HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 275 Motor Vehicle Insurance for Foster Children
SPONSOR(S): Detert
TIED BILLS: **IDEN./SIM. BILLS:** SB 220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee		Preston	Collins
2) Insurance Committee			
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 or the department) 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. 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 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, 2007.

The bill provides for a $50,000 appropriation from the General Revenue Fund to the department for implementation of the act for fiscal year 2006-2007.

The bill creates an undesignated section of Florida law and goes into effect July 1, 2006.

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.

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

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 the process of preparing all children 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 children in Florida's foster care system as a concern. Department staff concur that children in foster care 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.

Currently, Florida law requires every owner or person in charge of a motor vehicle that is operated or driven on the roads of the 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

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

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 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.

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 several 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, with the exact amount of an increase depending 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 monthly 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.

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

In 2001, the Legislature partially addressed the issue of the liability assumed by signing the foster child's learner's 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 learner's 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.

Proposed Changes

The obstacle of liability associated with signing the foster child's driver's license application does not appear to be addressed by the 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.

The bill creates an undesignated 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 increase 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 the department, 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 of 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 allows 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, 2007 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 2006-2007.

Section 3. Provides an effective date of July 1, 2006.

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 2006-2007.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent funding is available, foster parents and residential facilities in the pilot counties will be reimbursed for one-half of the increase in premiums for adding a foster child to their automobile insurance policy. Foster children living independently will also be eligible for reimbursement of half the cost of their automobile insurance policies. This reimbursement may allow more children to obtain insurance, to drive, and to become employed.

Additionally, community-based care providers who are under contract with DCF to provide foster care and related services have estimated the administrative costs associated with overseeing the pilot to be 8%. Since the bill specifies that the “payment is limited solely to the additional costs of including the foster child in the insurance policy,” the administrative costs of the community based care providers do not appear to have been addressed.

D. FISCAL COMMENTS:

The department has estimated the number of children potentially eligible to receive this coverage in the five county pilot areas to be 278. However, the number of children who will actually participate in the program is estimated by DCF to be no more than 25 in 2005, 35 in 2006, and 45 in 2007.

Based on estimates supplied by DCF, the cost of insurance per year for an average teenager in the pilot areas would be approximately $2000 annually.

If all the children identified as potentially eligible for this coverage were to receive it, DCF has estimated the annual cost to be in the range of $300,000. If only the estimated numbers actually expected to participate apply, the cost to provide 50% coverage ranges from $29,700 in FY 06/07 to $53,460 in FY 08/09. These cost estimates do not include any offsets from master trust funds, social security, or other sources of income. In developing these cost estimates, DCF has included an 8% administrative cost which does not appear to be authorized by the language of the bill.

The department, in addition, will incur unspecified costs relating to the need for staff capacity to develop procedures, determine eligibility, develop payment and monitoring processes, and compile the results of the pilot for the annual report to the legislature.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES