persons, who represent a
200 vulnerable consumer population in need of adequate housing,
201 through the certification of recovery residences that meet
202 national best practice standards. It is the intent of the
203 Legislature to protect persons who reside in a recovery

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residence.

(13) A recovery residence that meets the criteria of day or night treatment with community housing as defined in s. 397.311(26) (a) 3. is governed by s. 397.501(7) regarding the confidentiality of individual records of residents.

(14) A local law, ordinance, or regulation may not regulate the duration or frequency of a resident's stay in a certified recovery residence in areas where multifamily uses are allowed. This subsection does not apply to any local law, ordinance, or regulation adopted on or before January 1, 2024.

Section 4. This act shall take effect July 1, 2024.

January 23, 2024

Meeting Date

Children Families

Committee

Name **Barney Bishop III**

Address **1454 Vieux Carre Drive**

Street

Tallahassee

City

FL

State

32308

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1636

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **850-510-9922**

Email **Barney@BarneyBishop.com**

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Smart Justice Alliance

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1636

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Committee

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Association of Managing
Entities

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/23/24
Meeting Date
children families seniors
Committee

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1036
Bill Number or Topic
007440
Amendment Barcode (if applicable)

Name Natalie Kelly Phone 850 895 1313
Address 172 S. Calhoun St Email Natalie@fmanagingentities.com
Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Association of Managing

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:
Entities

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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.)

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

BILL: CS/SB 1636

INTRODUCER: Children, Families, and Elder Affairs and Senator Gruters

SUBJECT: Substance Use Disorder Treatment Services

DATE: January 24, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Hall | Tuszynski | CF | Fav/CS |
| 2. | | | AHS | |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1636 creates the Substance Use Disorder Housing Advisory Council, which has the primary function of conducting a study, with the aid of the University of South Florida College of Public Health, to evaluate the national best practice standards from the Substance Abuse and Mental Health Services Administration, with the goal of removing obstacles to therapeutic housing within this state to be in compliance with federal law.

The bill also requires the Council to conduct a review of statewide zoning codes to determine what effect, if any, local laws have on the ability of private sector licensed service providers to provide modern, evidence-based, effective treatment and ancillary therapeutic housing to persons in this state.

The bill details membership and appointment requirements of the council and requires a preliminary report with findings and recommendations on July 1, 2027 and a final report on September 1, 2027. The statute repeals on September 1, 2027.

The bill makes patient records in recovery residences confidential under s. 397.501(7), F.S.

The bill also prohibits any local law, ordinance, or regulation from regulating the duration or frequency of a resident's stay in certain certified recovery residences in areas where multifamily uses are allowed.

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

II. Present Situation:

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ According to the Diagnostic and Statistical Manual of Mental Disorders, fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

Among people aged 12 or older in 2021, 61.2 million people (or 21.9 percent of the population) used illicit drugs in the past year.⁶ The most commonly used illicit drug was marijuana, which 52.5 million people used.⁷ In the past year:⁸

- Nearly 2 in 5 young adults 18 to 25 used illicit drugs;
- 1 in 3 young adults 18 to 25 used marijuana;
- 9.2 million people 12 and older misused opioids;
- 46.3 million people aged 12 and older (16.5 percent of the population) met the applicable DSM-5 criteria for having a substance use disorder, including 29.5 million who were classified as having an alcohol use disorder and 24 million who were classified as having a drug use disorder. The percentage was highest among young adults aged 18 to 25;

In 2021, 94% of people aged 12 or older with a substance use disorder did not receive any treatment.⁹

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse> (last visited January 18, 2024); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://archives.nida.nih.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited January 18, 2024).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited January 18, 2024).

³ The Substance Abuse and Mental Health Services Administrator (The SAMHSA), *Substance Use Disorders*, available at <https://www.samhsa.gov/find-help/disorders> (last visited January 18, 2024).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://nida.nih.gov/publications/drugs-brains-behavior-science-addiction/drug-misuse-addiction> (last visited January 18, 2024).

⁵ *Id.*

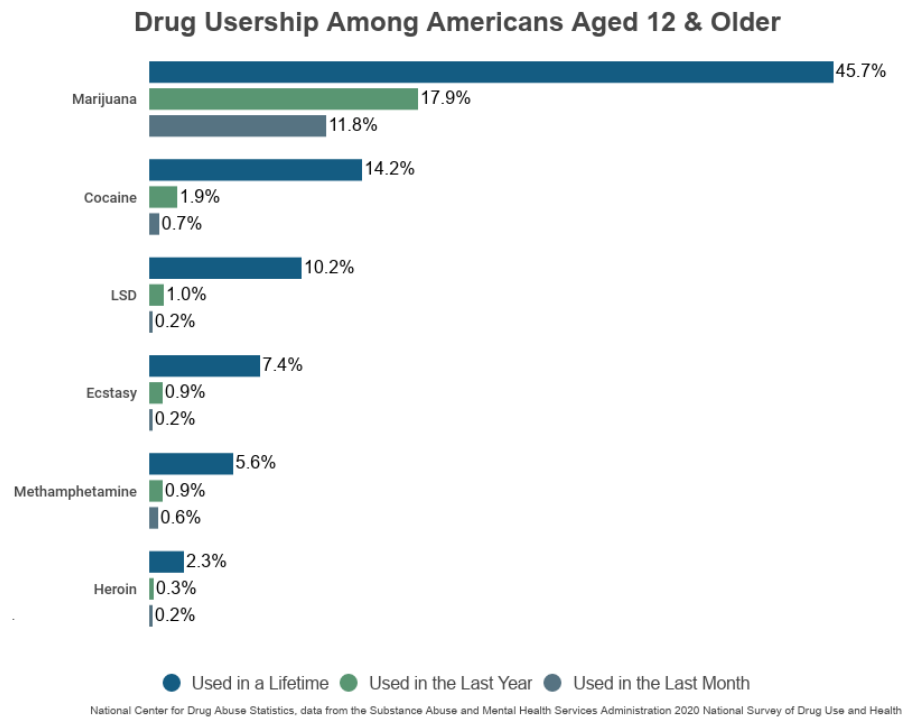
⁶ U.S. Department of Health and Human Services, *SAMHSA Announces National Survey on Drug Use and Health (NSDUH) Results Detailing Mental Illness and Substance Use Levels in 2021*, available at <https://www.hhs.gov/about/news/2023/01/04/samhsa-announces-national-survey-drug-use-health-results-detailing-mental-illness-substance-use-levels-2021.html> (last visited January 18, 2024).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

In 2020, according to the National Center for Drug Abuse Statistics¹⁰, the specific drug breakdowns were as follows:



More than 106,000 persons in the U.S. died from drug-involved overdose in 2021, including illicit drugs and prescription opioids.¹¹ The following graph shows the total number of U.S. drug overdose deaths from 1999 to 2021.¹² The bars overlaid by lines show the number of deaths by gender.¹³

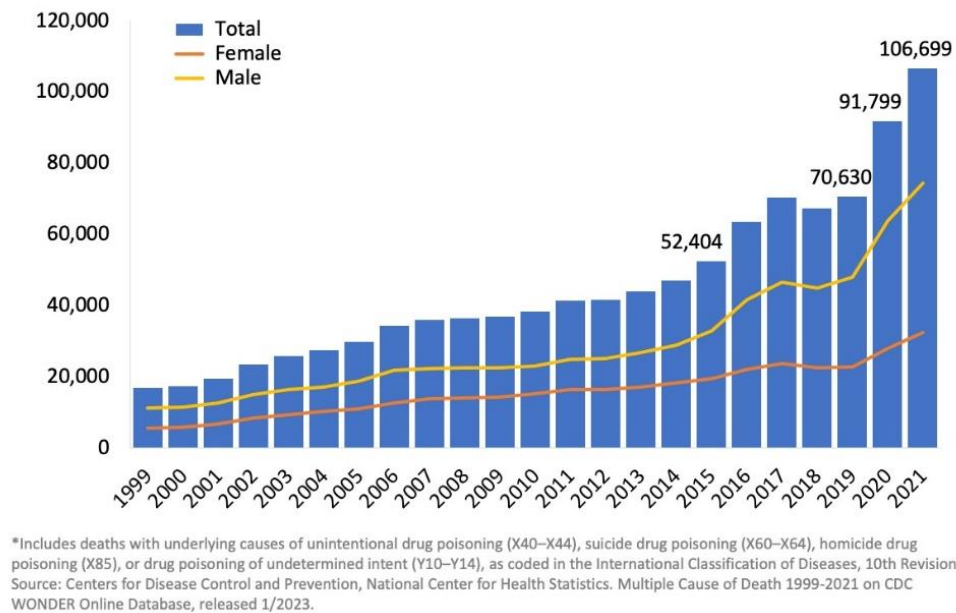
¹⁰ National Center for Drug Abuse Statistics, *Drug Abuse Statistics*, available at <https://drugabusestatistics.org/> (last visited January 18, 2024).

¹¹ National Institute on Drug Abuse, *Drug Overdose Death Rates*, available at <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates> (last visited January 18, 2024).

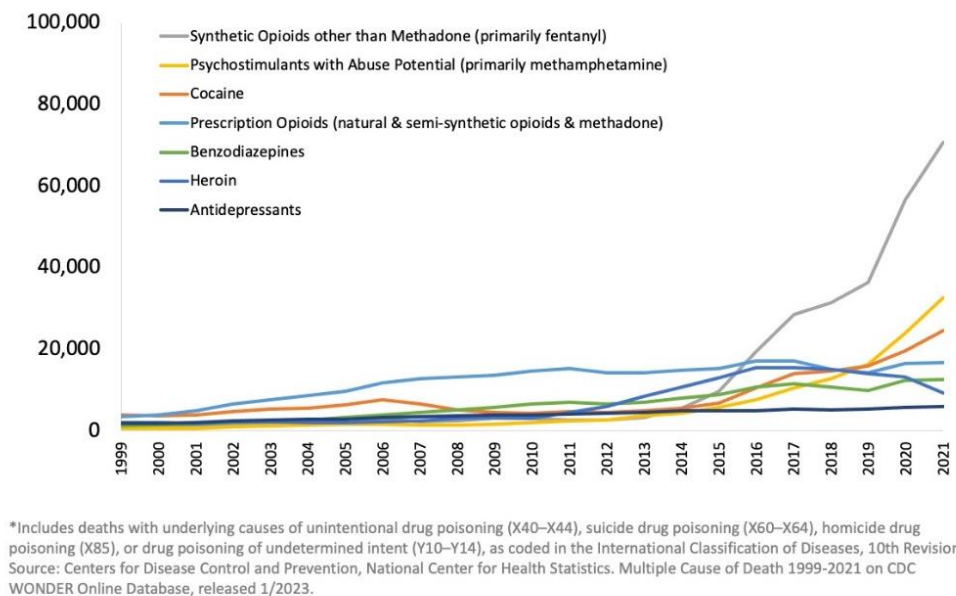
¹² *Id.*

¹³ *Id.*

National Overdose Deaths



Deaths involving synthetic opioids other than methadone (primarily fentanyl) continued to rise with 70,601 overdose deaths reported in 2021.¹⁴ Those involving stimulants, including cocaine or psychostimulants with abuse potential (primarily methamphetamine), also continued to increase with 32,537 overdose deaths in 2021.¹⁵



¹⁴ *Id.*

¹⁵ *Id.*

Substance Abuse Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.¹⁶ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.¹⁷ Each of these laws governed different aspects of addiction, and thus, had different rules promulgated by the state to fully implement the respective pieces of legislation.¹⁸ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.¹⁹ In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).²⁰

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.²¹ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.²² As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.²³

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.²⁴ The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.²⁵

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.²⁶

¹⁶ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Chapter 93-39, s. 2, L.O.F., codified as ch. 397, F.S.

²¹ See ss. 397.601(1) and (2), F.S., An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

²² Darran Duchene and Patrick Lane, Fundamentals of the Marchman Act, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <https://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited January 18, 2024)(hereinafter cited as “fundamentals of the Marchman Act”).

²³ *Id.*

²⁴ See ch. 394 and 397, F.S.

²⁵ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/services/samh/treatment> (last visited January 18, 2024).

²⁶ *Id.*

- **Treatment Services:** Treatment services²⁷ include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.²⁸
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.²⁹

Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and Rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention³⁰, intervention³¹, and clinical treatment services.³²

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.³³ “Clinical treatment services” include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.
- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.³⁴

²⁷ *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 397.311(26)(c), F.S. “Prevention” is defined as “a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles.” *See also* The DCF, *Substance Abuse Prevention*, <https://www.myflfamilies.com/services/samh/substance-abuse-prevention> (last visited January 19, 2024).

³¹ Section 397.311(26)(b), F.S. “Intervention” is defined as “structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.”

³² Section 397.311(26), F.S.

³³ Section 397.311(26)(a), F.S.

³⁴ *Id.*

Application for Licensure

Individuals applying for licensure as substance abuse service providers must submit applications on specified forms provided, and in accordance with rules adopted, by the DCF.³⁵ Applications must include, at a minimum:

- Information establishing the name and address of the applicant service provider and its director, and also of each member, owner, officer, and shareholder, if any.
- Information establishing the competency and ability of the applicant service provider and its director to carry out the requirements of ch. 397, F.S.
- Proof satisfactory to the DCF of the applicant service provider's financial ability and organizational capability to operate in accordance with ch. 397, F.S.
- Proof of liability insurance coverage in amounts set by the DCF by rule.
- Sufficient information to conduct background screening for all owners, directors, chief financial officers, and clinical supervisors as provided in s. 397.4073, F.S.
- Proof of satisfactory fire, safety, and health inspections, and compliance with local zoning ordinances. Service providers operating under a regular annual license within which to meet local zoning requirements. Applicants for a new license must demonstrate proof of compliance with zoning requirements prior to the DCF issuing a probationary license.
- A comprehensive outline of the proposed services, including sufficient detail to evaluate compliance with clinical and treatment best practices, for:
 - Any new applicant; or
 - Any licensed service provider adding a new licensable service component.
- Proof of the ability to provide services in accordance with the DCF rules.
- Any other information that the DCF finds necessary to determine the applicant's ability to carry out its duties under this chapter and applicable rules.³⁶

Florida does not license recovery services; instead, in 2015, the Legislature enacted sections 397.487-397.4872, F.S., which establishes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.³⁷

Recovery Residences

Recovery residences (also known as “sober homes,” “sober living homes,” “Oxford Houses,” or “Halfway Houses”) are non-medical settings designed to support recovery from substance use disorders, providing a substance-free living environment commonly used to help individuals transition from highly structured residential treatment programs back into their day-to-day lives (e.g., obtaining employment and establishing more permanent residence).³⁸ Virtually all

³⁵ Section 397.403(1), F.S.

³⁶ *Id.*

³⁷ Chapter 2015-100, L.O.F.

³⁸ Recovery Research Institute, *Recovery Residences*, available at <https://www.recoveryanswers.org/resource/recovery-residences/> (last visited January 18, 2024). Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural, and community environments.

encourage or require attendance at 12-step mutual-help organizations like Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), but recovery homes have varying degrees of structure and built-in programmatic elements.³⁹

- **Length of Stay:** some may have a limited or otherwise predetermined, length of stay, while others may allow individuals to live there for as long as necessary provided they follow the house rules.
- **Monitoring:** some, but not all, provide monitoring to maintain substance-free, recovery-supportive living environments and help facilitate house members' progress by implementing a number of rules and requirements (i.e., mutual-help organization attendance, attendance at house meetings, curfews, restrictions on outside employment, and limits on use of technology). Typically as individuals successfully follow these rules over time, restrictions become more lenient and individuals have greater latitude in their choices both in and outside of the recovery residence.
- **Size:** while recovery residences range in the number of individuals living there at any given time, there are typically at least 6-8 residents of the same gender.

A recovery residence is defined as “a residential unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.”⁴⁰

Voluntary Certification of Recovery Residences and Administrators in Florida

Florida utilizes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.⁴¹ Under the voluntary certification program, the DCF has approved two credentialing entities to design the certification programs and issue certificates: the Florida Association of Recovery Residences certifies the recovery residences and the Florida Certification Board (the FCB) certifies recovery residence administrators.⁴²

The DCF publishes a list of all certified recovery residences and recovery residence administrators on its website. As of January 20, 2024, there were 359 certified recovery residences in Florida.⁴³

Privacy Rights of Individuals Receiving Substance Abuse Treatment

Section 397.501, F.S., establishes statutory rights for individuals receiving substance abuse services, including the right to dignity, non-discriminatory services, quality services, confidentiality, counsel, and habeas corpus. Current law protects individual records and prohibits records of service providers to be disclosed without the written consent of the individual to

³⁹ *Id.*

⁴⁰ Section 397.311(38), F.S.

⁴¹ Sections 397.487-397.4872, F.S.

⁴² The DCF, Recovery Residence Administrators and Recovery Residences, available at: <https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences> (last visited Jan. 21, 2024).

⁴³ *Id.*

whom they pertain except to specific persons (i.e., medical personnel in a medical emergency and service provider personnel if they need to know the information to carry out duties) and for certain reasons (i.e., law enforcement if the records are related to an individual's commission of a crime or if they apply to the reporting of incidents of suspected child abuse and neglect).⁴⁴

III. Effect of Proposed Changes:

Section 1 of the bill creates s. 397.342, F.S., to establish the Substance Use Disorder Housing Advisory Council. The intent of the council is to ensure state standards for recovery residences conform to national best practice standards to the greatest extent possible and to study local governmental obstructions to achieving these national best practice standards through zoning regulations. The council is required to be composed of seven members who are as follows:

- A representative of the Executive Office of the Governor, appointed by the Governor.
- A member of the Senate and a representative of the Florida Association of Managing Entities, appointed by the President of the Senate.
- A member of the House of Representatives and a representative of the Florida Association of Managing Entities, appointed by the Speaker of the House of Representatives.
- A representative from the DCF, appointed by the Governor.
- A representative from the Agency for Health Care Administration (AHCA), appointed by the Governor.
- A representative of the Florida Association of Recovery Residences, appointed by the Governor.
- A representative of the Palm Beach County State Attorney Addiction Recovery Task Force, appointed by the Governor.

The bill requires the University of South Florida to assist the advisory council in conducting a study to evaluate the national best practice standards from the Substance Abuse and Mental Health Services Administration, with the goal of removing obstacles to therapeutic housing within the state to be in compliance with the American Disabilities Act of 1990, as amended, 42 U.S.C. ss. 12101 et. Seq., and the Fair Housing Amendments Act of 1988. The section also requires the council to review statewide zoning codes to determine what effect, if any, local laws have on the ability of private sector licensed service providers to provide modern, evidence-based, effective treatment and ancillary therapeutic housing to persons in this state.

The bill requires the DCF, in conjunction with AHCA, to provide a preliminary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must detail the findings of the studies and recommendations of the council by June 1, 2027. The bill also requires a final report to be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 1, 2027.

The bill requires repeal of the council on September 1, 2027, unless reviewed and saved from repeal by the Legislature.

Section 2 of the bill amends s. 397.305, F.S., to make the following legislative findings:

⁴⁴ Section 397.501(7), F.S.

- Addiction treatment services are a fully integrated part of the private and public health care system.
- Service providers licensed under the chapter and community housing certified under the chapter are deemed a necessary part of the private and public health care system.

The bill also establishes legislative intent to identify and remove barriers that prevent coordinated health care between medical and clinical providers to persons with substance use disorders.

Section 3 of the bill amends s. 397.487, F.S., to amend the legislative findings of the voluntary certification statute to find that the state's interest in protecting persons suffering from addiction includes adequate housing, which is attained through the certification of recovery residences that meet national best practice standards.

The bill cross-references the right to confidentiality of records, s. 397.501(7) F.S., in the voluntary certification statute to require that section of law to govern a recovery residence that meets the criteria of day or night treatment with community housing.

The bill also prohibits a local law, ordinance, or regulation adopted after January 1, 2024 to regulate the duration or frequency of a resident's stay in a certified recovery residence in areas where multifamily uses are allowed.

Section 4 provides for an effective date of July 1, 2024.

The bill makes conforming language changes throughout.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is an indeterminate negative fiscal impact on the DCF. This impact will likely include a workload cost and a cost to fund the study. Workload expenses of the DCF will include the administrative support required to operate, plan, and coordinate the actions and meetings of the council, necessary expenses allowed to council members, and the drafting of the required report.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 397.305 and 397.487 of the Florida Statutes.
This bill creates s. 397.342 of the Florida Statutes.

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

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

None.

B. Amendments:**CS by Children, Families and Elder Affairs January 23, 2024:**

The committee substitute adds two members to the Council, both to be representatives of the Florida Association of Managing Entities; one appointed by the President of the Senate and the other appointed by the Speaker of the House of Representatives.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 01/23/2024 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment

Delete lines 45 - 62
and insert:

(3) The advisory council shall be composed of the following members, to be appointed for staggered terms of not more than 4 years, as follows:

(a) A representative of the Executive Office of the Governor, appointed by the Governor.

(b) A member of the Senate and a representative of the



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Florida Association of Managing Entities, appointed by the
President of the Senate.

(c) A member of the House of Representatives and a
representative of the Florida Association of Managing Entities,
appointed by the Speaker of the House of Representatives.

(d) A representative from the department, appointed by the
Governor.

(e) A representative from the Agency for Health Care
Administration, appointed by the Governor.

(f) A representative of the Florida Association of Recovery
Residences, appointed by the Governor.

(g) A representative of the Palm Beach County State
Attorney Addiction Recovery Task Force, appointed by the
Governor.

By Senator Brodeur

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A bill to be entitled
An act relating to individuals with disabilities;
amending s. 393.065, F.S.; requiring the Agency for
Persons with Disabilities to develop and implement an
online application process; specifying requirements
for the online application process; defining the term
"complete application"; revising timeframes within
which the agency must make eligibility determinations
for services; lowering the age that a caregiver must
be for an individual to be placed in a certain
preenrollment category; amending s. 393.0651, F.S.;
revising which types of clients are eligible for an
individual support plan; clarifying the timeframe
within which a family or individual support plan must
be developed; requiring waiver support coordinators to
inform the client or client's parent or guardian, as
appropriate, of certain information when developing or
reviewing the family or individual support plan;
providing appropriations; providing an effective date.

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

Section 1. Subsection (1) and paragraph (d) of subsection
(5) of section 393.065, Florida Statutes, are amended to read:
393.065 Application and eligibility determination.—

(1)(a) The agency shall develop and implement an online
application process that, at a minimum, supports paperless,
electronic application submissions with immediate e-mail
confirmation to each applicant to acknowledge receipt of

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application upon submission. The online application system must allow an applicant to review the status of a submitted application and respond to provide additional information.

(b) The agency shall maintain access to a printable paper application on its website and, upon request, must provide an applicant with a printed paper application. Paper applications may ~~Application for services shall be~~ submitted made in writing to the agency, in the region in which the applicant resides.

(c) The agency ~~must~~ shall review each submitted application in accordance with federal time standards ~~and make an~~ eligibility determination within 60 days after receipt of the signed application. If, at the time of the application, an applicant is requesting enrollment in the home and community-based services Medicaid waiver program for individuals with developmental disabilities deemed to be in crisis, as described in paragraph (5)(a), the agency shall complete an eligibility determination within 45 days after receipt of the signed application.

(d) ~~(a)~~ If the agency determines additional documentation is necessary to make an eligibility determination, the agency may request the additional documentation from the applicant.

(e) ~~(b)~~ When necessary to definitively identify individual conditions or needs, the agency or its designee must provide a comprehensive assessment.

~~(c) If the agency requests additional documentation from the applicant or provides or arranges for a comprehensive assessment, the agency's eligibility determination must be completed within 90 days after receipt of the signed application.~~

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59 (f)1. For purposes of this paragraph, the term "complete
60 application" means an application submitted to the agency which
61 is signed and dated by the applicant or an individual with legal
62 authority to apply for public benefits on behalf of the
63 applicant, is responsive on all parts of the application, and
64 contains documentation of a diagnosis.

65 2. If the applicant requesting enrollment in the home and
66 community-based services Medicaid waiver program for individuals
67 with developmental disabilities is deemed to be in crisis as
68 described in paragraph (5)(a), the agency must make an
69 eligibility determination within 15 calendar days after receipt
70 of a complete application.

71 3. If the applicant meets the criteria specified in
72 paragraph (5)(b), the agency must review and make an eligibility
73 determination as soon as practicable after receipt of a complete
74 application.

75 4. If the application meets the criteria specified in
76 paragraphs (5)(c)-(g), the agency shall make an eligibility
77 determination within 60 days after receipt of a complete
78 application.

79 (g) Any delays in the eligibility determination process, or
80 any tolling of the time standard until certain information or
81 actions have been completed, must be conveyed to the client as
82 soon as such delays are known through a verbal contact with the
83 client or the client's designated caregiver and confirmed by a
84 written notice of the delay, the anticipated length of delay,
85 and a contact person for the client.

86 (5) Except as provided in subsections (6) and (7), if a
87 client seeking enrollment in the developmental disabilities home

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and community-based services Medicaid waiver program meets the level of care requirement for an intermediate care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150, the agency must assign the client to an appropriate preenrollment category pursuant to this subsection and must provide priority to clients waiting for waiver services in the following order:

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 60 ~~70~~ years of age or older and for whom a caregiver is required but no alternate caregiver is available.

Within preenrollment categories 3, 4, 5, 6, and 7, the agency shall prioritize clients in the order of the date that the client is determined eligible for waiver services.

Section 2. Section 393.0651, Florida Statutes, is amended to read:

393.0651 Family or individual support plan.—The agency shall provide directly or contract for the development of a family support plan for children ages 3 to 18 years of age and an individual support plan for each client served by the home and community-based services Medicaid waiver program under s. 393.0662. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, shall be consulted in the development of the plan and shall receive a copy of the plan. Each plan must include the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized. The plan must include

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provisions for the most appropriate level of care for the client. Within the specification of needs and services for each client, when residential care is necessary, the agency shall move toward placement of clients in residential facilities based within the client's community. The ultimate goal of each plan, whenever possible, shall be to enable the client to live a dignified life in the least restrictive setting, be that in the home or in the community. The family or individual support plan must be developed within 60 calendar days after the agency determines the client eligible pursuant to s. 393.065(3).

(1) The agency shall develop and specify by rule the core components of support plans.

(2) The family or individual support plan shall be integrated with the individual education plan (IEP) for all clients who are public school students entitled to a free appropriate public education under the Individuals with Disabilities Education Act, I.D.E.A., as amended. The family or individual support plan and IEP must be implemented to maximize the attainment of educational and habilitation goals.

(a) If the IEP for a student enrolled in a public school program indicates placement in a public or private residential program is necessary to provide special education and related services to a client, the local education agency must provide for the costs of that service in accordance with the requirements of the Individuals with Disabilities Education Act, I.D.E.A., as amended. This does not preclude local education agencies and the agency from sharing the residential service costs of students who are clients and require residential placement.

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146 (b) For clients who are entering or exiting the school
147 system, an interdepartmental staffing team composed of
148 representatives of the agency and the local school system shall
149 develop a written transitional living and training plan with the
150 participation of the client or with the parent or guardian of
151 the client, or the client advocate, as appropriate.

152 (3) Each family or individual support plan shall be
153 facilitated through case management designed solely to advance
154 the individual needs of the client.

155 (4) In the development of the family or individual support
156 plan, a client advocate may be appointed by the support planning
157 team for a client who is a minor or for a client who is not
158 capable of express and informed consent when:

159 (a) The parent or guardian cannot be identified;

160 (b) The whereabouts of the parent or guardian cannot be
161 discovered; or

162 (c) The state is the only legal representative of the
163 client.

164
165 Such appointment may not be construed to extend the powers of
166 the client advocate to include any of those powers delegated by
167 law to a legal guardian.

168 (5) The agency shall place a client in the most appropriate
169 and least restrictive, and cost-beneficial, residential facility
170 according to his or her individual support plan. The client, if
171 competent, the client's parent or guardian, or, when
172 appropriate, the client advocate, and the administrator of the
173 facility to which placement is proposed shall be consulted in
174 determining the appropriate placement for the client.

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175 Considerations for placement shall be made in the following
176 order:

177 (a) Client's own home or the home of a family member or
178 direct service provider.

179 (b) Foster care facility.

180 (c) Group home facility.

181 (d) Intermediate care facility for the developmentally
182 disabled.

183 (e) Other facilities licensed by the agency which offer
184 special programs for people with developmental disabilities.

185 (f) Developmental disabilities center.

186 (6) In developing a client's annual family or individual
187 support plan, the individual or family with the assistance of
188 the support planning team shall identify measurable objectives
189 for client progress and shall specify a time period expected for
190 achievement of each objective.

191 (7) The individual, family, and support coordinator shall
192 review progress in achieving the objectives specified in each
193 client's family or individual support plan, and shall revise the
194 plan annually, following consultation with the client, if
195 competent, or with the parent or guardian of the client, or,
196 when appropriate, the client advocate. The agency or designated
197 contractor shall annually report in writing to the client, if
198 competent, or to the parent or guardian of the client, or to the
199 client advocate, when appropriate, with respect to the client's
200 habilitative and medical progress.

201 (8) Any client, or any parent of a minor client, or
202 guardian, authorized guardian advocate, or client advocate for a
203 client, who is substantially affected by the client's initial

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family or individual support plan, or the annual review thereof, shall have the right to file a notice to challenge the decision pursuant to ss. 120.569 and 120.57. Notice of such right to appeal shall be included in all support plans provided by the agency.

(9) When developing or reviewing a client's family or individual support plan, the waiver support coordinator shall inform the client, the client's parent or guardian, or, when appropriate, the client advocate about the consumer-directed care program established under s. 409.221.

Section 3. For the 2024-2025 fiscal year, the sum of \$16,562,703 in recurring funds from the General Revenue Fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated in the Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from preenrollment categories 3, 4, and 5, including individuals whose caregiver is age 60 or older in category 4, as provided in s. 393.065, Florida Statutes, as amended by this act. For the 2024-2025 fiscal year, the sum of \$38,852,223 in recurring funds from the Medical Care Trust Fund is appropriated in the Home and Community Based Services Waiver category to the Agency for Health Care Administration to establish budget authority for Medicaid services.

Section 4. This act shall take effect July 1, 2024.



2024 AGENCY LEGISLATIVE BILL ANALYSIS

Agency for Persons with Disabilities

BILL INFORMATION

| | |
|------------------------|-------------------------------|
| BILL NUMBER: | SB 1758 |
| BILL TITLE: | Individuals with Disabilities |
| BILL SPONSOR: | Senator Brodeur |
| EFFECTIVE DATE: | July 1, 2024 |

COMMITTEES OF REFERENCE

| |
|--|
| 1) Children, Families, and Elder Affairs |
| 2) Fiscal Policy |
| 3) |
| 4) |
| 5) |

CURRENT COMMITTEE

| |
|---------------------------------------|
| Children, Families, and Elder Affairs |
|---------------------------------------|

SIMILAR BILLS

| | |
|---------------------|-------------------------|
| BILL NUMBER: | HB 1271 |
| SPONSOR: | Representative Buchanan |

PREVIOUS LEGISLATION

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |
| YEAR: | |
| LAST ACTION: | |

IDENTICAL BILLS

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

Is this bill part of an agency package?

| |
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BILL ANALYSIS INFORMATION

| | |
|-------------------------------|---|
| DATE OF ANALYSIS: | 01/19/2024 |
| LEAD AGENCY ANALYST: | Katie Hinrichs, Operations Program Coordinator |
| ADDITIONAL ANALYST(S): | Lorena Fulcher, Deputy Director of Operations |
| LEGAL ANALYST: | Francis Carbone, General Counsel |
| FISCAL ANALYST: | Rose Salinas, Deputy Director of Budget, Planning, and Administration |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The proposed legislation requires the following:

- Requires APD to develop and implement an automated, electronic online process to submit applications and updates timeframes for making an eligibility determination.
- Lowering the age that a caregiver must be to be placed in pre-enrollment category 4.
- Clarifies support plan requirements for the iBudget Waiver.
- Provides funding to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5
- Effective date of bill is July 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Agency for Persons with Disabilities supports individuals with unique abilities and their families in living, learning, and working within their communities by creating multiple pathways to possibilities. Currently, APD provides a variety of social, medical, behavioral, residential, and therapeutic services to Floridians with developmental disabilities.

In order to receive services from APD, individuals apply and APD determines eligibility as identified in Florida statutes and rules. This includes Floridians who have a diagnosis of severe forms of autism, cerebral palsy, spina bifida, intellectual disabilities, Down syndrome, Prader-Willi syndrome, and Phelan-McDermid syndrome. Individuals eligible for APD services must be domiciled in Florida, be at least 3 years old, and have a diagnosed developmental disability that manifests before the age of 18.

APD operates the Developmental Disabilities Home and Community Based Services Individual budgeting waiver known as the iBudget Waiver. The iBudget Waiver provides services in community settings as an alternative for individuals who would otherwise meet the level of care of individuals served in Intermediate Care Facilities. There are currently over 35,000 eligible individuals enrolled on the iBudget Waiver program. As an option under the iBudget waiver, individuals who live in their own home or family home may choose to receive services through participation in the Consumer Directed Care Plus or CDC+ program. The CDC+ program offers comparable services to the iBudget waiver but allows for greater flexibility in provider selection. Currently, there are over 4,400 clients served through this option. APD provides information to interested individuals and families regarding the CDC+ program, in addition to the information available on their website.

APD currently receives applications for services and determines eligibility within specific timeframes depending on individual circumstance and documentation received. However, in general, as outlined in chapter 393.065, F.S., APD is required to determine eligibility within 60 days of receipt of a signed application, unless additional information is needed. The application is currently submitted on paper and agency staff manually key information into an electronic client data management system. To ensure that individuals meet the eligibility criteria identified in s. 393, F.S., APD reviews and receives supporting documentation to verify that the individual is eligible. Applications that are received by APD include varying levels of completeness and therefore require additional time working with the applicant to determine eligibility. When necessary, APD can also provide supports for the administration of a comprehensive assessment relating to diagnosis to be conducted.

Once an individual is deemed eligible for iBudget Waiver services, they are assigned a category pursuant to section 393.065(5), F.S. Eligible individuals meeting the criteria of Categories 1 or 2 are directly enrolled onto the iBudget waiver. Traditionally, APD is funded at a level to enroll clients in categories 1 and 2, and at times has received funding and direction to enroll additional individuals in other pre-enrollment categories. A breakdown of individuals by pre-enrollment category as of December 2023 is included below:

| Category | Description | Total Clients |
|------------|--|---------------|
| Category 1 | Crisis | - |
| Category 2 | Children in Welfare System at the time of permanency or turning 18 | - |
| Category 3 | Intensive Needs | 210 |
| Category 4 | Caregiver Over Age 70 | 83 |
| Category 5 | Transition from School | 20 |
| Category 6 | Age 21 and Over | 12,809 |

| | | |
|------------|--------------------|---------------|
| Category 7 | Age Under 21 | 8,464 |
| | Grand Total | 21,587 |

Approximately 76% of individuals currently enrolled on the iBudget Waiver and approximately 50% of individuals within a pre-enrollment category are between the ages of 23-59 years old. Additionally, the average age of an individual that has enrolled onto the iBudget Waiver in the last two fiscal years due to the designation of crisis is 26 years old. For this same cohort of individuals with a crisis designation, common service utilization includes, Adult Day Training, Personal Supports, Transportation, Companion Services, and Residential Habilitation.

Currently, for clients included in a pre-enrollment category but not yet enrolled onto the iBudget Waiver, Florida Statutes require APD to develop a support plan and send an annual status letter. During this annual check in, the Agency verifies contact information, provides information on resources, and also provides an opportunity for the individual and family to identify if they have unmet needs or changes. Individuals in pre-enrollment categories can also receive services through Individual and Family Supports funding. This funding acts as temporary assistance that can be provided to meet critical needs.

Additionally, individuals in a pre-enrollment category may be receiving services through other sources. This may include support through Medicaid State Plan for eligible individuals under the age of 21, services through the education system and natural supports.

APD completes a support plan for individuals within 60 days of an eligibility determination. When individuals are enrolled on the iBudget Waiver, a Waiver Support Coordinator is responsible for developing an annual support plan in accordance with person-centered planning requirements identified in 42 CFR 441.301.

2. EFFECT OF THE BILL:

Section 1:

Lines 26 – 37 amends section 393.065, F.S., on application and eligibility determination. Removes language requiring an application to be made in writing to the agency in the region where the applicant resides and directs APD to develop and implement an automated, electronic application system housed within the APD website. The application process should support electronic submissions, automatic processing of applications, and immediate automatic email confirmation to applicant with a date and time stamp. The online application must also allow the applicant to review the status of the application and respond to provide additional information. Paper applications would continue to be available for individuals who cannot utilize an online system.

Lines 38 – 39 further amends section 393.065, F.S., relating to time standards for reviewing submitted applications by inserting reference to federal time standards.

Lines 59 – 64 amends section 393.065, F.S. by establishing the definition of the term “complete application”. Complete applications would be signed and dated by the applicant or individuals with appropriate authority to apply for public benefits on behalf of the applicant, be responsive in all parts, and include documentation of the diagnosis.

Lines 65 – 102 amends section 393.065, F.S. relating to time standards for applicants requesting iBudget Waiver enrollment by category. Amends the time the agency has to determine eligibility for individuals who are in crisis from 45 days to 15 calendar days. Amends the time standard the agency has to determine eligibility for individuals who are in the pre-enrollment category 2 to as soon as practicable after the receipt of a complete application. Amends the time standards for determining eligibility for individuals in pre-enrollment categories 3-7 to within 60 days after receipt of a complete application. The language further states that any delays of the eligibility determination or the stopping of the time standard until additional information or actions have been completed must be conveyed to the client verbally and confirmed by a written notice of the delay, anticipated length of delay, and a contact person for the client.

Section 2:

Lines 105 – 213 amend section 393.0651, F.S., to clarify that the support plan is for individuals served by the current Developmental Disabilities Home and Community Based Services Individual budgeting waiver known as the iBudget Waiver. The legislation indicates that the support plan must be developed within 60 calendar days after the agency determines a client eligible. During the support planning process, Waiver Support Coordinators would be required to inform individuals about the CDC+ program.

Section 3:

Lines 214 – 228 authorize for the 2024-2025 fiscal year, the sums of \$16,562,703 in recurring funds from General Revenue Fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund to be appropriated to Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5. The bill amends the definition of the pre-enrollment category 4 by lowering the age of the caregiver from 70 years old to 60 years old.

APD would be able to offer waiver enrollment onto the iBudget waiver for clients who are in categories 3, 4, and 5 by the effective date of the bill. Since APD does not currently require the age of caregivers to be submitted at the time of application, APD would provide information to individuals in all pre-enrollment categories so that they can notify APD if they meet the updated criteria for Category 4 with the caregiver age change.

Section 4: Provides an effective date of July 1, 2024.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

| | |
|---|---|
| If yes, explain: | The legislation does not direct the Agency to develop, adopt or eliminate rules. However, APD, utilizing existing rulemaking authority, would update rule requirements regarding the eligibility determination process. |
| What is the expected impact to the agency's core mission? | The current timeline for eligibility and the application for services is outlined in Florida Administrative Code Rule 65G-4. |
| Rule(s) impacted (provide references to F.A.C., etc.): | Rule 65G-4, Florida Administrative Code |

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

| | |
|--|-----|
| List any known proponents and opponents: | N/A |
| Provide a summary of the proponents' and opponents' positions: | N/A |

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

| | |
|--------------------------------|-----|
| If yes, provide a description: | No. |
| Date Due: | N/A |
| Bill Section Number(s): | N/A |

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

| | |
|-------------------------|-----|
| Board: | N/A |
| Board Purpose: | N/A |
| Who Appoints: | N/A |
| Appointee Term: | N/A |
| Changes: | N/A |
| Bill Section Number(s): | N/A |

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

| | |
|---|-----|
| Revenues: | N/A |
| Expenditures: | N/A |
| Does the legislation increase local taxes or fees? | N/A |
| If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase? | N/A |

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

| | |
|--|---|
| Revenues: | N/A |
| Expenditures: | <p>Authorizes for the 2024-2025 fiscal year, the sums of \$16,333,475 in recurring funds from General Revenue Fund and \$22,518,748 in recurring funds from the Operations and Maintenance Trust Fund to be appropriated to Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5.</p> <p>Depending on the level of sophistication desired for the implementation of an online application process, an initial estimate indicates it is estimated to cost \$1.75-1.85 Million and would take approximately 12 to 18 months to implement and recurring funds to maintain.</p> <p>The estimate breakdown is as follows:</p> <p>\$1-1.25 million to build the online application that would more closely to mirror a portal for end users to utilize for both the submission and verification of application received. Additional cost inquired includes:</p> <p>\$500,000 to integrate the system to APD's current client management systems</p> <p>\$100,000 for cloud storage</p> <p>\$500,000 recurring for ongoing maintenance/licenses</p> |
| Does the legislation contain a State Government appropriation? | Yes. Authorizes for the 2024-2025 fiscal year, the sums of \$16,333,475 in recurring funds from General Revenue Fund and \$22,518,748 in recurring funds from the Operations and Maintenance Trust Fund to be appropriated to Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from pre-enrollment categories 3, 4, and 5. |
| If yes, was this appropriated last year? | N/A |

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

| | |
|-----------|-----|
| Revenues: | N/A |
|-----------|-----|

| | |
|---------------|-----|
| Expenditures: | N/A |
| Other: | N/A |

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

| | |
|---|-----|
| Does the bill increase taxes, fees or fines? | N/A |
| Does the bill decrease taxes, fees or fines? | N/A |
| What is the impact of the increase or decrease? | N/A |
| Bill Section Number: | N/A |

TECHNOLOGY IMPACT

| | |
|---|--|
| Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)? | The bill requires APD to implement an online system for application processing. This will require outside IT development and support, additional software licensing, and servers. |
| If yes, describe the anticipated impact to the agency including any fiscal impact. | <p>Depending on the level of sophistication desired for the implementation of an online application process, an initial estimate indicates it is estimated to cost \$1.75-1.85 Million and would take approximately 12 to 18 months to implement and recurring funds to maintain.</p> <p>The estimate breakdown is as follows:</p> <p>\$1-1.25 million to build the online application that would more closely to mirror a portal for end users to utilize for both the submission and verification of application received. Additional cost inquired includes:</p> <p>\$500,000 to integrate the system to APD's current client management systems</p> <p>\$100,000 for cloud storage</p> <p>\$500,000 recurring for ongoing maintenance/licenses</p> |

FEDERAL IMPACT

| | |
|--|-----|
| Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)? | No. |
| If yes, describe the anticipated impact including any fiscal impact. | |

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

| | |
|---|--|
| Issues/concerns/comments and recommended action: | |
|---|--|

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Committee

Name

Phone

Address

Street

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Children's Home Network

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

SB 1758

Bill Number or Topic

Meeting Date

Deliver both copies of this form to

Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Committee

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☒I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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01/23/2024

Meeting Date

1758

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Kristina Houlihan

Phone 727-637-6994

Address 705 SW 11th Street

Email khoulhan@fi-florida.org

Cape Coral FL 33991

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Family Initiative

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/24
Meeting Date

1758
Bill Number or Topic

931526
Amendment Barcode (if applicable)

Committee

Name

Jessica Van Hart

Phone

239 470 4125

Address

4938 SW 20th Ave
Street

Email

Jvanhart@comcast.net

Cape Coral
City

FL
State

33914
Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/24
Meeting Date

1758
Bill Number or Topic

931526
Amendment Barcode (if applicable)

Committee

Name

David Brown

Phone

(239) 691-4517

Address

1236 NW 37th Ave

Email

dbrown@fi-florida.org

Street

Cape Coral
City

State

FL

Zip

33993

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

SB 1758

Bill Number or Topic

Meeting Date

Deliver both copies of this form to

Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Melissa Mazaeda

Phone

941 809 3334

Address

1930 Century Oak Dr.

Street

Email

mazaeda.pjandm@flsenate.com

City

Sarasota

State

FL

Zip

34241

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☒

I am appearing without compensation or sponsorship.

☐

I am a registered lobbyist, representing:

☐

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

S-001 (08/10/2021)

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.)

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

BILL: CS/SB 1758

INTRODUCER: Children, Families, and Elder Affairs and Senator Brodeur

SUBJECT: Individuals with Disabilities

DATE: January 24, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Rao | Tuszynski | CF | Fav/CS |
| 2. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

The Agency for Persons with Disabilities (APD) administers services to individuals with developmental disabilities through federally funded Medicaid waiver programs. APD's iBudget program permits individuals to receive home and community-based waiver services and select the services that are best suited for them while living in their home, rather than an institutional setting.

CS/SB 1758 amends multiple sections of law related to the APD to:

- Require the APD to offer care navigation services to clients and their caregivers, including, but not limited to, creating care plans that address immediate, intermediate, and long term needs and goals of the client.
- Modify the application process for APD services, requiring the creation of an online application process and streamlines the timeframes the APD has to determine eligibility.
- Reduce the age requirement of a client's caregiver in pre-enrollment category 4 from 70 years of age to 60 years of age or older. This will allow a higher number of individuals to be included in category 4 of the pre-enrollment prioritization list.
- Require iBudget waiver support coordinators to inform iBudget clients of the option to apply for the CDC+ program when creating family or individual support plans.

The bill requires the Agency for Health Care Administration, the APD, and other stakeholders to develop a plan for a new home and community-based services Medicaid waiver program for clients transitioning to adulthood and requires a report to the Governor, President of the Senate, and Speaker of the House by December 1, 2024 on the progress of this plan.

The bill also appropriates funding to the Agency for Persons with Disabilities for the 2024-2025 fiscal year and has a significant negative fiscal impact on state government. *See* Section V. Fiscal Impact Statement.

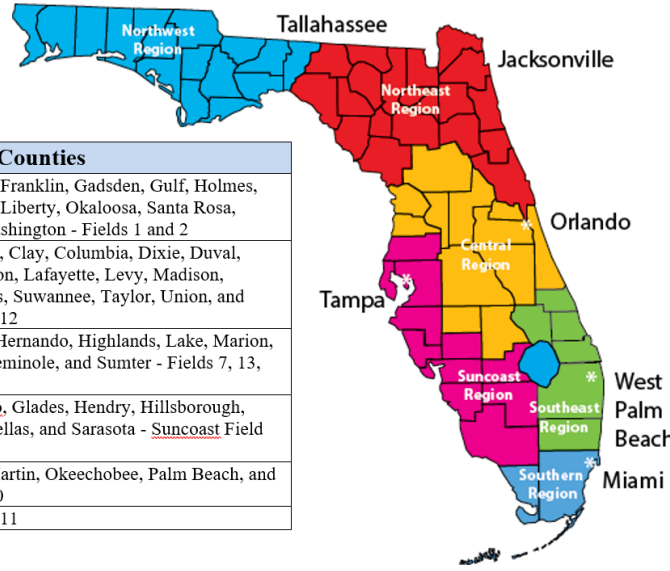
The bill has an effective date of July 1, 2024.

II. Present Situation:

Agency for Persons with Disabilities – Generally

Chapter 393, F.S., identifies the need to provide community-based services and programs for individuals with developmental disabilities that enable individuals to achieve their greatest potential for independent living while reducing the number of individuals in unnecessary institutional placements.¹

The Agency for Persons with Disabilities (APD) provides services to individuals with developmental disabilities and manages Medicaid waivers that provide federally approved services for individuals with developmental disabilities.² Florida has procured waivers of federal Medicaid requirements for the purpose of providing home and community-based (HCBS) services to individuals at risk of institutionalization.³ The HCBS waiver provides services to individuals with developmental disabilities that allow recipients to live in their home or a home-like setting and avoid an institutional setting.⁴ Eligible recipients must meet institutional level of care requirements.⁵ In addition to central headquarters in Tallahassee, the APD operates a total of six regional offices and 14 field offices throughout the state, as detailed below:⁶



The map shows Florida divided into six color-coded regions: Northwest (blue), Northeast (red), Central (yellow), Suncoast (pink), Southeast (green), and Southern (light blue). Major cities are labeled: Tallahassee, Jacksonville, Orlando, Tampa, West Palm Beach, and Miami. The table below lists the counties and fields for each region.

| Region | Counties |
|-----------|---|
| Northwest | Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington - Fields 1 and 2 |
| Northeast | Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Putnam, St. Johns, Suwannee, Taylor, Union, and Volusia - Fields 3, 4, and 12 |
| Central | Brevard, Citrus, Hardee, Hernando, Highlands, Lake, Marion, Orange, Osceola, Polk, Seminole, and Sumter - Fields 7, 13, and 14 |
| Suncoast | Charlotte, Collier, DeSoto, Glades, Hendry, Hillsborough, Lee, Manatee, Pasco, Pinellas, and Sarasota - Suncoast Field (23) and Field 8 |
| Southeast | Broward, Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie - Fields 9 and 10 |
| Southern | Dade and Monroe - Field 11 |

¹ Section 393.062, F.S.

² Section 20.197, F.S.

³ Rule 59G-13.080(1), F.A.C.

⁴ The Centers for Medicare and Medicaid Services, *Home and Community-Based Services 1915(c)*, available at: <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited 1/18/24).

⁵ *Id.*; Rule 59G-13.080(1), F.A.C.

⁶ Agency for Persons with Disabilities, *Regional Offices*, available at: <https://apd.myflorida.com/region/> (last visited 1/18/24).

iBudget Florida Program

The APD administers Florida's individual budget-based HCBS Waiver, known as iBudget Florida, for individuals with specified developmental disabilities who meet Medicaid eligibility requirements.⁷ The iBudget program allocates available funding to eligible, Medicaid-enrolled clients and provides the client an established budget with the flexibility to choose services within a specified service package that best allows them to live in their community.⁸

The APD began implementation of iBudget Florida on May 1, 2011; the final areas of the state transitioned from the previous tiered waiver system on July 1, 2013.⁹ The iBudget program uses an algorithm, or formula, to set individuals' funding allocations for waiver services.¹⁰ The APD administers the iBudget pursuant to s. 393.0662, F.S.

The APD serves approximately 35,000 individuals through iBudget Florida, contracting with service providers to offer various supports and services to assist individuals to live in their community.¹¹ Examples of waiver services include residential habilitation, behavioral services, personal supports, adult day training, employment services, and occupational and physical therapy.¹²

Section 393.066, F.S., requires the APD to plan, develop, organize, and implement its programs of services and treatment for persons with developmental disabilities to allow clients to live as independently as possible in their own homes or communities.¹³ All elements of community-based services must be made available, and eligibility for these services must be consistent across the state.¹⁴ Services for clients must be purchased rather than provided directly by the APD when more cost-efficient. However, the APD must approve all purchased services.¹⁵

Eligibility for iBudget Services

Current Florida law requires the APD to review applications for eligibility of iBudget program services within 60 days after receipt of the signed application. If the applicant is deemed to be in crisis,¹⁶ Florida law requires the APD to review eligibility determination within 45 days.¹⁷ Individuals who are determined to be eligible for the Waiver program are either given a slot in

⁷ Section 393.0662, F.S.

⁸ *Id.*

⁹ The Agency for Persons with Disabilities, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and their Costs: First Quarter Fiscal Year 2022-23*, p. 2, November 15, 2022 available at: <https://apd.myflorida.com/publications/reports/> (last visited 1/18/24).

¹⁰ *Id.*

¹¹ E-mail from Kendall Kelley, APD Legislative Affairs Director, January 19, 2024 (on file with the Senate Committee on Children, Families, and Elder Affairs)

¹² *Supra.* note 9.

¹³ Section 393.066(1), F.S.

¹⁴ *Id.*

¹⁵ Section 393.066, F.S.

¹⁶ Rule 65G-1.047, F.A.C. provides that the severity of crisis is determined by risk to the health, safety, and welfare of each applicant relative to other applicants. Rule 65G-11.004 provides a procedure for determining if a client is considered to be in crisis.

¹⁷ Section 393.065, F.S.

the program or placed on a wait list if the demand exceeds available funding. As of December 2023, there were 21,587 individuals on the waiting list.¹⁸

The APD assigns each waitlisted client to a preenrollment category based on their needs and prioritized in the following decreasing order of priority:¹⁹

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Includes clients in the preenrollment categories who are:
 - From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either:
 - Transitioning out of the child welfare system into permanency; or
 - At least 18 years but not yet 22 years of age and who need both waiver services and extended foster care services; or
 - At least 18 years but not yet 22 years of age and who withdrew consent to remain in the extended foster care system.
- Category 3 – Includes, but is not limited to, clients:
 - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
 - At substantial risk of incarceration or court commitment without supports;
 - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
 - Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available or whose caregiver is unable to provide the care needed.
- Category 4 – Includes, but is not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.
- Category 5 – Includes, but is not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, maintain competitive employment, or pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.

Eligible individuals that meet the criteria for Categories 1 or 2 are directly enrolled onto the iBudget waiver.²⁰ Currently, there is a higher demand for iBudget services than the amount of funding that is available, which means individuals that require services are put on the waitlist for services based on the categorization of their needs. The following table displays the number of individuals in the preenrollment categories as of December 2023.²¹

¹⁸ *Supra* note 11.

¹⁹ Section 393.065, F.S.

²⁰ Agency for Persons with Disabilities, *SB 1768 Analysis*, p. 2 (on file with the Senate Committee on Children, Families, and Elder Affairs)

²¹ *Supra* note 11.

| Category | Description | Total Clients |
|--------------------|--|---------------|
| Category 1 | Crisis | - |
| Category 2 | Children in Welfare System at the time of permanency or turning 18 | - |
| Category 3 | Intensive Needs | 210 |
| Category 4 | Caregiver Over Age 70 | 83 |
| Category 5 | Transition from School | 20 |
| Category 6 | Age 21 and Over | 12,809 |
| Category 7 | Age Under 21 | 8,464 |
| Grand Total | | 21,587 |

The average time a client spends in a preenrollment category is 8.6 years.²² The following chart identifies the length of time clients have been in a preenrollment category.²³

| Length of Time in a Preenrollment Category | Percentage of Individuals |
|--|---------------------------|
| Under 5 years | 42% |
| 5 –10 years | 20% |
| 10+ years | 37% |

iBudget Waiver Support Coordinators and Family Support Plans

After an individual is deemed eligible for services, the APD is required to consult with the client, if competent, the client's parent or guardian, or, when appropriate, the client advocate to create a family or individual support plan.²⁴ A support plan must be designed to include the most appropriate, least restrictive, and most cost-beneficial environment for the accomplishment of the objectives for client progress, including an appropriate placement in the client's home or community.²⁵

Waiver support coordinators are permitted to review the progress of and annually revise the family or individual support plan upon consultation with the client, the client's parent or guardian, or the client advocate.²⁶ Additionally, waiver support coordinators collaborate with the recipient of services and service providers to accommodate the needs of the recipient within the recipient's iBudget services allocation.²⁷

²² *Supra* note 11.

²³ *Supra* note 11.

²⁴ Section 393.0651, F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Agency for Health Care Administration, *Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook*, available at: <https://apd.myflorida.com/ibudget/rules-regs.htm> (last visited 1/18/24).

Florida Consumer-Directed Care Plus Program

The Legislature created the Florida Consumer-Directed Care Act in 2002 aimed to increase the choice and control over long-term care services individuals with disabilities receive.²⁸

Authorized by the federal Medicaid State Plan Amendment, the Consumer-Directed Care Plus (CDC+) program permits individuals to choose their providers and to direct the delivery of services as they see fit, within the funds appropriated by the Legislature.²⁹

Consumers are able to use the monthly budget allowance to purchase long-term care services which include, but are not limited to, the following:³⁰

- Personal care.
- Homemaking and chores, including housework, meals, shopping, and transportation.
- Home modifications and assistive devices which may increase the consumer's independence or make it possible to avoid institutional placement.
- Assistance in taking self-administered medication.
- Day care and respite care services, including those provided by nursing home facilities or adult day care facilities.
- Personal care and support services provided in an assisted living facility.

To be eligible for the CDC+ Program, a recipient must:³¹

- Be enrolled in the Individual Budgeting Waiver (also known as the iBudget Waiver);
- Reside in their own family home or the home of a relative; and
- Not disenrolled from the CDC+ Program due to their mismanagement or inappropriate use of Medicaid funds.

Hope Florida

Hope Florida is a program dedicated to guiding Floridians on an individualized path to prosperity, economic self-sufficiency, and hope. Hope Navigators offer services that identify barriers that individuals face and work with the individual to discover resources and develop a plan to achieve economic self-sufficiency. Through a community approach that utilizes resources from the private sector, faith-based community, nonprofits, and government entities, Hope Navigators can identify the services and resources that are the best fit for the individual.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 393.064, F.S. to require the APD to offer care navigation services to clients and their caregivers. The participation in this program must be voluntary and part of eligibility or renewal review. The bill provides that the goals of care navigation are to create a

²⁸ Chapter 2002-223, Laws of Florida.

²⁹ Section 409.221(4), F.S.; Florida Agency for Health Care Administration, *Federal Waivers*, available at: <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers> (last visited 1/19/24).

³⁰ Section 409.221, F.S.

³¹ Agency for Health Care Administration, *Consumer-Directed Care Plus Program Coverage, Limitations, and Reimbursement Handbook*, available at: <https://apd.myflorida.com/cdcplus/participants/> (last visited 1/19/24)/

seamless network of community resources and supports for the client and the client's family to support the client in daily living, community integration, and achievement of individual goals.

The bill provides requirements for care plans, that include, but are not limited to, addressing the immediate, intermediate, and long-term needs of the client to increase well-being and opportunities for education, employment, social engagement, community integration, and caregiver support.

The bill requires the care plan to be integrated with a student's individual education plan (IEP) if the client is a public school student. The bill requires both the care plan and IEP to maximize the attainment of educational and habilitation goals.

The bill removes part of current statute that provides for the APD's role in the development of programs that have the potential to prevent, correct, cure, or reduce the severity of developmental disabilities. This reflects an increased focus on identifying resources individuals with disabilities need, rather than attempting to prevent developmental disabilities.

Section 2 of the bill amends s. 393.065, F.S., to require the APD to develop and implement an online application process for individuals applying for services from the agency. This online application process must, at a minimum:

- Support paperless, electronic submissions with immediate e-mail confirmation to each applicant upon submission.
- Permit an applicant to view the status of his or her application in the online application system, and provide additional information.

The bill requires the APD to maintain a printable paper application on its website and provide applicants with a printed paper application upon request. The bill allows applicants to apply for services through writing to the agency in the region where he or she resides. This change expands the options that applicants have for how they wish to submit their application for services from the APD.

The bill requires the APD to review submitted applications in accordance with federal time standards and changes eligibility determination timelines for individuals in a pre-enrollment category. The bill defines "complete application" as an application submitted to the APD that is signed and dated by the applicant or an individual with legal authority to apply for public benefits on behalf of the applicant. The application must also have all parts filled out and contains documentation of the applicant's diagnosis to be considered a complete application.

The bill requires the following eligibility determination timelines for applicants requesting enrollment in the home and community-based services Medicaid waiver program:

- If the applicant meets the criteria for Category 1,³² the APD is required to make an eligibility determination within 15 calendar days after receipt of a complete application.

³² Section 393.065, F.S. includes clients deemed to be in crisis.

- If the applicant meets the criteria for Category 2,³³ the APD is required to review the application and make an eligibility determination as soon as practicable after receipt of a complete application.
- If the applicant meets the criteria for Categories 3-7,³⁴ the APD is required to make an eligibility determination within 60 days after receipt of a complete application.

The bill requires the client to be informed through verbal contact (with the client or the client's designated caregiver) of any delays in the eligibility determination process or any tolling of the time standards. This verbal contact must be confirmed with a written notice of the delay, the anticipated length of delay, and a contact person for the client.

The bill reduces the age requirement of a client's caregiver in category 4 from 70 years of age to 60 years of age or older. This change expands the number of clients who are eligible for category 4, allowing more individuals to be placed in a higher priority pre-enrollment category.

Section 3 of the bill amends s. 393.0651, F.S., to specify that the APD must provide directly or contract for the development of a family support plan for clients *served by the home and community-based services Medicaid waiver program under s. 393.0662, F.S.* Current law simply states that each 'client.' This change recognizes that the APD provides services and supports to many individuals that could be considered clients, but only those receiving services under the HCBS waiver program require a support plan. The bill also specifies that the support plan must be developed within 60 *calendar* days, not just 60 days as currently in statute.

The bill requires the waiver support coordinator to inform the client, the client's parent or guardian, or the client advocate about the CDC+ program established under s. 409.221, F.S., which allows enrolled persons to choose the providers of services and to direct the delivery of services to best meet their long-term care needs.³⁵

Section 4 of the bill appropriates the following funds for the 2024-2025 fiscal year:

\$16,562,703 in recurring funds from the General Revenue fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated to the APD in the Home and Community Based Services Waiver category. These funds are appropriated to offer waiver services to the greatest number of individuals eligible. \$38,852,223 in recurring funds from the Medical Care Trust Fund is appropriated to the Agency for Health Care Administration in the Home and Community Based Services Waiver category to establish budget authority for Medicaid services.

Section 5 of the bill requires the AHCA and APD to consult with other stakeholders to develop a comprehensive plan for the administration, finance, and delivery of a new home and community-

³³ Section 393.065, F.S. provides that Category 2 includes clients in preenrollment categories who are from the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either: (a) transitioning out of the child welfare system into permanency; or (b) at least 18 years but not yet 22 years of age and who need both waiver services and extended foster care services. Clients who are at least 18 years but not yet 22 years of age and who withdrew consent to remain in extended foster care are also included in Category 2.

³⁴ See Section 393.065 for specific eligibility requirements.

³⁵ Section 409.221, F.S.

based services Medicaid waiver program for clients as they transition into adulthood, to avoid future crisis enrollment into the waiver program.

The bill requires the AHCA to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2024 addressing, at a minimum, all of the following:

- The purpose, rationale, and expected benefits of the new waiver program.
- The proposed eligibility criteria for clients and service packages to be offered through the new waiver program.
- A proposed implementation plan and timeline, including recommendations for the number of clients to be served by the new waiver program at initial implementation, changes over time, and any per-client benefit caps.
- Proposals for how clients will transition onto and off of the new waiver, including, but not limited to, transitions between this new waiver and the home and community-based services waiver.
- The fiscal impact for the implementation year and projections for the subsequent 5 years, determined on an actuarially sound basis.
- An analysis of the availability of services that would be offered under the new waiver program and recommendations to increase availability of such services, if necessary.
- A list of all stakeholders, public and private, who were consulted or contacted as part of developing the plan for the new waiver program.

Section 6 of the bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has an indeterminate negative fiscal impact on the APD to develop and implement an online application process. This will likely require nonrecurring funds to develop and implement and recurring funds to maintain and operate.

The bill appropriates funding to the Agency for Persons with Disabilities for services and the Agency for Health Care Administration (AHCA) to establish budget authority for Medicaid services: \$16,562,703 in recurring funds from the General Revenue fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated to the APD to the Home and Community Based Services Waiver category.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 393.065 and 393.0651 of the Florida Statutes.

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

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on January 23, 2024:

The CS aligns SB 1758 with HB 1271 by making the following changes:

- Requires APD to offer care navigation services to clients and their caregivers, including, but not limited to, creating care plans that address immediate, intermediate, and long term needs and goals of the client.
- Requires AHCA, APD, and other stakeholders to develop a plan for a new home and community-based services Medicaid waiver program for clients transitioning to adulthood and requires a report to the Governor, President of the Senate, and Speaker of the House by December 1, 2024 on the progress of this plan.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 01/23/2024 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Children, Families, and Elder Affairs (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 393.064, Florida Statutes, is amended to
read:

393.064 Care navigation ~~Prevention~~.—

(1) Within available resources, the agency shall offer to
clients and their caregivers care navigation services for
voluntary participation at the time of application and as part



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11 of any eligibility or renewal review. The goals of care
12 navigation are to create a seamless network of community
13 resources and supports for the client and the client's family as
14 a whole to support a client in daily living, community
15 integration, and achievement of individual goals. Care
16 navigation services must involve assessing client needs and
17 developing and implementing care plans, including, but not
18 limited to, connecting a client to resources and supports. At a
19 minimum, a care plan must address immediate, intermediate, and
20 long-term needs and goals to promote and increase well-being and
21 opportunities for education, employment, social engagement,
22 community integration, and caregiver support. For a client who
23 is a public school student entitled to a free appropriate public
24 education under the Individuals with Disabilities Education Act,
25 I.D.E.A., as amended, the care plan must be integrated with the
26 student's individual education plan (IEP). The care plan and IEP
27 must be implemented to maximize the attainment of educational
28 and habilitation goals ~~give priority to the development,~~
29 ~~planning, and implementation of programs which have the~~
30 ~~potential to prevent, correct, cure, or reduce the severity of~~
31 ~~developmental disabilities. The agency shall direct an~~
32 ~~interagency and interprogram effort for the continued~~
33 ~~development of a prevention plan and program. The agency shall~~
34 ~~identify, through demonstration projects, through program~~
35 ~~evaluation, and through monitoring of programs and projects~~
36 ~~conducted outside of the agency, any medical, social, economic,~~
37 ~~or educational methods, techniques, or procedures that have the~~
38 ~~potential to effectively ameliorate, correct, or cure~~
39 ~~developmental disabilities. The agency shall determine the costs~~



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~~and benefits that would be associated with such prevention efforts and shall implement, or recommend the implementation of, those methods, techniques, or procedures which are found likely to be cost beneficial.~~

(2) ~~Prevention~~ Services provided by the agency must ~~shall~~ include services to high-risk children from 3 to 5 years of age, and their families, to meet the intent of chapter 411. Except for services for children from birth to age 3 years which are the responsibility of the Division of Children's Medical Services in the Department of Health or part H of the Individuals with Disabilities Education Act, such services may include:

(a) Individual evaluations or assessments necessary to diagnose a developmental disability or high-risk condition and to determine appropriate, individual family and support services.

(b) Early intervention services, including developmental training and specialized therapies.

(c) Support services, such as respite care, parent education and training, parent-to-parent counseling, homemaker services, and other services which allow families to maintain and provide quality care to children in their homes.

(3) Other agencies of state government shall cooperate with and assist the agency, within available resources, in implementing programs which have the potential to prevent, or reduce the severity of, developmental disabilities and shall consider the findings and recommendations of the agency in developing and implementing agency programs and formulating agency budget requests.



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(4) There is created at the developmental disabilities center in Gainesville a research and education unit. Such unit shall be named the Raymond C. Philips Research and Education Unit. The functions of such unit shall include:

(a) Research into the etiology of developmental disabilities.

(b) Ensuring that new knowledge is rapidly disseminated throughout the agency.

(c) Diagnosis of unusual conditions and syndromes associated with developmental disabilities in clients identified throughout developmental disabilities programs.

(d) Evaluation of families of clients with developmental disabilities of genetic origin in order to provide them with genetic counseling aimed at preventing the recurrence of the disorder in other family members.

(e) Ensuring that health professionals in the developmental disabilities center at Gainesville have access to information systems that will allow them to remain updated on newer knowledge and maintain their postgraduate education standards.

(f) Enhancing staff training for professionals throughout the agency in the areas of genetics and developmental disabilities.

Section 2. Subsection (1) and paragraph (d) of subsection (5) of section 393.065, Florida Statutes, are amended to read:

393.065 Application and eligibility determination.—

(1)(a) The agency shall develop and implement an online application process that, at a minimum, supports paperless, electronic application submissions with immediate e-mail confirmation to each applicant to acknowledge receipt of



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98 application upon submission. The online application system must
99 allow an applicant to review the status of a submitted
100 application and respond to provide additional information.

101 (b) The agency shall maintain access to a printable paper
102 application on its website and, upon request, must provide an
103 applicant with a printed paper application. Paper applications
104 may ~~Application for services shall be submitted made~~ in writing
105 to the agency, in the region in which the applicant resides.

106 (c) The agency must ~~shall~~ review each submitted application
107 in accordance with federal time standards ~~and make an~~
108 ~~eligibility determination within 60 days after receipt of the~~
109 ~~signed application. If, at the time of the application, an~~
110 ~~applicant is requesting enrollment in the home and community-~~
111 ~~based services Medicaid waiver program for individuals with~~
112 ~~developmental disabilities deemed to be in crisis, as described~~
113 ~~in paragraph (5)(a), the agency shall complete an eligibility~~
114 ~~determination within 45 days after receipt of the signed~~
115 ~~application.~~

116 1.(a) ~~If the agency determines additional documentation is~~
117 ~~necessary to make an eligibility determination, the agency may~~
118 ~~request the additional documentation from the applicant.~~

119 2.(b) ~~When necessary to definitively identify individual~~
120 ~~conditions or needs, the agency or its designee must provide a~~
121 ~~comprehensive assessment.~~

122 ~~(c) If the agency requests additional documentation from~~
123 ~~the applicant or provides or arranges for a comprehensive~~
124 ~~assessment, the agency's eligibility determination must be~~
125 ~~completed within 90 days after receipt of the signed~~
126 ~~application.~~



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(d)1. For purposes of this paragraph, the term "complete application" means an application submitted to the agency which is signed and dated by the applicant or an individual with legal authority to apply for public benefits on behalf of the applicant, is responsive on all parts of the application, and contains documentation of a diagnosis.

2. If the applicant requesting enrollment in the home and community-based services Medicaid waiver program for individuals with developmental disabilities is deemed to be in crisis as described in paragraph (5)(a), the agency must make an eligibility determination within 15 calendar days after receipt of a complete application.

3. If the applicant meets the criteria specified in paragraph (5)(b), the agency must review and make an eligibility determination as soon as practicable after receipt of a complete application.

4. If the application meets any of the criteria specified in paragraphs (5)(c)-(g), the agency shall make an eligibility determination within 60 days after receipt of a complete application.

(e) Any delays in the eligibility determination process, or any tolling of the time standard until certain information or actions have been completed, must be conveyed to the client as soon as such delays are known through verbal contact with the client or the client's designated caregiver and confirmed by a written notice of the delay, the anticipated length of delay, and a contact person for the client.

(5) Except as provided in subsections (6) and (7), if a client seeking enrollment in the developmental disabilities home



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and community-based services Medicaid waiver program meets the level of care requirement for an intermediate care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150, the agency must assign the client to an appropriate preenrollment category pursuant to this subsection and must provide priority to clients waiting for waiver services in the following order:

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 60 ~~70~~ years of age or older and for whom a caregiver is required but no alternate caregiver is available.

Within preenrollment categories 3, 4, 5, 6, and 7, the agency shall prioritize clients in the order of the date that the client is determined eligible for waiver services.

Section 3. Section 393.0651, Florida Statutes, is amended to read:

393.0651 Family or individual support plan.—The agency shall provide directly or contract for the development of a family support plan for children ages 3 to 18 years of age and an individual support plan for each client served by the home and community-based services Medicaid waiver program under s. 393.0662. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, shall be consulted in the development of the plan and shall receive a copy of the plan. Each plan must include the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized. The plan must include



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provisions for the most appropriate level of care for the client. Within the specification of needs and services for each client, when residential care is necessary, the agency shall move toward placement of clients in residential facilities based within the client's community. The ultimate goal of each plan, whenever possible, shall be to enable the client to live a dignified life in the least restrictive setting, be that in the home or in the community. The family or individual support plan must be developed within 60 calendar days after the agency determines the client eligible pursuant to s. 393.065(3).

(1) The agency shall develop and specify by rule the core components of support plans.

(2) The family or individual support plan shall be integrated with the individual education plan (IEP) for all clients who are public school students entitled to a free appropriate public education under the Individuals with Disabilities Education Act, I.D.E.A., as amended. The family or individual support plan and IEP must be implemented to maximize the attainment of educational and habilitation goals.

(a) If the IEP for a student enrolled in a public school program indicates placement in a public or private residential program is necessary to provide special education and related services to a client, the local education agency must provide for the costs of that service in accordance with the requirements of the Individuals with Disabilities Education Act, I.D.E.A., as amended. This does not preclude local education agencies and the agency from sharing the residential service costs of students who are clients and require residential placement.



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(b) For clients who are entering or exiting the school system, an interdepartmental staffing team composed of representatives of the agency and the local school system shall develop a written transitional living and training plan with the participation of the client or with the parent or guardian of the client, or the client advocate, as appropriate.

(3) Each family or individual support plan shall be facilitated through case management designed solely to advance the individual needs of the client.

(4) In the development of the family or individual support plan, a client advocate may be appointed by the support planning team for a client who is a minor or for a client who is not capable of express and informed consent when:

(a) The parent or guardian cannot be identified;

(b) The whereabouts of the parent or guardian cannot be discovered; or

(c) The state is the only legal representative of the client.

Such appointment may not be construed to extend the powers of the client advocate to include any of those powers delegated by law to a legal guardian.

(5) The agency shall place a client in the most appropriate and least restrictive, and cost-beneficial, residential facility according to his or her individual support plan. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, and the administrator of the facility to which placement is proposed shall be consulted in determining the appropriate placement for the client.



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Considerations for placement shall be made in the following order:

(a) Client's own home or the home of a family member or direct service provider.

(b) Foster care facility.

(c) Group home facility.

(d) Intermediate care facility for the developmentally disabled.

(e) Other facilities licensed by the agency which offer special programs for people with developmental disabilities.

(f) Developmental disabilities center.

(6) In developing a client's annual family or individual support plan, the individual or family with the assistance of the support planning team shall identify measurable objectives for client progress and shall specify a time period expected for achievement of each objective.

(7) The individual, family, and support coordinator shall review progress in achieving the objectives specified in each client's family or individual support plan, and shall revise the plan annually, following consultation with the client, if competent, or with the parent or guardian of the client, or, when appropriate, the client advocate. The agency or designated contractor shall annually report in writing to the client, if competent, or to the parent or guardian of the client, or to the client advocate, when appropriate, with respect to the client's habilitative and medical progress.

(8) Any client, or any parent of a minor client, or guardian, authorized guardian advocate, or client advocate for a client, who is substantially affected by the client's initial



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family or individual support plan, or the annual review thereof, shall have the right to file a notice to challenge the decision pursuant to ss. 120.569 and 120.57. Notice of such right to appeal shall be included in all support plans provided by the agency.

(9) When developing or reviewing a client's family or individual support plan, the waiver support coordinator shall inform the client, the client's parent or guardian, or, when appropriate, the client advocate about the consumer-directed care program established under s. 409.221.

Section 4. For the 2024-2025 fiscal year, the sum of \$16,562,703 in recurring funds from the General Revenue Fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated in the Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from preenrollment categories 3, 4, and 5, including individuals whose caregiver is age 60 or older in category 4, as provided in s. 393.065, Florida Statutes, as amended by this act.

Section 5. The Agency for Health Care Administration and the Agency for Persons with Disabilities, in consultation with other stakeholders, shall jointly develop a comprehensive plan for the administration, finance, and delivery of home and community-based services through a new home and community-based services Medicaid waiver program. The waiver program shall be for clients transitioning into adulthood and shall be designed to prevent future crisis enrollment into the waiver program



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authorized under s. 393.0662, Florida Statutes. The Agency for Health Care Administration is authorized to contract with necessary experts to assist in developing the plan. The Agency for Health Care Administration must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, addressing, at a minimum, all of the following:

(1) The purpose, rationale, and expected benefits of the new waiver program.

(2) The proposed eligibility criteria for clients and service packages to be offered through the new waiver program.

(3) A proposed implementation plan and timeline, including recommendations for the number of clients to be served by the new waiver program at initial implementation, changes over time, and any per-client benefit caps.

(4) Proposals for how clients will transition onto and off of the new waiver, including, but not limited to, transitions between this new waiver and the waiver established under s. 393.0662, Florida Statutes.

(5) The fiscal impact for the implementation year and projections for the subsequent 5 years, determined on an actuarially sound basis.

(6) An analysis of the availability of services that would be offered under the new waiver program and recommendations to increase availability of such services, if necessary.

(7) A list of all stakeholders, public and private, who were consulted or contacted as part of developing the plan for the new waiver program.

Section 6. This act shall take effect July 1, 2024.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to individuals with disabilities;
amending s. 393.064, F.S.; revising provisions related
to programs and services provided by the Agency for
Persons with Disabilities; requiring the agency,
within available resources, to offer voluntary
participation care navigation services to clients and
their caregivers at specified times; specifying goals
and requirements for such care navigation services;
specifying requirements for care plans; requiring the
integration of care plans with any individual
education plans of clients; specifying requirements
for such integration; amending s. 393.065, F.S.;
requiring the agency to develop and implement an
online application process; specifying requirements
for the online application process; defining the term
"complete application"; revising timeframes within
which the agency must make eligibility determinations
for services; lowering the age that a caregiver must
be for an individual to be placed in a certain
preenrollment category; amending s. 393.0651, F.S.;
revising which types of clients are eligible for an
individual support plan; clarifying the timeframe
within which a family or individual support plan must



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be developed; requiring waiver support coordinators to inform the client, client's parent or guardian, or client's advocate, as appropriate, of certain information when developing or reviewing the family or individual support plan; providing appropriations; requiring the Agency for Health Care Administration and the Agency for Persons with Disabilities, in consultation with other stakeholders, to jointly develop a comprehensive plan for the administration, finance, and delivery of home and community-based services through a new home and community-based services Medicaid waiver program; providing requirements for the waiver program; authorizing the Agency for Health Care Administration to contract with necessary experts to assist in developing the plan; requiring the Agency for Health Care Administration to submit a specified report to the Governor and the Legislature by a specified date; providing an effective date.