



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Section 409.176, F.S., relates to registration of residential child-caring agencies and family foster homes. Section 409.176(4), F.S., provides for two types of child caring facilities: Type I facilities are “licensed;” Type II facilities are “registered.” Facilities exempt from licensure are those that are operated by an organization that:

- Is a religious organization that does not directly receive state or federal funds, or
- Is a family foster home that is associated with an organization described above and does not directly receive state or federal funds;
- Is certified by what the statute describes as a “qualified organization”;
- States that the goal of the facility is to return the child it serves to the parent, legal guardian, or person having legal custody of the child, within 1 year from the time the child enters the facility.
- Has a signed contract that authorizes the facility administrator or his or her designee to consent to routine and emergency medical care on behalf of the parent, legal guardian, or person having legal custody of the child, provided the facility administrator shall immediately notify the parent, legal guardian, or person having legal custody of the child of medical care being provided on his or her behalf.;
- Has been issued a certificate of registration by the qualified organization.

The registration consists of:

- annually filing with the qualified association the name and address of the facility;
- the capacity of, and the number of children being cared for in, the facility;
- the names and addresses of the officers and the board of directors or other governing body of the organization, if applicable;
- the name of the officer or person in charge of the facility; and
- proof that the facility is in compliance with the minimum fire, health, sanitary, safety, and background screening standards.

##### Effect of the Bill

The bill amends s. 39.521, F.S., which relates to disposition hearings. The disposition hearing occurs after the court finds a child to be dependent<sup>1</sup>.

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<sup>1</sup> Pursuant to s. 39.01(14), F.S., a “child who is found to be dependent” is one found by the court:

Current law empowers the court at disposition to require placement of the child under protective supervision in the home of one or both of the child's parents; or in the home of a relative of the child or another adult approved by the court; or in the custody of the department. The bill would add a placement option and allow the court to place a child in a child care facility registered under s. 409.176, F.S. If the court places a child in one these facilities, the bill requires that the court consider transferring temporary legal custody to an adult relative approved by the court.

In addition, the bill amends s. 39.521(3)(c) and (d), F.S., to add a Type II child care facility --- one exempt from licensure --- to the hierarchical list of alternative placements to be considered if an adult relative cannot be located who is willing and able to care for the child.

The bill amends s. 39.623, F.S., to allow as a permanency option placement of a child 14 years of age or older in a registered home (Type II facility). The bill allows for the placement to be upon the recommendation of the registered agency's social services study in addition to the Department of Children and Families' (DCF).

The bill amends s. 39.704 to exempt from judicial review "minors who are placed in registered Type II facility or boarding school directly by their parents or legal guardian and for whom no current court case exists."

#### C. SECTION DIRECTORY:

**Section 1:** Amends s. 39.521, F.S.; requires placement of a dependent child in one of four settings; adding to that list "a child care facility registered under 409.176, F.S."; requires that the court consider transferring temporary legal custody to an adult relative approved by the court, if the child is placed in a Type II child care facility under section 409.176, F.S.; adds Type II child care facility to the hierarchical list of alternative placements to be considered if an adult relative cannot be located who is willing and able to care for the child.

**Section 2:** Amends 39.623, F.S.; allows the court to consider as a permanency option long-term placement in a registered facility; allows the registered agency's social services study to provide the recommendation for the placement; allows supervision of the placement with the registered facility by the registered agency.

**Section 3:** Amends 39.704, F.S.; adds that minors who are placed in a registered Type II facility or boarding school by their parents or legal guardian and for whom no current court case exists are exempt from judicial review.

**Section 4:** Provides that this act takes effect upon becoming law.

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(a) to have been abandoned, abused, or neglected by the child's parent or parents or legal custodians; (b) to have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption; (c) to have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan; (d) to have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure; (e) to have no parent or legal custodians capable of providing supervision and care; or (f) to be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians.<sup>1</sup>

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

\$2,863,632.10 in recurring or annualized continuation effects per fiscal year. Please see "Fiscal Comments" below for further information.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

DCF reports that the potential fiscal impact on the department is difficult to calculate due to the range of out-of-home placement services and costs related to family foster homes, emergency shelter homes and facilities, and residential group care. The estimate provided is based on the cost to provide out of home care for children in a licensed family foster home setting, for one year, for the total number of beds currently available in Type II facilities.

DCF also advises that federal funds cannot be used to pay for out-of-home services to children in non-licensed facilities, including Type II facilities. Currently, approximately 48% of the cost of licensed out-of-home care is paid from federal sources. Therefore, the costs associated with such placements would have to be 100% funded from state general revenue sources.

Additionally, Type II, or registered, facilities enjoy an exemption from licensure if they are operated by an organization that is a religious organization that does not directly receive state or federal funds, or is a family foster home that is associated with such an organization and does not directly receive state or federal funds. It would appear that these facilities would have to become licensed to accept federal or state payments for placements of dependent children.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

No rulemaking authority is granted or revised.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 409.165, F.S., authorizes DCF to develop a program for the provision of out of home care to dependent children. Subsection (3)(c) states that a child may be placed with a person or agency licensed by the department in accordance with s. 409.175, F.S.<sup>2</sup> Accordingly, DCF has no authority to place a child in a Type II, or registered, facility.

The amendment found in Section 3 of the bill appears unnecessary. If "no current court case exists," then the child is not within the dependency system, and the state has no authority in the matter.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

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<sup>2</sup> Section 409.165(3)(c), F.S., states that the department may place a child: (a) with a relative; (b) with an adult non-relative; (c) with a person who is considering the adoption of a child; (d) in temporary emergency circumstances, with a responsible adult approved by the court; (e) with a person or agency licensed by the department in accordance with s. 409.175, F.S.; (f) in a subsidized independent living situation, subject to the provisions of s. 409.1451(3)(c).