

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 363 w/CS Motor Vehicle Insurance for Foster Children

SPONSOR(S): Detert & Others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1058

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families	16 Y, 0 N w/CS	Preston	Liem
2) Insurance			
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

The bill requires the Department of Children and Family Services to establish a three-year pilot program in Sarasota, DeSoto and Manatee Counties to provide funds to reimburse foster parents for one-half of the increase in motor vehicle insurance premiums that occurs when a foster child is added to the foster parent's insurance policy. The foster child is required to pay the other half of the increased premium cost.

The bill requires the Department of Children and Family Services to develop procedures for operating the pilot and provides for an annual report, with the first report due July 1, 2005.

The bill provides for a \$50,000 appropriation from General Revenue to the Department of Children and Family Services for implementation of the act for fiscal year 2004-2005.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0363a.fff.doc

DATE: February 26, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

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

The bill requires the Department of Children and Family Services to assume responsibility for providing financial reimbursement from funds allocated from General Revenue to foster parents for increases in the cost of their motor vehicle insurance that occur as a result of a foster child obtaining a driver’s license and being added to the foster parent’s policy.

B. EFFECT OF PROPOSED CHANGES:

Anecdotally, it has been reported that children in foster care who attain the required age and meet the other statutory requirements to be eligible to be issued a driver’s license are not obtaining driver’s licenses and being allowed to drive because foster parents were not eligible to sign the minor’s application for a license, because foster parents were unwilling to assume the liability associated with a teen driver, or because foster parents were unwilling or unable to bear the financial obligation associated with insuring a teen driver. This inability to drive reportedly creates a barrier for a foster child attempting to gain independence and limits the child’s employment opportunities.

Currently, Florida law provides that the application of any person under the age of 18 years for a driver’s license must be signed and verified before a person authorized to administer oaths by the father, mother, or guardian, or, if there is no parent or guardian, by another responsible adult who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor. That statutory obligation is that any negligence or willful misconduct of a minor under the age of 18 years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damages caused by such negligence or willful misconduct.¹

In 2001, the Florida Statutes were amended to provide that, notwithstanding the existing provisions of §322.09, if a foster parent of a minor who is under the age of 18 years and is in foster care, or an authorized representative of a residential group home at which such a minor resides, signs the minor’s application for a **learner’s** driver’s license, that foster parent or group home representative does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor, by reason of having signed the application.²

The same 2001 legislation also amended §627.746, Florida Statutes, to prohibit a motor vehicle insurance company from charging an additional premium for an insurance policy on a private passenger vehicle owned by a foster parent for coverage of a minor foster child for the period of time when the foster child has a learner’s permit.³

¹ See §322.09, Florida Statutes

² See Chapter 2001-83, Laws of Florida

³ See Chapter 2001-83, Laws of Florida

The bill provides financial reimbursement to a foster parent for one-half of the increase in the cost of their motor vehicle insurance that occurs as the result of adding a foster child with a regular driver's license to their policy.

C. SECTION DIRECTORY:

Section 1. Requires the Department of Children and Family Services (the department) to establish a three-year pilot program in Sarasota, DeSoto, and Manatee Counties for providing funds to reimburse foster parents for one-half of the increase in premiums for automobile insurance coverage that occurs when a foster child obtains a regular driver's license and is added to the foster parent's insurance policy. The foster child is required to pay the remaining half of the premium increase. The foster parent becomes ineligible for such reimbursement if the foster child accumulates 6 or more points due to moving violations. The department is also required to develop procedures for operating the pilot and is required to report to the Governor and the Legislature annually, with the first report due July 1, 2005.

Section 2. Provides for a \$50,000 appropriation from General Revenue to the Department of Children and Family Services to implement the act in fiscal year 2004-2005.

Section 3. Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures: \$50,000 for fiscal year 2004-2005.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The analysis provided by the Department of Children and Family Services indicates a recurring appropriation for each of the three years the pilot is in existence. The bill only provides an appropriation for fiscal year 2004-2005. The Department of Children and Family Services could not provide any concrete numbers related to the number of foster parents who would potentially qualify for reimbursement of premium increases or the percentage of foster children eligible to receive driver's licenses who do not become licensed due to insurance costs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides for reimbursement to foster parents of one-half of the amount of increase in the cost of the foster parent's motor vehicle insurance that occurs as a result of adding the foster child to the policy. This implies that the foster parent would only be eligible for such reimbursement if having the foster child rated as a driver on an existing household motor vehicle insurance policy. If the foster child obtained an individual policy instead of being rated on an existing household policy, it does not appear that the foster parent would be eligible for reimbursement of any premium cost associated with such individual policy.

The bill provides that foster parents become ineligible for reimbursement of insurance premium increases if a foster child accumulates six or more points due to one or more moving traffic violations. Section 322.161, Florida Statutes, provides that any teen driver between the ages of 15 and 17 who accumulates six or more points pursuant to section 318.14, Florida Statutes, excluding parking violations, within a 12-month period shall automatically have their driver's license restricted to business purposes only for 12 months or until turning 18 years of age. While section 322.27, Florida Statutes, establishes a point system for certain specified violations of motor vehicle laws and ordinances to be used in the determination of the continuing qualification of any person to operate a motor vehicle, section 318.14, Florida Statutes, provides that voluntary attendance at a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles will result in points for violations not being assessed. It is unclear how the Department of Children and Family Services will be notified when six or more points are accrued by a foster child.

Currently, Florida law requires every owner or person in charge of a motor vehicle which is operated or driven on the roads of this state to register the vehicle in this state. Florida law also requires every owner or registrant of a motor vehicle, other than a motor vehicle used as a taxicab, school bus or limousine, required to be registered and licensed in this state to maintain security in effect continuously throughout the registration or licensing period. That security may be provided by an insurance policy delivered or issued for delivery in this state by an authorized or eligible motor vehicle liability insurer which provides statutorily prescribed benefits and exemptions. Proof that personal injury protection benefits have been purchased when required by statute, that property damage liability coverage has been purchased as required by statute, and that combined bodily liability insurance and property damage liability insurance have been purchased when required by statute, shall be provided in the manner prescribed by law by the applicant at the time of application for registration of any motor vehicle owned. The issuing agent shall refuse to issue registration if such proof of purchase is not provided.⁴

⁴ See §§320.02 and 627.733 Florida Statutes

A motor vehicle liability policy to be used as proof of financial responsibility shall be issued to owners or operators and such policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby granted and shall insure the owner named therein and **any other person** as operator using such motor vehicle or motor vehicles with the express or implied permission of such owner against loss from the liability imposed by law for damage arising out of the ownership, maintenance, or use of such motor vehicle or motor vehicles within the United States or the Dominion of Canada ...⁵

In addition to the above, motor vehicle liability policies are typically rated by households and include all vehicles to be driven and all licensed drivers living within a household. Those rates assume that a licensed minor living in a household where there is an automobile and available keys will be driving that vehicle. Therefore, the only way a foster parent's policy would not be subject to a rate increase when a foster child becomes old enough to drive would be to either allow the minor to obtain only a learner's driver's license or, if the foster child obtains a regular driver's license, to fail to mention to the insurance company that a licensed minor resides in the household and has access to a vehicle insured by the foster parent. Most insurers require a policy holder to report a new driver with a learner's permit residing in the household.

The analysis completed by the Department of Children and Family Services made two suggestions for reducing the fiscal impact of this bill. Not included in those suggestions were premium reductions offered by a number of insurers as a result of personal achievements of insured minors who are students. Many insurers provide premium reductions for satisfactory completion of driver's education classes and maintenance of better than average grade point averages.

Requiring the minor foster child to pay for the remaining half of a premium increase might result in some of those minors choosing to work, to the detriment of other things such as academics.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 17, 2004, the Committee on the Future of Florida's Families adopted a strike everything amendment and an amendment to the amendment. This analysis reflects the changes to the original bill contained in those amendments.

⁵ See §324.151, Florida Statutes