

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Detert & Others

TIED BILLS: None

IDEN./SIM. BILLS: SB 1058

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

SUMMARY ANALYSIS

The bill requires the Department of Children and Family Services to establish a 3-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 premium 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: h0363b.in.doc

DATE: March 2, 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:

The Department of Children and Family Services has reported that children in foster care who have attained the required age and met the other statutory requirements to be eligible to be issued a driver’s license have not obtained driver’s licenses and been 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 by the father, mother, guardian, or, if there is no parent or guardian, by another responsible adult who affirms that any negligence or willful misconduct of the minor when driving shall be imputed to the person who has signed the application of the minor for a permit or license. This person shall be jointly and severally liable with such minor for any damages caused by negligence or willful misconduct.¹

In 2001, the F.S., was amended to provide that, notwithstanding the existing provisions of s. 322.09, F.S., 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 s. 627.746, F.S., 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, F.S.

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 3-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 six or more points due to moving violations. The department is also required to develop procedures for operating the pilot program 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 3 years the pilot is in existence. The bill provides an appropriation for fiscal year 2004-2005 **only**. 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 requires an annual report on the pilot program to be submitted by July 1, 2005. Funding for the program ends June 30, 2005. Therefore, the 2005 Legislature will not have a copy of the report at the time consideration normally would be given for refunding the program.

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. If the foster child obtained an individual policy instead of being rated on an existing household policy, it does not appear 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, F.S., provides that any teen driver who is age 15 through 17 who accumulates six or more points pursuant to s. 318.14, F.S., 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 s. 322.27, F.S., 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, s. 318.14, F.S., 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 that 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, 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 that 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 and property damage liability insurance has 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 F.S.

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 all covered motor vehicles and shall insure the owner and **any other person** as operator, using such motor vehicle(s) 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. 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 key 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 policyholder 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. The first identified biological parents as a source of potential revenue. The second suggestion delineated master trust accounts established within the department as potential sources. 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.

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, F.S.