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.)

Prepared By: Children and Families Committee

BILL: SB 124

SPONSOR: Senator Bennett

SUBJECT: Motor Vehicle Insurance for Foster Children

DATE: December 7, 2004 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanford	Whiddon	CF	**Favorable**
2.			HA	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 124 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, 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 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 DCF during the 2004-05 fiscal year.

The bill provides for an effective date of July 1, 2005.

II. Present Situation:

Young people in the foster care system often face barriers to participating in everyday life experiences common to others 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 the barriers to driving an automobile that are experienced by the youth in Florida's foster care system as a concern. DCF staff concur 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.

Primary obstacles to these youth being able to drive are the potential liability of the foster parents when the youth drive vehicles owned by the foster parent and the attendant cost of insurance to protect foster parents from this liability. Estimates of the average cost to add a youth driver in Sarasota, Desoto, Manatee, Pinellas, and Pasco counties 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.

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[1] or, upon turning 16, in an independent living setting which is subsidized by the department.[2]

A youth who is 15 years of age is authorized to obtain a learner's driver's license provided he or she meets the school attendance requirements of s. 322.091, F.S., and the application and testing requirements of s. 322.1615, F.S. Section 322.09, F.S., requires that 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 . This same section provides that 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.[3] While this provision relieves the foster parent of liability resulting directly from the signature on the driver's license application, it does not address any vicarious liability that the foster parent may have as a result of the foster parent's ownership of the vehicle which the youth drives, *see Hertz Corp. v. Jackson*, 617 So.2d 1051(Fla. 1993). This liability arises whenever an insured individual allows another to operate his or her motor vehicle and is independent of the provisions of s. 322.09, F.S. Thus, the foster parent who owns the motor vehicle continues to be subject to vicarious liability for the actions of the youth while operating the foster parent's vehicle, in the same way the foster parent would be vicariously liable for the actions of any other person operating that vehicle. This vicarious liability is one of the risks for which insurance coverage is purchased.

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 the youth is holding a learner's driver's license.[4] This prohibition is only applicable until the youth obtains a regular driver's license.

[1] Section 39.01(29), F.S.
[2] Section 409.1451(3)(C), F.S.
[3] Chapter 2001-83, L.O.F.
[4] Chapter 2001-83, L.O.F.

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, 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 DCF appropriate documentation demonstrating the increase in the cost of the insurance. 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. 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.

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 estimated cost of this program per eligible child 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[5] using the high range of the premium estimates.

The bill requires DCF, beginning July 1, 2006, 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.

[5] This estimate assumes that all 232 foster children in the five affected counties will participate in this project.

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

Section 3. The bill provides an effective date of July 1, 2005.

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 automobile insurance policy. The estimate by the Department of Financial Services ranges from $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:

Using information supplied by the Department of Financial Services, the range of the potential cost of fully funding this program for the 5 pilot counties is estimated to be between $111,995 and $143,563 annually. The lower end of the range reflects minimum liability coverage ($10,000/$20,000 bodily injury and $10,000 property damage) and the upper end reflects coverage at the most common liability levels ($100,000/$300,000 bodily injury and $50,000 property damage). The calculations assume a population of 232 children eligible to receive this coverage.[6] Since the number of youth who will actually participate in the program can be predicted to be less than the total in foster care,

[6] This estimate includes all youth 16-17 years of age in DCF custody in the pilot counties as of September 30, 2003, the latest date for which figures are available.

the estimates are likely to be higher than the actual demand will yield. However, making the lowest reasonable prediction based on these numbers (50 percent of the eligible youth participate at the lowest level of coverage), the demand for the service will exceed the appropriated sum. Whether the other efforts encouraged by the bill will be sufficient to offset this deficit is not clear. DCF is not given instructions in the bill as to actions to take if the demand for the funding exceeds the amount appropriated.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.