

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2744

SPONSOR: Children and Families Committee and Senator Atwater

SUBJECT: Children in Custody of State

DATE: April 22, 2003

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
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| 1. | <u>Dowds</u> | <u>Whiddon</u> | <u>CF</u> | <u>Fav/CS</u> |
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I. Summary:

Committee Substitute for SB 2744 requires interagency agreements between the Department of Children and Families and the Department of Education at the state level and the Department of Children and Families (DCF) and the district school boards at the local level relative to the education and related services for children found dependent or children in out-of-home care or under protective supervision of DCF. The bill sets forth the requirements for the interagency agreements, including efforts to avoid disruption of a child's education, identification of educational and other school services necessary for a child's education, sharing of information, determining the availability of transportation to avoid changes in school assignments, supporting the educational needs of a child with disabilities, participation in case planning activities, and provision of training in areas that would facilitate the desired outcomes of these agreements.

This bill creates section 39.0016 of the Florida Statutes.

II. Present Situation:

A child who has been adjudicated dependent for the purpose of protecting the child from abuse, neglect, or abandonment may be placed either in the home of one or both parents, with a relative or another adult approved by the court, or in the custody of the department which includes in a foster care placement [ss. 39.501(2) and 39.521(1)(b), F.S.]. A child may also be placed outside the home without an adjudication of dependency in order to protect the child, such as with a voluntary placement of a child with a relative or the placement of a child in shelter care if the child is in imminent danger of injury as a result of abuse, neglect, or abandonment [s. 39.402(1), F.S.]. While the federal goal is to achieve permanency for the child within 12 months, children are often in out-of-home care arrangements for much longer. Many of these children are school age, and continuing with the appropriate educational goals becomes an

important consideration for the child. However, many children in foster care struggle academically and socially. For foster children, changes in placements often require changes in schools. School personnel often do not know a child is in foster care or the implications of foster care on a child's education.¹ Child welfare professionals often lack the training to provide the advocacy these children require in the educational system². Studies have found that, compared with other children, children in foster care have higher rates of grade retention, lower academic skills, poorer rates of attendance, and higher dropout rates³.

The Department of Children and Families estimates that there are currently 32,000 children in DCF out-of-home placements, of whom 61 percent or 19,520 are estimated to be children of school age. According to the 2001 pre-Adoption and Safe Families Act audit, 52 percent or 10,150 of the children monitored statewide were found to have had a school change as a result of out-of-home placement.

Children who are in foster care and have a disability are a particularly vulnerable group. One study in New York found that 30 percent of the children in foster care were receiving special education services⁴. The Individuals with Disabilities Education Act (IDEA), which is codified into law under 20 U.S.C., Chapter 33, guides and supports special education and related services for children and youth with disabilities. The Florida K-20 Education Code contains a number of laws to implement IDEA, as does the State Board of Education Rules.

One effort to address this issue has been in Broward County where an interagency agreement has been executed between DCF and the School Board of Broward County. This agreement has focused on providing educational stabilization and progress to children in the care of DCF by stipulating agreed upon terms for such items as broad policy collaboration, information sharing, attempts to stabilize the foster care placements, collaboration on independent living efforts, and assigning surrogate parents. It has been reported that this agreement has had a positive effect on the working relationship between DCF and the school system and for the foster children.

III. Effect of Proposed Changes:

CS/SB 2744 requires interagency agreements between the Department of Children and Families and the Department of Education at the state level and the Department of Children and Families (DCF) and the district school boards at the local level relative to the education and related services for children found dependent or children in out-of-home care or under protective supervision of DCF. The bill sets forth the requirements for the interagency agreements, including efforts to avoid disruption of a child's education, identification of educational and other school services necessary for a child's education, sharing of information, determining the availability of transportation to avoid changes in school assignments, supporting the educational needs of a child with disabilities, participation in case planning activities, and provision of training in areas that would facilitate the desired outcomes of these agreements.

¹ Education Issue Brief: Improving Special Education for Children with Disabilities in Foster Care, Claire van Wingerden, John Emerson, and Dennis Ichhikawa, Casey Family Programs, June 2002, p. 2.

² van Wingerden, *Supra*, p. 3.

³ van Wingerden, *Supra*, p. 2.

⁴ van Wingerden, *Supra*, p. 4.

CS/SB 2744 creates a new s. 39.0016, F.S., for the education of abused and neglected children. In this section DCF is required to enter into an interagency agreement with the Department of Education to provide educational access to children known to the department. To achieve this goal, the agreement is to facilitate the delivery of services, avoid duplication of services, and combine resources to maximize the availability or delivery of services. The department is directed to enter into agreements with public and private entities to facilitate the delivery of services to children known to the department.

“Children known to the department” is defined in the bill for the purposes of this section and includes children who have been found dependent or children who are in the custody of or under protective supervision of the department as a result of having experienced or being in danger of experiencing abuse, harm, or neglect. These children include those who are in shelter care, foster care, a relative caregiver placement, or other out-of-home placements.

DCF is directed to enter into interagency agreements with district school boards or other local educational entities relative to the education and related services for children known to the department who are school-age or, if younger than school-age, qualify for school district services. The bill sets forth the minimum requirements for DCF and school boards that are to be stipulated in the interagency agreements. The requirements of DCF are to include the following:

- Enrollment of a child in school or continuation of enrollment in the same school to avoid disruption in the child’s education;
- Provision of the name and phone number of the child’s caregiver and caseworker to the school and school district;
- A protocol for sharing of DCF information with the school district, which is to be consistent with the Family Educational Rights and Family Act; and
- Notification to the school district of when a child’s case plan will be developed or reviewed to provide the school district with an opportunity to participate in this case planning process so that information from the school may be provided if appropriate.

The requirements of the school district are to include the following:

- Communication to DCF on the services and information available from the school district that would facilitate educational access, including but not limited to, the current Sunshine State Standards and the Surrogate Parent Training Manual;
- Identification of the educational and other services available through the school or school district that the school district believes are reasonably necessary to meet the educational needs of the child;
- A determination as to whether transportation is available if such transportation would prevent a change in school assignments that was the result of a change in residential placements;
- Direction to access available federal, charitable, or grant funding for transportation that would enable the children’s continued enrollment in the same schools; and
- Provision of either an individual educational plan (for a student with disabilities) or an individual student intervention plan if intervention services are determined necessary.

DCF and school districts are required by the interagency agreements to cooperate in accessing services and supports needed for an appropriate education by a child who has or is suspected of

having a disability, consistent with the Individuals with Disabilities Education Act and applicable state laws, rules, and assurances. The coordination of services for these children is to include a referral to screening, sharing of evaluations, provision of education and related services needed by the child, coordination of service plans to avoid duplicative or conflicting plans, appointment of a surrogate parent by the school district who will remain the surrogate parent throughout the state's custody of the child, and transitional planning for adolescent foster children that meets the requirements of the local school district.

DCF is also directed to incorporate the following training components into their training programs:

- Training for surrogate parents regarding the effects of abuse, neglect, and removal from the home on a child's learning ability;
- Training for parents or preadoptive parents, when appropriate, regarding accessing services the child needs and the importance of the parent's involvement in the child's education;
- Training for caseworkers and foster parents regarding the child's right to an education, the role of an education in the child's development, accessing education and related services, and strategies for parental involvement in the child's education;
- Training for DCF contract providers and school contractors regarding education of children and related issues; and
- Training for caseworkers on the services and information available through the Department of Education and school districts that would facilitate educational access for a child known to DCF.

The training incorporated into the department's training program is to be coordinated with the Department of Education and local school districts. DCF is directed to provide school personnel with the opportunity to participate in any of the above training.

In the provisions of the bill that require the Department of Education to cooperate with DCF, s. 39.0014, F.S., is referenced which provides current statutory direction to all state, county, and local agencies to cooperate, assist, and provide any information to DCF that will enable the department to meet its responsibilities in ch. 39, F.S.

The bill specifically stipulates that the provisions of s. 39.0016, F.S., do not create rights but establish goals. This section cannot be interpreted to require a service or an expansion of services beyond existing appropriations. A cause of action against the state or its subdivisions, agencies, contractors, or subcontractors is not provided by the passage of this bill or by the Legislature for not adequately funding the achievement of the goals. There is specifically no requirement by this section for the expenditure of funds to meet the goals of the bill other than any funds specifically appropriated for such purpose.

The bill provides an effective date of July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires that the Department of Children and Families' training include a number of new training components. However, the bill also stipulates that the newly created section does not require any expansion of services for which appropriations are not provided which eliminates the requirement to expend funds for the training and, in turn, the fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The level of information sharing that can occur between DCF and the Department of Education is limited by s. 39.202, F.S., as it pertains to information in DCF records that can be provided to the schools and by s. 1002.22, F.S., as it pertains to information in the possession of the school district that can be provided to DCF. SB 1740, currently being considered by the Legislature, would allow information in the DCF records for children in the child protection system to be made available to certain school officials, thus eliminating the current limitation of s. 39.202, F.S. Section 1002.22, F.S., pertaining to access to student records provides for Florida's compliance with the confidentiality requirements of the Family Education Rights and Family Act.

Both the Department of Children and Families and the Department of Education reported in response to SB 2744 that the bill created or expanded a number of responsibilities relative to the identified children for DCF, the local school boards, or the Department of Education. While the CS/SB 2744 removed the requirement that services be provided or expanded and, thus, eliminated the fiscal requirements of the bill, the responsibilities identified by DCF and the Department of Education that still may be considered created or expanded are as follows:

- For the Department of Education –
 - To continue the enrollment of children at the same school, if transportation is available;
 - To coordinate the services and plans between schools and residential settings;
 - In appointing a surrogate parent, to do so without regard to where the children are placed during the entire time in state custody; and
 - To participate in DCF's case planning.
- For the Department of Children and Families –
 - To develop and implement the provisions of the agreement; and
 - To coordinate the transportation, if available, when a child's placement must change.

VIII. Amendments:

None.