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/CS/SB 1058

SPONSOR: Banking and Insurance Committee, Children and Families Committee and Senator Bennett

SUBJECT: Foster Children/Vehicle Insurance

DATE: March 26, 2004 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Fav/CS
2.	Emrich	Deffenbaugh	BI	Fav/CS
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

The CS for CS for SB 1058 establishes a 3-year pilot program for the purpose of reimbursing foster parents, residential facilities, or foster children who live independently, for a portion of the increased costs of motor vehicle insurance for a foster child who has a driver's license. The bill directs the Department of Children and Family Services (DCF) to establish the pilot program in Sarasota, Desoto, Manatee, Pinellas, and Pasco counties. Through the pilot program, the DCF will provide one-half of the amount of the increase which is incurred as a result of adding the foster child to the motor vehicle insurance policy or less than one-half if another source of funding to pay for the increase is available. The bill provides that the foster child must be encouraged to pay the other half of the increase in insurance costs.

The bill requires the DCF to submit an annual report to the Governor, President of the Senate, and Speaker of the House of Representatives on the success and outcomes of the pilot project, with a recommendation as to whether the project should be continued, terminated, or expanded. The sum of $50,000 is appropriated from general revenue for the DCF during the 2004-05 fiscal year.

The estimated payment to a foster parent ranges from $200 to $1,056 annually, based on premium estimates obtained from the Department of Financial Services, depending on the sex of the child, the insurance company, limits of coverage purchased, and other risk factors. Based on these estimates, the $50,000 appropriation would not be adequate to fully cover one-half of the increased premiums for all 232 foster children of driving age in the five specified counties, as of

September 30, 2003, which is estimated to total $143,563[1] using the high range of the premium estimates.

II. Present Situation:

For youth in the foster care system, there are often barriers to participating in the same everyday life experiences as other young people their age. These life experiences are important because they are a part of how all youth are prepared for the responsibilities they will assume as adults. The Florida State Youth Advisory Board has long identified as a concern the barriers to driving an automobile that are experienced by the youth in Florida's foster care system. It has been reported by staff with the Department of Children and Family Services (DCF) that foster care youth who are not able to learn or gain experience driving miss an important part of learning how to be independent, including being able to work. A primary obstacle to these youth being able to drive concerns the liability to the foster parents when the youth drive their vehicles and the attendant insurance costs to protect foster parents from this liability. Estimates of average costs to add a youth driver in Sarasota, Desoto, Manatee, Pinellas, and Pasco counties can range from $200 to $1,056 annually based on the level of liability coverage, the insurance company, and whether the driver is male or female (see *Economic Impact and Fiscal Note* below, for details).

Youth in foster care are usually placed with a foster parent; however they may also be placed in a group home or other residential facility[2] or, upon turning 16, in an independent living setting which is subsidized by the department.[3]

A youth who is 15 years of age is authorized to obtain a learner's driver's license provided they meet the school attendance requirements of s. 322.091, F.S., and the application and testing requirements of s. 322.1615, F.S. When a youth applies for a driver's license, the application must be signed by a parent, guardian, or, when there is no parent or guardian, some other responsible adult (s. 322.09, F.S.). Any negligence or willful misconduct of the youth operating a motor vehicle will be imputed to the adult who signed the application. That adult is jointly and severally liable with the youth for any damages caused by the negligent or willful misconduct. In 2001, s. 322.09, F.S., was amended to provide that foster parents or authorized representatives of a residential group home who sign for a foster youth's license do not become liable for any damages or misconduct of the youth (ch. 2001-83, L.O.F.). However, this provision does not relieve any individual, whether he or she signed the application or not, from vicarious liability when he or she allows the foster youth to operate a motor vehicle the individual owns [Hertz Corp. v. Jackson, 617 So.2d 1051(Fla. 1993)]. Thus, the foster parent who owns the motor vehicle continues to assume the liability for the actions of the youth while operating the vehicle.

In the past, some motor vehicle insurance companies did not charge an additional premium when a youth with a learner's driver's license was an occasional driver of the parent's vehicle, until such time as the youth obtained his or her regular driver's license. In 2001, s. 627.746, F.S., was created and prohibited a motor vehicle insurance company from charging an additional premium on a motor vehicle owned by a foster parent for coverage of a youth operating the vehicle while

[1] This estimate assumes that all 232 foster children in the five affected counties will participate in this project.
[2] Section 39.01(29), F.S.
[3] Section 409.1451(3)(C), F.S.

the youth is holding a learner's driver's license (ch 2001-83, L.O.F.). This prohibition is only applicable until the youth obtains a regular driver's license.

Currently, foster parents (i.e., licensed foster homes) receive payment from the state of a monthly board rate for caring for a foster child. The basic board rate for a child age 13-18 is $455 per month, according to a recent report of the Auditor General.

III. Effect of Proposed Changes:

Section 1. The bill does not amend a current section of Florida law. The legislation establishes a 3-year pilot program for the purpose of reimbursing foster parents, residential facilities, or foster children who live independently, for a portion of the increased costs of motor vehicle insurance for a foster child who has a driver's license. The bill directs the Department of Children and Family Services (DCF) to establish the pilot program in Sarasota, Desoto, Manatee, Pinellas, and Pasco counties. Through the pilot program, the DCF will provide one-half of the amount of the increase which is incurred as a result of adding the foster child to the motor vehicle insurance policy or less than one-half if another source of funding to pay for the increase is available. The bill provides that the foster child must be encouraged to pay the other half of the increase in insurance costs.

To be eligible for payment under the pilot program, the person incurring the cost must submit to the DCF appropriate documentation demonstrating the increase in the cost of the insurance. The DCF is to develop procedures for operating the program, including determining eligibility, providing payment, ensuring that payment is limited solely to the additional cost of including the foster child in the insurance policy, and allocating available funds. The DCF must also utilize other available options for funding the cost of the motor vehicle insurance increase, such as through the child's master trust fund, social security income, child support payments, and other income available to the child.

The DCF has reported that some foster children receive social security checks or child support payments which are greater than the amount required for the foster care costs. These excess funds are placed in a master trust fund for the child, which could then be used to help fund the motor vehicle insurance costs. The utilization of these other funds makes the pilot project funds available for other foster youth.

The bill requires the DCF, beginning July 1, 2005, and continuing for the duration of the program, to submit an annual report to the Governor, President of the Senate, and Speaker of the House of Representatives on the success and outcomes of the pilot project, with a recommendation as to whether the project should be continued, terminated, or expanded.

Section 2. The sum of $50,000 is appropriated from the General Revenue Fund to the DCF to implement the project during the 2004-05 fiscal year.

Section 3. The bill provides an effective date of July 1, 2004.

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:

Under the bill, the foster care parents, residential facilities, or a foster child who lives independently, would be reimbursed for one-half of the increase in premiums for adding a foster child to their policy. The estimate by the Department of Financial Services ranges $200 to $1,056 annually depending on whether the youth was male or female, the company providing the insurance, and other factors. The foster child is encouraged to pay for the other half of the increased costs (also approximately $200 to $1,056). As a result of this subsidy, foster care youth may be able to drive, which may also enable some of them to become and remain employed.

C. Government Sector Impact:

The Department of Financial Services prepared two assessments of the average cost per policy to add a youth to the coverage of a motor vehicle insurance policy. These assessments were based on coverage in Sarasota, Desoto, Manatee, Pinellas, and Pasco counties using the rates of the two largest companies in Florida (State Farm Mutual Automobile Insurance Company and Allstate Property and Casualty Insurance Company), as well as specifically chosen risk characteristics and other assumptions.[4] The difference between the two assessments is that one is based on the minimum liability levels required by law ($10,000/$20,000 bodily injury and $10,000 property damage) and the other uses the most common liability levels ($100,000/$300,000 bodily injury and $50,000 property damage). The policies otherwise provide what is considered full

[4] The methodology used by DFS was based on the following: a married 40-year old male with no experience of accidents or violations in the past 3 years; driving a late model car with driver-side airbags and valued at (original cost) of $18,000 with 8,000 annual mileage, with no youthful operators, and average credit (credit scoring).

coverage.[5] While rates will continue to differ with each family based on their risk characteristics and the specifics of their policies, the results of this analysis still appear to provide a foundation from which to determine the cost of the pilot program.

The chart below presents the average cost between the two insurance companies and between the costs for male and female drivers for the basic or minimum liability levels and for the increased or most commonly used liability levels. The number of 16 and 17 year-olds in the chart are the number of youth in that age range who are in state custody in each of the counties as reported by the department as of September 30, 2003. These totals assume that every youth in state custody will participate in the project, which is unlikely, according to department representatives.

Counties	Number of 16 & 17 age	One Car "Basic Limit" (Divided by 2, then multiplied by number of youth)	One Car "Increased Limit" (Divided by 2, then multiplied by number of youth)
Sarasota	27	$838 ÷ 2 x 27 = $11,313	$1,076 ÷ 2 x 27 = $14,526
DeSoto	13	$829 ÷ 2 x 13 = 5,389	$1,063 ÷ 2 x 13 = 6,910
Manatee	40	$856 ÷ 2 x 40 = 17,120	$1,097 ÷ 2 x 40 = 21,940
Pasco	51	$1,006 ÷ 2 x 51 = 25,653	$1,289 ÷ 2 x 51 = 32,870
Pinellas	101	$1,040 ÷ 2 x 101 = 52,520	$1,333 ÷ 2 x 101 = 67,317
Total:	**232**	**$111,995**	**$143,563**

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

[5] $10,000 in personal injury protection, $10,000/$20,000 non-stacked uninsured motorist coverage, comprehensive with $100 deductible, collision with $250 deductible, and $1,000 medical payments coverage.