HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 143 CS — Motor Vehicle Insurance for Foster Children
SPONSOR(S): Detert and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 124

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee	6 Y, 0 N	Preston	Collins
2) Insurance Committee	19 Y, 0 N, w/CS	Sayler	Cooper
3) Health Care Appropriations Committee			
4) Health & Families Council			
5)			

SUMMARY ANALYSIS

Currently, no state funded program exists to help defray the increased insurance costs associated with foster children becoming licensed to drive.

The bill requires the Department of Children and Families (DCF) to establish a 3-year pilot program in Sarasota, DeSoto, Manatee, Pinellas, and Pasco Counties to provide funds, to the extent that they are available, to reimburse foster parents, residential facilities, or foster children who live independently for a portion of the increase in the auto insurance premium that occurs when a foster child receives a driver's license and is added to an insurance policy. The foster child must be encouraged to pay the remaining half of the increased premium cost.

It has been reported by staff with DCF that foster care youth who are not able to learn to drive or gain experience driving miss an important part of learning how to be independent, including being able to work. One primary obstacle to these youth being able to drive is related to the liability to the foster parents when the youth drive their vehicles and the attendant increase in insurance premium. Estimates of the average cost to add a youth driver in Sarasota, DeSoto, Manatee, Pinellas, and Pasco Counties range from $200 to $1100 annually based on the level of liability coverage, the insurance company, and whether the driver is male or female.

The bill requires the department to develop procedures for operating the pilot, to explore and utilize other options for funding the premium increase, and to submit an annual report to the Governor and the Legislature, with the first report due January 1, 2006.

The bill provides for a $50,000 appropriation from the General Revenue Fund to the department for implementation of the act for fiscal year 2005-2006.

The bill creates an undesignated section of Florida law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates a 3-year pilot program. It requires the Department of Children and Families to develop procedures for implementing the pilot program, including the allocation of available funds to eligible recipients.

Safeguard individual liberty – The bill will provide financial assistance to offset a portion of the insurance premium increase that will enable some otherwise eligible foster youth to drive. This may increase the sense of independence of those youth and provide them with a greater ability to conduct their own affairs.

Promote personal responsibility – The bill requires that a foster child be encouraged to pay the remaining half of any increase in automobile insurance premium occurring as a result of he or she being added to a policy upon receiving a driver's license. Paying for this remaining half will likely come from employment that the child would otherwise not have because he/she was not licensed to drive. The purpose of this bill is to promote increased personal responsibility in foster children.

Empower families – The bill may enable some foster youth to drive, thus reducing demands on adult caregiver time and increasing the sense of responsibility and independence of the youth, both of which may serve to benefit the family unit as a whole.

B. EFFECT OF PROPOSED CHANGES:

Background

Insurance Issues

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.[1]

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.[2]

In addition, 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

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[1] *See*: ss. 320.02 & 627.733, F.S.

[2] *See*: s. 324.151, F.S.

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.

Foster Care Issues

One of the goals of Florida's Foster Care System is to raise mature, independent, and self-sufficient adults. The Department of Children and Families (DCF) and others who work with foster children have said that the ability to drive is one means of furthering the development of independence and self-sufficiency within these children. However, one must first be able to obtain a valid driver's license prior to being allowed to drive alone. With a driver's license comes the added responsibility of driving safely as well as more opportunities to work further from one's place of residence. With more employment opportunities and independence comes increased maturity and self-sufficiency. These goals may result when a teenage foster child has the opportunity to obtain a driver's license.

There are two significant obstacles that make it difficult for a foster child to obtain a driver's license. One is the high cost of obtaining auto insurance coverage for minors. The other is the unwillingness of the foster parent or the responsible adult to assume the joint and severable liability for damages arising out of the negligence or willful misconduct of the foster child.

Addressing the Insurance Cost Obstacle:

Inexperienced teenaged drivers statistically have more auto accidents than experienced adult drivers. Consequently, insurance rates are higher for teenagers. It has been estimated that adding a teenager to a family auto insurance policy could cost between $200 and $1100 per year. This price difference typically depends upon the type of auto insurance policy the family has, the type of car(s) the family owns, number of teenagers on the policy, the sex of the covered driver (teenage boys are more expensive to insure), the location of the family within the state, etc. Some insurance providers may offer discounts for students with better than average grades.

According to some proponents of this bill, there are foster parents or group home representatives willing to assume the liability risk of the foster child and sign the driver's license application, but the high cost of auto insurance coverage presents the greatest obstacle. This increased cost makes it difficult for the foster family to afford auto insurance for the foster child and also difficult for the child to obtain his/her own personal auto insurance coverage.

In Florida, the average foster family receives from DCF $455 per foster child aged 13 to 18. According to DCF, this amount has not increased since 2000. Given the cost of auto insurance, this amount is not nearly enough to cover all the costs associated with clothing and feeding a teenager as well as covering the increased auto insurance costs associated with adding a foster teenager to the policy. The cost of a stand alone auto insurance policy for a teenager is usually much higher than adding the child to the family policy.

In 2001, the Legislature enacted s. 627.746, F.S., which barred insurance companies from raising the auto insurance rates of foster parents whose foster child obtained a learner's driver's license. However, this provision no longer applies once the foster child obtains a driver's license.

Addressing the Liability Obstacle:

According to DCF, the main issue for many foster parents that keeps them from signing the foster child's driver's license application is not the increased cost, but the liability risk that they would assume as a result of signing the child's driver's license application.

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 such negligent or willful misconduct.

In 2001, the Legislature partially addressed the issue of the liability assumed by signing the foster child's <u>learner's</u> driver's application. Previously, anyone signing the minor's application for a driver's license of any kind (learner's or otherwise) would assume joint and several liability for damages resulting from that minor's negligence or willful misconduct. Section 322.09(4), F.S., was amended and now provides that a foster parent who signs a <u>learner's</u> driver's license application does not assume liability for damages arising out of the negligence or willful misconduct of that foster child.

However, this liability protection does not extend to the signing of a foster child's driver's license application. A foster parent who signs the driver's license application remains liable for any damages caused by the negligence or willful misconduct of that minor and that liability continues even if that foster child no longer resides with that foster parent.

The obstacle of liability associated with signing the foster child's driver's license application is not addressed by this bill. This bill addresses the increased auto insurance cost obstacle by seeking to subsidize up to half of the increase in the foster family's auto insurance rates that result from adding the foster child to their policy providing that the foster child qualifies for the reimbursement program and someone assumes the risk associated with signing his/her driver's license application. Whether this bill enables more foster children to experience the freedom and responsibility of having a driver's license will be one of the things that this three-year pilot program will seek to discover and report back to the Governor and Legislature.

Changes to the Law

This bill creates an unspecified section within the Florida Statutes. It requires the Department of Children and Families to establish a 3-year pilot program in Sarasota, DeSoto, Manatee, Pinellas, and Pasco Counties for the purpose of reimbursing foster parents, residential facilities, or foster children who live independently, for up to half of the increased auto insurance costs associated with adding a licensed foster child to the auto insurance policy. These reimbursements will come from funds made available by this bill.

To be eligible for reimbursement under the pilot program, the person incurring the cost must submit to DCF appropriate documentation demonstrating the increase in the cost of the insurance. The amount reimbursed will be up to half of that increased cost. The bill provides that the foster child must be encouraged to pay the other half of the increased in insurance cost.

This bill authorizes DCF to setup appropriate procedures to implement this 3-year pilot program. The procedures will include, but not be limited to, determining eligibility criteria, providing payments, ensuring that payment is limited to half of the increase, and for allocating available funds to pay for eligible reimbursements.

Available funds include the $50,000 allocated from General Revenue for the first year of the program, and from the foster children themselves. To the extent possible, DCF shall examine and use other available options for funding up to half the increased auto insurance cost. DCF may look into using funds from the child's master trust fund, social security income, child support payments, and other income that is available to the child.

According to a DCF official, some children have received inheritances which have been placed into their master trust fund. Other children receive social security income, supplemental security income (for disabilities), and/or child support. The amount received each month above the $455 amount paid by the State for the maintenance the foster child is deposited into the child's master trust fund. The master trust fund may be accessed by the child for specific purposes not covered by Medicaid (i.e. – a mental health counselor believes the child needs a trip to Disney World) or for specific educational purposes (i.e. – purchasing a computer).

This bill would allow DCF to use these and other income sources available to the child in order to pay for half the cost of the auto insurance increase.

This bill requires DCF to report to the Governor and the Legislature about the success and outcome of the pilot program. Starting January 1, 2006 and each year of the program, the report will make a recommendation whether the program should be continued, terminated, or expanded.

C. SECTION DIRECTORY:

Section 1. Amends or creates an unspecified section within the Florida Statutes related to the establishment of a 3-year pilot program by the Department of Children and Family Services to pay a portion of the cost associated with motor vehicle insurance for foster children.

Section 2. Provides for a $50,000 appropriation from the General Revenue Fund to the Department of Children and Family Services to implement the act in fiscal year 2005-2006.

Section 3. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill appropriates $50,000 from the General Revenue Fund to the Department of Children and Family Services for fiscal year 2005-2006.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides for foster parents, residential facilities, or a foster child who lives independently to be eligible to be reimbursed for a portion of the premium increase that would result from adding a foster child to an automobile insurance policy. As a result of this financial assistance, more foster care children may be enabled to drive than would otherwise. It may allow these youth more opportunities for employment further from their residences. It could also help place these youth further along the road to maturity, self-sufficiency, and life-long independence.

D. FISCAL COMMENTS:

The Department of Financial Services (DFS) prepared two estimates of the average cost per policy to add a youth to the coverage of a motor vehicle insurance policy. [3] These estimates 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 a number of specifically chosen risk characteristics and other assumptions.[4] The difference between the two estimates 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 coverage.[5] While rates will continue to differ with each family based on their risk characteristics and other specifics of their policies, the results of this analysis still appear to provide a reasonable foundation from which to determine the cost of the pilot program.

Counties	Number of Youth Ages 16 and 17	One Car Minimum Liability Level (Divided by 2, then multiplied by # of youth)[6]	One Car Most Commonly Used Liability Level (Divided by 2, then multiplied by # of youth)
Sarasota	27	$838 ÷ 2 x 27 = $11,313	$1,076 ÷ 2 x 27 = $14,526
DeSoto	19	$829 ÷ 2 x 19 = 7,875	$1,063 ÷ 2 x 19 = 10,098
Manatee	48	$856 ÷ 2 x 48 = 20,544	$1,097 ÷ 2 x 48 = 26,328
Pasco	52	$1,006 ÷ 2 x 52 = 26,156	$1,289 ÷ 2 x 52 = 33,514
Pinellas	126	$1,040 ÷ 2 x 126 = 65,520	$1,333 ÷ 2 x 126 = 83,979
Total	**272**	**$131,408**	**$168,445**

The chart above shows the average cost between the two insurance companies and between the costs for male and female drivers for the minimum liability levels and for the 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 of Children and Families as of January 2005. These totals assume that every youth in state custody will participate in the project, which is unlikely, according to department representatives.

The above estimates are likely to be higher than the actual demand because not every youth in foster care will likely be able to participate. However, the need for funding could exceed the appropriated sum depending upon the numbers of youth who actually participate in the pilot program. The community-based care provider (CBC provider) that would likely implement this program for DCF, estimates that about 25 children might qualify for reimbursement under this program in its first year.

The bill requires the DCF to explore, and utilize if possible, other sources of funding for the insurance premium increase including, but not limited to, any master trust fund the child may have, social security income and child support payments. Whether these alternative funding sources would be sufficient to offset any deficit cannot be predicted. According to the CBC provider, they would be one of those alternative sources of funding once the $50,000 is expended.

[3] These estimates were provided by DFS in relation to a similar bill filed last year by the sponsor. According to a DFS representative, the cost estimates provided have not changed significantly since they were prepared in 2004.

[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).

[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.

[6] The amounts are divided by 2 since the amount subsidized by the department would not exceed one-half of any premium increase.

These estimates also assume that none of the funds would be used for administrative implementation costs. In order to implement the provisions of the bill, DCF reports it will require staff capacity to develop procedures, determine eligibility, develop payment and monitoring processes, and compile results of the pilot in an annual report to the Legislature. It is not clear if the funds specified in the bill are intended to fund insurance costs only or if a portion of the funding may be used for administrative costs to implement the pilot. According to the CBC provider, they would not use any of the funds appropriated for administrative purposes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

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 to the Governor and the Legislature, with the first report due on January 1, 2006. The first report will only cover the first six months of the pilot-program. However, this early reporting date should allow for adequate consideration for further funding for the pilot-program during successive Spring legislative sessions.

The bill provides for reimbursement to foster parents, residential facilities or a foster child living independently up to one-half of the amount of increase in the cost of motor vehicle insurance that occurs as a result of adding the foster child to an existing policy. If the foster child obtained an individual policy instead of being rated on an existing household policy, it is unclear that anyone would be eligible for reimbursement of any premium cost associated with such individual policy. However, this issue could be clarified by DCF when the procedures and reimbursement criteria are written.

The bill requires DCF to develop procedures for operating the pilot program, including the allocation of funds, for Sarasota, DeSoto, Manatee, Pinellas, and Pasco Counties are being provided through two contracts with the YMCA Children, Youth and Family Services, Inc. The bill is silent regarding the role of the community-based care provider in the implementation of the pilot program. However, from conversations with both DCF and the community-based provider, the community-based provider would implement the program while DCF would provide oversight.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

This bill was amended to change the reporting date from July 1, 2006 to January 1, 2006, so that the information generated by the report could be considered in the 2006 Legislative Session.