

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7173 (PCB FFF 06-01) CS Welfare of Children
SPONSOR(S): Future of Florida's Families Committee and Rep. Galvano
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 2470, HB 1607, SB 1798

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Future of Florida's Families Committee	7 Y, 0 N	Davis/Preston/Halperin	Collins
1) Fiscal Council	21 Y, 0 N, w/CS	Ekholm	Kelly
2) Health & Families Council		Davis/Preston/Halperin	Moore
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill establishes a centralized office to examine, oversee, and implement abuse prevention services by creating the Office of Child Abuse Prevention within the Executive Office of the Governor.

Creating an Office of Child Abuse Prevention is viewed as untangling the fragmented web of services to bring a more efficient, streamlined and accessible array of services to the families of the State of Florida. That is, layers should be removed, communication networks should be developed, prevention management should increase, and accountability should be created. A centralized prevention office will lay the foundation for success in accessing prevention services for years to come.

The bill also addresses the welfare of young adults aging out of the foster care system by expanding the eligibility pool, requiring the development of a plan for each community-based care (CBC) service area, providing for the direct deposit of funds, authorizing CBCs to purchase housing and other services, and providing for the expansion of Kidcare coverage for eligible young adults until age 20.

The bill makes public school employees subject to the reporting requirements of chapter 39, F.S., for purposes of making reports of alleged abuse to the central abuse hotline.

Because of an exemption from regulation by both the Department of Children and Family Services and the Department of Education, the bill requires boarding schools to be accredited.

Finally, the ability of Statewide and Local Advocacy Councils ("SAC") to monitor, investigate, and resolve claims of abuse and neglect is strengthened. The intent of the Legislature is restated to have citizen volunteers as members of the SAC "to discover, monitor, investigate, and determine the presence of conditions or individuals that constitute a threat to the rights, health, safety, or welfare of persons who receive services from state agencies."

The estimate of fiscal impact to the state of the provisions of the bill is significant—\$18,427,790 in recurring and \$165,155 in nonrecurring general revenue funds; however, the bill has been amended to remove the appropriation and to specify that the bill will only take effect July 1, 2006 if a specific appropriation is included in the General Appropriations Act for Fiscal Year 2006-2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill creates the Office of Child Abuse Prevention (Office) for the purpose of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect. The bill also expands Medicaid eligibility for certain young adults until age 20.

Safeguard Individual Liberty—If the Statewide Advocacy Council were designated as a health oversight agency, it would be entitled to obtain confidential client records without client consent.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION:

In 1982, the Legislature required the Department of Health and Rehabilitative Services along with other state and local agencies to develop a state plan on the prevention of child abuse and neglect (chapter 82-62, Laws of Florida). The act required the plan to be submitted to the Legislature and Governor by January 1, 1983 and to be updated periodically. It was reported in 1982 that, "The impact that abuse and neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse and neglect shall be a priority of this state." Twenty-four years later, the Legislature is still seeking to address and identify ways to reduce incidence of abuse and neglect of children in Florida.

In 2002, Florida was among only three other states and the District of Columbia in having the highest national child maltreatment rate.¹ During the same year, 142,547 investigations of abuse or neglect, involving 254,856 children, were completed. Approximately one-half of the investigations were substantiated or indicated the presence of abuse or neglect. In FY 2003-04, there were reportedly 32.3 victims of maltreatment per 1,000 children in Florida. At that time, the re-abuse and re-neglect rate in Florida was 9.67%, which is higher than state and federal standards of 7% and 6.1%, respectively. These rates are based on maltreatment recurrence within six (6) months.

There were over 130,000 confirmed victims of child abuse and neglect in Florida in 2003. The actual incidence of child abuse and neglect is estimated to be 3 times that number.² Child deaths are the most tragic consequences of abuse and neglect. Child neglect deaths are more frequent than abuse deaths as 52% of child deaths that occur are through neglect.

A Florida child is abused or neglected every 4 minutes.³ Ten thousand Florida children are abused or neglected per month. During 2004, according to the Florida Child Abuse Death Review Team, at least 111 Florida children died from abuse or neglect at the hands of their parents or caretakers; that is a rate of about two children dying each week. They were smothered, slammed down on asphalt, beaten, shot or they drowned while unsupervised.

The cost of child maltreatment to society is tremendous. National estimates of direct and indirect impacts range from \$67 to \$94 billion each year, and many argue that these estimates are likely to

¹ U.S. Department of Health and Human Services, 2004. Florida rate was 31.5 per 1,000 children.

² "Child Welfare Annual Statistics Data Tables Fiscal Year 2004-2005." http://www.fiu.edu/~cat/fl_victims.htm. Author, Dr. Maureen Kenny, is currently an Associate Professor at Florida International University's College of Education.

³ "Child Welfare Annual Statistics Data Tables Fiscal Year 2004-2005." http://www.fiu.edu/~cat/fl_victims.htm. Author, Dr. Maureen Kenny, is currently an Associate Professor at Florida International University's College of Education.

understate the true costs due to the difficulty in capturing the full range of indirect costs such as cash and food assistance.⁴ Prevention can save lives and precious resources. Despite the potential long-term benefit of preventing child abuse and neglect, only a small percentage of all resources specifically earmarked for child maltreatment in the State of Florida are actually devoted to prevention.⁵

In a study of primary prevention efforts in Florida, researchers found federal and state sources funded \$1,360 per year, per child under age five, on primary prevention programs and concluded that Florida's investments in primary prevention programs for young children were at levels insufficient to significantly reduce expenditures on deep-end services. The costs of foregoing prevention include lost productivity, wasted human potential, and reduced quality of life associated with escalation of preventable conditions to chronic, debilitating, and destructive states.⁶ The challenges of funding restraints and the requirement to address the immediate, critical needs of maltreated children limit the Legislature's ability to focus on primary prevention oriented efforts. Prevention works best when there are strong connections between state and local government, prevention providers, and community organizations. In order to ensure the well being and success of Florida's children and families, prevention must become a priority for the state's citizens and leaders.

Many programs for children and families continue to focus on "fixing" problems rather than preventing them. Quick fixes are preferred, often for budgetary reasons, and prevention efforts typically require more extensive and comprehensive investments.⁷

There are some notable exceptions to this trend. The Florida Legislature created Healthy Families Florida (HFF) in July 1998 in response to the increasing number of child deaths due to child maltreatment and the increasing rates of maltreatment. Healthy Families Florida, Inc., is a nationally credentialed community-based, voluntary home visiting program designed to enable families to raise healthy, safe and nurtured children. Healthy Families Florida participants had 20 percent less child maltreatment than all families in their target service areas, showing that children in families who completed or had long-term, intensive HFF intervention experienced significantly less child maltreatment than did comparison groups with little or no service.⁸

In 1998, the Legislature appropriated \$10 million to HFF to establish the state and local operating infrastructures and to fund 24 community-based programs to begin operations in targeted areas within 26 counties. In FY 1999-2000, the Legislature more than doubled the base funding to \$22.2 million, which funded 36 projects serving 43 counties. In FY 2003-2004, the base funding was increased to \$28.3 million to expand two projects and create one new project serving four new counties for a total of 38 projects serving parts or all of 53 of Florida's 67 counties. By FY 2003-2004, communities were contributing \$9.7 million per year in local in-kind or cash contributions. The 2005-06 General Appropriations Act includes \$28.4 million for the HFF program and provides a total funding of \$44 million for "Child Abuse Prevention and Intervention" within the Department of Children and Families -- that represents less than 2% of the department's budget.

Healthy Families Florida is one example of a program which has had a positive impact on preventing child maltreatment for the population it serves. There are hundreds of prevention programs statewide funded with local, state, and/or federal dollars; however, due to a lack of data, it is unknown how effective many of these programs are in reducing incidence of abuse, neglect, abandonment, and death of children.

⁴ Fromm, S. (2001). *Total estimated cost of child abuse and neglect in the United States*. Chicago, IL: Prevent Child Abuse America.

⁵ Thomas, D., Leicht, C., Hughes, C., Madigan, A., & Dowell, K. (2003). *Emerging practices in the prevention of child abuse and neglect*. www.dhhs.gov. Washington, D.C.: U.S. Department of Health and Human Services.

⁶ Feaver, E. & Strickland, L. (2003). *The Lawton Chiles Foundation Whole Child Project prevention policy paper*. Tallahassee, FL: The Chiles Center.

⁷ Lind, C. (2004). *Developing and supporting a continuum of child welfare services*, Welfare Information Network, 8 (6).

www.financeprojectinfo.org/win/. Washington, D.C.: The Finance Project.

⁸ Five-year Evaluation Results, Healthy Families Florida, March 2005. Sponsored by the Ounce of Prevention Fund of Florida and the State of Florida, Department of Children & Families.

On July 15, 2005, a letter was sent to all members of the Florida House of Representatives requesting the name(s) and contact information of prevention programs within their districts that have been successful in reducing the incidence of abuse or have resulted in children and families not entering the child welfare system. Over 30 legislators responded identifying approximately 75 programs within their districts that were successful. Still, it is reported by the Department of Children and Families that these programs have produced small improvements in the level of child abuse, neglect, and abandonment, mainly because “there remain far too many children and families at risk of and suffering from maltreatment.”

Recognizing the importance of reducing maltreatment and the conditions that are likely to promote abuse, the Legislature mandated that the Department of Children and Families work with an interdisciplinary task force to develop a statewide plan for child abuse prevention.⁹ This statewide plan was released in June 2005. Membership of the Florida Interprogram Task Force included the following representatives:

- Agency for Persons with Disabilities;
- Agency for Workforce Innovation;
- Community Alliances;
- Community-based Care;
- Department of Children and Families;
- Department of Education;
- Department of Health;
- Department of Juvenile Justice;
- Florida Department of Law Enforcement;
- Miccosukee Tribe;
- Prevent Child Abuse Florida; and
- Parents.

In response to these findings, the Future of Florida’s Families Committee was granted authority to conduct an Interim Project to shed light on many of the problems being faced throughout the state in dealing with child maltreatment. While there are varying schools of thought on the origins of child maltreatment, most theories of child maltreatment recognize that the root causes can be organized into a framework of four principal systems: (1) the child; (2) the family; (3) the community; and (4) the society. The interim project examined many of the current prevention strategies that are operating throughout the state with the intent of outlining the prevention methods being used, the populations being served, and the outcomes and effectiveness of the current system.

Having the benefit of the background research, findings and recommendations of the Task Force, and in conjunction with an approved Interim Project, Speaker Allan Bense granted permission for the members of the Future of Florida’s Families Committee to conduct a series of public hearings throughout the state with the primary objectives of:

- Bringing awareness to the impact on Florida’s families of abuse, neglect, molestation, abandonment, and death of children;
- Enabling the members of the committee to dialogue with at-risk families and providers of prevention and child protective services; and
- Aiding in the development of legislation to reduce the incidence of abuse, neglect, and abandonment of children in Florida.

⁹ “Florida’s State Plan for the Prevention of Child Abuse, Abandonment, and Neglect: July 2005 through June 2010.” Developed by The Florida Interprogram Task Force, June 2005.

With the assistance of the various state agencies involved in abuse prevention efforts and state and local providers of services, the public hearings were planned and held in September and October 2005 in Jacksonville, Tampa, Miami, and West Palm Beach.

At the conclusion of the hearings, stakeholders were asked to provide to the members of the Future of Florida's Families Committee a broad list of Policy Options that could be discussed and evaluated for possible inclusion in a proposed committee bill. Over 26 Policy Options were received. The options were reviewed and ranked by the members of the committee and on January 11, 2006, there was a consensus to incorporate the following recommendations into a Proposed Committee Bill:

- Establish an Office of Child Abuse Prevention within the Executive Office of the Governor.
- Require that some portion of child abuse prevention funding be dedicated to the controlled longitudinal evaluation of program effectiveness.
- Continue to support, strengthen, and expand the Healthy Families Florida Program statewide so that it is available to all families that are at risk of child abuse and neglect and other poor childhood outcomes.
- Identify the Florida Statewide Advocacy Council (FSAC) and the Florida Local Advocacy Councils (FLACs) as "Medicaid Oversight" regarding the release of recipient information in abuse reports.
- Require each school district to establish written procedures for the immediate reporting of suspected or known child abuse by an individual who is employed by or otherwise contracted by a public school.
- Address the needs of young adults in foster care and young adults who age out of foster care to help prevent the occurrence of abuse and neglect of their children.

The Office of Child Abuse Prevention

The fundamental foundation for the delivery of services by the Department of Children and Families (DCF) and the other involved state agencies regarding Abuse Prevention is fragmented. The result of this fragmentation and inefficiency has created a tangled maze of services that is not only un-navigable by the providers but also the recipients of services. This maze has created inefficiency and waste as well as confusion among communities as to what services are being offered and how to access those services.

One of the findings of the committee was that long-term Abuse Prevention can save the state millions if not billions of dollars, but it is not feasible to continue to pour more money into a system in which the foundation for success is flawed. Addressing "prevention" is an issue that must have long-range goals.

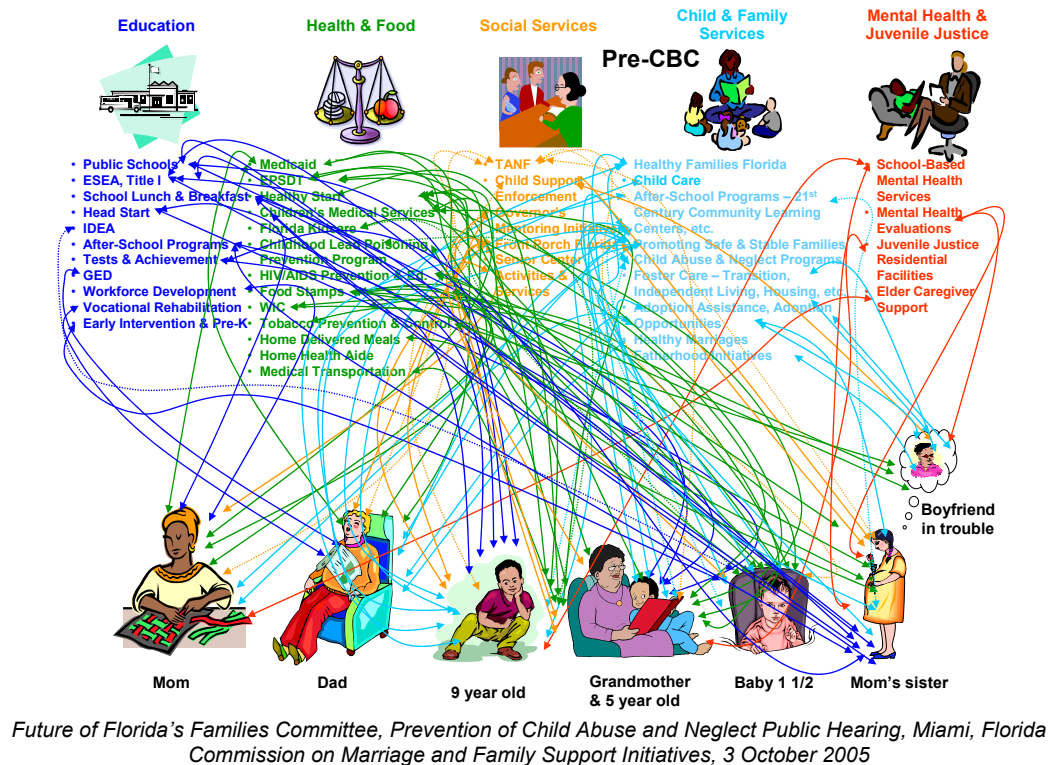
Child abuse, neglect, and abandonment cost the state millions of dollars each year, yet a centralized office to examine, oversee, and implement prevention services of abuse has yet to be put into place. Without an organized effort, there is a concern that prevention will continue to fall through the cracks.

The current system is a tangled maze of services (See diagram which follows):

- Programs that focus on primary and secondary prevention of child abuse are offered by the Department of Children and Families (DCF) and at least six other state agencies, including the: Department of Education, Department of Health, Department of Juvenile Justice, the Agency for Persons with Disabilities, the Agency for Workforce Innovation, and the Florida Department of Law Enforcement, and thousands of community organizations. This results in a tangled maze of services that providers and people trying to access the services must attempt to navigate.

- This uncoordinated system makes it unclear what services are being offered, how to access these services, duplication of services, and results in inefficiency and waste. An Office of Child Abuse Prevention would coordinate statewide prevention efforts and keep children out of the child welfare system.
- Coordination of services would improve delivery of child abuse prevention programs, decrease barriers between community providers and the families needing services, and connect private providers into a system that would result in a more efficient use of taxpayer monies.

Tangled Maze of Services



Florida's population is growing significantly, which will increase the number of children and families in the state. The American Community Survey (ACS) has been developed by the Census Bureau to provide population estimates annually. The percent change in growth of children in the United States is a 1.51% increase over the last five years. However, the percent change in growth in children in Florida over the last five years is a 9.87% increase. Therefore, over the last five years the percent increase of children in Florida is over six times the increase in the U.S. Furthermore, the growth in children in Florida accounts for almost one third of the increased number of children in the U.S. Therefore, simply by an increase in numbers, the volume of potential cases of children and families that may enter the child welfare system should increase. This means that there will be more children and families potentially at risk or involved in child abuse and neglect than ever before in the State of Florida.

The Rationale for Prevention

- No disease or social problem has ever been brought under control by providing after-the-fact treatment to the victims of the disease or problem.

- Preventive, proactive, before-the-fact interventions have, historically, been the only effective way to control or eliminate important diseases. Public health prevention programs to control smallpox and polio are prime examples.
- Prevention interventions are not only very effective they are remarkably cost effective – often costing only a small fraction of the expense of the treatment. Hence the phrase, “an ounce of prevention is worth a pound of cure.”

Maximizing prevention opportunities may mean making difficult decisions about how organizations utilize their funding. Prevention services reduce costs in the long run and can provide families with services in a less stigmatized manner. The integration of the full range of family support services requires a re-conceptualization of the frame of mind as to which “prevention is applied.” According to the Centers for Disease Control, the cost of not preventing child abuse and neglect in 2001 equaled \$94 billion a year nationally. These direct costs include the utilization of the health care system, the mental health system, the child welfare system, the law enforcement, and the judicial system -- while the indirect costs include the provision of special education, mental health and health care, juvenile delinquency, lost productivity to society, and adult criminality. Therefore, prevention should be looked at as a sound investment.

What other states are doing

Oklahoma:

In 1984, the Office of Child Abuse Prevention was created in the Oklahoma Child Abuse Prevention Act. Prior to 1984, the focus of child abuse and neglect was an “after the fact” intervention, preventing the recurrence of child abuse and neglect. The act declared that the prevention of child abuse and neglect was a priority in Oklahoma. In accordance with the Act, the Office of Child Abuse Prevention was created and placed within the Oklahoma State Department of Health to emphasize the focus of prevention. The mission of the office is to promote the health and safety of children and families by reducing family violence and child abuse, including neglect, through public health education, multidisciplinary training of professionals, and funding of community-based family resource and support programs.

California:

In 1977, the Office of Child Abuse Prevention was created in California. It has been reported by the office that having a coordinated streamlined approach to prevention has worked. The office in California has a very similar mission to the Oklahoma Office.

Early History of Independent Living

When they become 18, many young adults, a great number of whom have grown up in foster care, lose the support they received while in care. Without the support of a family, they are on their own to obtain further education and preparation for employment, as well as health care, mental health care, and housing. These young adults encounter tremendous obstacles that may put their emotional, economic, and personal security at risk.

Aftercare is defined as the period of time following discharge from foster care. It is that time when young individuals who have been preparing for self-sufficiency while in care must begin to operationalize the skills they have been working to master. Aftercare services are typically defined as a system of services and resources designed for those youth who are 16-21 years of age, in post placement who are living in an independent living arrangement. Historically, aftercare services have been difficult and challenging to provide, many times because they have

been “relegated to an out-of-sight, out-of-mind status.” It is now known that aftercare services should begin while the child is still in care.¹⁰

Federal funds for independent living initiatives were first made available in the United States under the Consolidated Omnibus Budget Reconciliation Act of 1985. This act authorized funds to states to establish independent living initiatives to assist eligible youth 16 years of age and older to make the transition from foster care to independent living.¹¹ A total of 45 million dollars was authorized for the program across the nation, with state shares based on the number of children/youth in foster care. The U.S. Department of Health and Human Services, Administration for Children, Youth and Families, issued the first set of program instructions to the states in early 1987. Each state was able to determine the nature and scope of their Independent Living Program, but guidelines from the federal government provided recommended specific program components. The recommended list included services such as GED or vocational training, daily living skills, job readiness and employability skills, and assistance obtaining higher education.

John H. Chafee Foster Care Independence Program

In a further effort to increase services and strengthen state programs for teens in foster care, Congress passed the Foster Care Independence Act of 1999, which was signed into law as the John H. Chafee Foster Care Independence Program. The Chafee Program made substantial changes in federal efforts targeted toward youth and young adults up to age 21 in the foster care component of the child welfare system. The law significantly improved the ability of states to achieve the national goals of safety, permanence and well-being for youth and young adults in the child welfare system.¹² The new federal law doubled the appropriations nationally and increased Florida’s allocation substantially.

The Chafee Program legislation included provisions that:

- Required states to make services available to youth up to 21 years of age;
- Required states to serve youth younger than 16 years of age for the first time;
- Permitted states to use up to 30% of their allocation for room and board costs and services for youth ages 18-21 who leave foster care on or after 18 years of age;
- Allowed states to provide Medicaid insurance to youth 18-21 years of age who leave foster care;
- Increased the limit on youth savings accounts from \$1,000 to \$10,000 so that youth in foster care can save and still be eligible for Title IV-E foster care benefits;
- Required states to develop outcome measures to assess state performance;
- Required states to use Title IV-E funds to train adoptive/foster care parents, workers in group homes, and case managers to help them address issues confronting adolescents preparing for independent living; and
- Authorized additional funds for adoption incentive payments to states that increased the number of children adopted from foster care.

Education and Training Vouchers

In 2002, Title IV-E of the Social Security Act, related to the Foster Care Independent Living program, was again amended to provide for vouchers for education and training, including

¹⁰ See The John H. Chafee Foster Care Independence Program, Aftercare Services, The University of Oklahoma, National Resource Center for Youth Development, 2003.

¹¹ The Independent Living Program was initially authorized by Public Law 99-272, through the addition of section 477 to Title IV-E of the Social Security Act.

¹² See P.L. 106-169.

postsecondary training, and training for youths aging out of foster care.¹³ Conditions required for a state educational and training voucher program under this legislation include, but are not limited to, the following:

- Vouchers may be available to youths otherwise eligible for services under the state independent living program;
- Youths adopted from foster care after attaining age 16 may be considered to be youths otherwise eligible for services under the state program;
- States may allow youths participating in the voucher program on the date they attain 21 years of age to remain eligible until they attain 23 years of age, as long as they are enrolled in a post secondary education or training program and are making satisfactory progress toward completion of that program;
- Vouchers provided for an individual may be available for the cost of attendance at an institution of higher education¹⁴ and shall not exceed the lesser of \$5,000 per year or the total cost of attendance; and
- The amount of a voucher under this section shall be disregarded for the purposes of determining the recipient's eligibility for, or the amount of, any other federal or federally supported assistance, with some exceptions.

Florida Law

With the passage of the federal law and increased available funding, the 2002 Legislature established a new framework for Florida's independent living transition services to be provided to these older youth. Specifically provided for was a continuum of independent living transition services to enable older children who are 13 to 18 years of age and in foster care and young adults who are 18 to 23 years of age who were formerly in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Service categories established include the following:

- Pre-independent living services which include life skills training, educational field trips and conferences for children in foster care who are 13 to 15 years of age;
- Life skills services which include independent living skills training, educational support, employment training and counseling for children in foster care who are 15 to 18 years of age; and
- Subsidized independent living services which are services provided in living arrangement that allow a child who is 16 to 18 years of age to live independently of adult supervision under certain specified circumstances.

A category of services for young adults formerly in foster care was also created to provide services, based on the availability of funds, which included aftercare support services, the Road to Independence Scholarship Program, and transitional support services. In addition, young adults who are awarded a Road to Independence Scholarship are exempt from the payment of tuition and fees for state universities, community colleges, and certain postsecondary career and technical programs and retain their Medicaid eligibility.¹⁵

The Department of Children and Family Services was directed to form an Independent Living Services Integration Workgroup for the purpose of assessing the barriers to the coordination of services and supporting the youths' transition to independent living with a report to be submitted to the Legislature by December 31, 2002.¹⁶ In 2003, the Independent Living Services

¹³ See P.L. 107-133.

¹⁴ See definition in section 102 of the Higher Education Act of 1965.

¹⁵ See s. 409.1451, Florida Statutes.

¹⁶ See Chapter 2002-19, Laws of Florida.

Integration Workgroup was replaced with the Independent Living Services Workgroup.¹⁷ The representation on the workgroup remained the same with representatives from state agencies involved in service delivery to older foster children as well as representatives from the State Youth Advisory Board and foster parents. The charge to the workgroup was expanded to include assessing the implementation of the independent living transition services system, keeping the Department of Children and Families informed of the problems surfacing and successes experienced with the independent living transition services, and advising the department on strategies that would improve the ability of the system to meet its goals.

The experiences of the independent living transition services program since its inception have pointed to the importance of effective and early service delivery to meet the goals of building the youths' ability to transition to independence and self-sufficiency. However, questions continue to be raised as to whether there is adequate attention being paid to preparing youth for adulthood and independent living, whether funding is sufficient to support the increasing requests for services, whether services should be more supportive of young adults not pursuing postsecondary education, and whether there is sufficient guidance and oversight being provided to the community-based care agencies that will ensure the effectiveness of the services and ensure that the goals of the program are met. As a result of continuing concerns, the Auditor General was directed to conduct an operational audit of the program and the Office of Program Policy Analysis and Government Accountability (OPPAGA) was directed to develop minimum standards for the program.¹⁸ In addition, OPPAGA conducted another evaluation of the program in 2005.¹⁹

To date, it remains unclear whether any of the deficiencies identified in the reports have been corrected or whether the recommended minimum standards have been implemented.

Mandatory Reporting Public School Personnel

Florida law requires any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or **other person responsible for the child's welfare** to report such knowledge or suspicion to the Department of Children and Family Services' hotline as prescribed by law.²⁰

Florida law also provides that reporters in the following occupation categories are required to provide their names to the hotline staff when reporting:

- Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons.
- Health or mental health professional other than one listed above.
- Practitioner who relies solely on spiritual means for healing.
- School teacher or other school official or personnel.
- Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker.
- Law enforcement officer.
- Judge.

¹⁷ See Chapter 2003-146, Laws of Florida.

¹⁸ See Chapter 2004-362, Laws of Florida. Auditor General Report No. 2005-119 and OPPAGA Report No. 04-78, *Independent Living Minimum Standards Recommended for Children in Foster Care*, November 2004.

¹⁹ OPPAGA Report No. 05-61, *Improvements in Independent Living Services Will Better Assist State's Struggling Youth*, December 2005.

²⁰ See s. 39.201, F.S.

Other Person Responsible for a Child's Welfare

The term "other person responsible for a child's welfare" is defined as:

"...the child's legal guardian, legal custodian, or foster parent; **an employee of a private school**, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity."²¹

Failure to Report

Florida law provides that a person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.²²

Public School Personnel

Public school personnel are not currently included in the definition of "other person responsible for a child's welfare." They were removed from the definition in 1993.²³ By not being included in this definition or otherwise being referenced in s. 39.201, F.S., persons knowing or having reasonable cause to suspect that a child is being abused by a public school employee are not required to make a report to the central abuse hotline. Likewise, persons who have such knowledge or suspicion that abuse by a public school employee has occurred and does not report it, cannot be prosecuted for failure to report under s. 39.205, F.S. (*State of Florida vs. Meyers*, 9th Judicial Circuit, 2004, Case No. 03-MM-001038).

Boarding Schools

A "boarding school" is defined as:

"...a school which is registered with the Department of Education as a school. Its program must follow established school schedules, with holiday breaks and summer recesses in accordance with other public and private school programs. The children in residence must customarily return to their family homes or legal guardians during school breaks and must not be in residence year-round, except that this provision does not apply to foreign students. The parents of these children retain custody and planning and financial responsibility."²⁴

A small military school in Fort Lauderdale, Florida closed during the summer of 2005 as a result of allegations that students were being abused. During the course of the investigation by Broward County law enforcement, it was determined that boarding schools are exempt from regulation by both the Department of Children and Family Services and the Department of Education:

²¹ See s. 39.01(47), F.S.

²² See s. 39.205, F.S.

²³ See Chapter 93-25, Laws of Florida.

²⁴ See s. 409.175, F.S.

- A person, family foster home, or residential child-caring agency shall not receive a child for continuing full-time care or custody unless such person, home, or agency has first procured a license from the department to provide such care.

This license requirement does not apply to boarding schools, recreation and summer camps, nursing homes, hospitals, or to persons who care for children of friends or neighbors in their homes for periods not to exceed 90 days or to persons who have received a child for adoption from a licensed child-placing agency.²⁵

- It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions, but to create a database where current information may be obtained relative to the educational institutions in this state coming within the provisions of this section as a service to the public, to governmental agencies, and to other interested parties. It is not the intent of the Legislature to regulate, control, or monitor, expressly or implicitly, churches, their ministries, or religious instruction, freedoms, or rites. It is the intent of the Legislature that the annual submission of the database survey by a school shall not be used by that school to imply approval or accreditation by the Department of Education.²⁶

Statewide and Local Advocacy Councils

The Statewide Advocacy Council (SAC) and Local Advocacy Councils (LAC) (collectively, the “SAC”) was created to serve as a volunteer network of councils that undertake to discover, monitor, and investigate the presence of conditions that constitute a threat to the rights, health, safety or welfare of persons who receive services from state agencies. The SAC is entitled to serve as an independent, third-party mechanism for protecting the constitutional and human rights of “clients” by entering into Interagency Agreements with agencies providing “client services” as defined under s. 402.164(2)(c), F.S. “Clients” are strictly limited under the statute to certain individuals receiving particular services at four state agencies: the Agency for Persons with Disabilities (APD), the Department of Children and Families (DCF), the Agency for Health Care Administration (AHCA), and the Department of Elder Affairs (DOEA).

Interagency Agreements²⁷ are written to address the coordination of efforts and identify the roles and responsibilities of the SAC and each agency in fulfillment of their responsibilities, including access to records. For these agencies, the SAC may:

- (1) Monitor by site visit and through access to records the delivery and use of services, programs or facilities, in order to prevent the abuse or deprivation of rights;
- (2) Receive, investigate, and resolve reports of abuse or deprivation referred to the council; and
- (3) Review existing, new or revised programs of agencies and make recommendations based on how “clients” are affected.

Access to Records

With a few exceptions described below, s. 402.165(2), F.S., provides that the SAC may have access to all client records, files, and reports from any person, service, or facility that is operated, funded, or contracted by the agencies above. The SAC is further permitted to records that are considered “material to investigation” from agencies that do not provide “client services”

²⁵ See s. 409.175, F.S.

²⁶ See s. 1002.42(2)(h), F.S.

²⁷ Interagency Agreements are described in s. 402.165(7)(j), F.S.

to “clients;”²⁸ however, the SAC is not expressly entitled to form interagency agreements or receive records from these agencies.

The SAC’s access to “client” records at “client services” agencies has been limited by the Legislature where:²⁹

- (1) Investigation or monitoring would impede or obstruct matters under investigation by law enforcement agencies or judicial authorities;
- (2) There are federal laws and regulations that supersede state laws; and
- (3) The records belong to a private licensed practitioner who is providing services outside the state agency or facility, and whose client is competent and refuses disclosure.

Federal Regulations that Limit SAC Access to Records

Section 402.165(8)(a)2., F.S., limits the SAC’s access to information where such information is protected by superseding federal law. The Social Security Act (SSA) and the Health Insurance Portability and Accountability Act (HIPAA) are examples of two such federal laws. As federal Medicaid law, the SSA makes confidential certain information such as names and addresses, medical services provided, social and economic conditions, agency evaluation of personal information, medical data, income eligibility information, etc., as provided in 42 C.F.R. 431.305. To obtain Medicaid recipient information:

- (1) Disclosure must be directly related to the administration of the state Medicaid plan.
 - Example: The SAC may request to see medical records of a foster child who receives Medicaid to determine if the child is actually receiving the medical services covered under the plan.
- (2) The recipient must give permission for the disclosure.
- (3) The disclosing entity must restrict access to persons who are subject to comparable standards of confidentiality.
 - This presents some difficulty in some cases where the SAC requests access to mass data records for volunteer members to handle on unsecured home computers.

HIPAA further prohibits disclosure of a patient’s personal health information (“PHI”) without the consent of the patient. There are several exceptions to these requirements. One exception is disclosure of PHI to a “health oversight agency” (HOA) performing “health oversight activities.” A HOA is defined as:³⁰

“...an agency or authority of the United States, a State, a territory, a political subdivision of a State or such public agency, including employees or agents of such public agency or its contracts or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.”

²⁸ Agencies that do not provide “client services” to “clients” include the Department of Education (DOE), the Department of Health (DOH), the Department of Corrections (DOC), and the Department of Juvenile Justice (DJJ).

²⁹ Sections 402.165(8)(a)2. and 402.166(8)(a), F.S.

³⁰ 45 C.F.R. s. 164.051.

Designation of “Health Oversight Agency”

Currently, the SAC is not a health oversight agency. According to an analysis by the Governor’s General Counsel’s Office, the SAC is not authorized by law to oversee Florida’s health care system, or to oversee government programs in which health information is necessary to determine eligibility. The common usage of the term “oversee” and the types of activities it encompasses in HIPAA imply some authority to manage or supervise. The SAC’s role is to “monitor” the delivery and use of services, programs or facilities; to make recommendations; and to receive and resolve reports of abuse. In other words, the SAC is designated to advocate, not oversee.

EFFECT OF PROPOSED CHANGES:

The Office of Child Abuse Prevention

As a result of the interim project, the public hearings, and research conducted, the Future of Florida’s Families Committee recommended that an Office of Child Abuse Prevention (office) be created for the purpose of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect. The Office of Child Abuse prevention is created within the Executive Office of the Governor, and the Governor shall appoint the director who shall be subject to confirmation by the Senate.

Before the state can fiscally increase new prevention efforts, a centralized statewide integrated service network needs to be created – similar to the Office of Drug Control housed in the Executive Office of the Governor. The purpose of this office would be to continue to address the prevention needs of this state but also to centralize a community network throughout the state to increase communication, to more efficiently deliver services, while providing easy access to the citizens of the State of Florida to those services. By bringing together all the programs in the state it should create an environment conducive to a more “Prevention Focused” state effort to better serve the children and families of Florida.

Creating an Office of Child Abuse Prevention is viewed as untangling the fragmented web of services to bring a more efficient, streamlined and accessible array of services to the families of the State of Florida. That is, layers should be removed, communication networks should be developed, prevention management should increase, and accountability should be created. A centralized prevention office will lay the foundation for success in accessing prevention services for years to come.

The Director: The director’s responsibilities include the following:

- Formulate and recommend rules pertaining to the implementation of child abuse prevention efforts.
- Act as the Governor’s liaison with state agencies, other state governments, and the public and private sectors on matters that relate to child abuse prevention.
- Work to secure funding.
- Develop a strategic program and funding initiative.
- Advise the Governor on child abuse trends in the state.
- Develop child abuse prevention public awareness campaigns.

The Office: The office is authorized and directed to:

- Oversee the preparation and the implementation of a state plan and revise and update the plan as necessary.

- Conduct or provide for continuing professional education and training in the prevention of child abuse and neglect.
- Work to secure funding.
- Make recommendations pertaining to agreements or contracts towards child abuse and neglect for the establishment of programs and services, training programs, and multidisciplinary and discipline-specific training programs for professionals.
- Monitor, evaluate, and review the development and quality of local and statewide services and programs for the prevention of child abuse and neglect and distribute and publish an annual report of its findings before January 1 of each year.

The office shall develop a state plan for the prevention of child abuse, abandonment, and neglect of children. Appropriate state and local agencies and organizations shall be provided an opportunity to participate in the development of the state plan.

The office shall establish a Child Abuse Prevention Advisory Council, which will be composed of representatives from each appropriate state agency and appropriate local agencies and organizations. The Advisory Council will replace the Interprogram Task Force that is in current law and shall serve as the research arm of the office. Some of its responsibilities include:

- Assisting in developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse.
- Assisting in providing a basic format to be utilized by districts in the preparation of local plans of action.
- Assisting in examining the local plans.
- Assisting in the preparing the state plan.
- At least biennially, the office shall review the state plan and make necessary revisions based on changing needs and program evaluation results.

Conduct a feasibility study on the establishment of a Children's Cabinet: The office shall conduct a feasibility study on the establishment of a Children's Cabinet. Several states, including Alaska, Arizona, Louisiana, Maine, New Jersey, New Mexico, Pennsylvania, Rhode Island, Tennessee, and West Virginia have Children's Cabinets. There are number of ways they can be set up, implemented and funded. According to the National Governors Association, important factors in determining the success of a Children's Cabinet are proper planning, support, and developing a proper mission to meet the needs of the state.

District Plans: Each district of the Department of Children and Families (DCF) shall develop a plan for its specific geographical region. The plan shall be submitted to the advisory council. In order to accomplish the development of the plan, the office shall establish a task force on the prevention of child abuse, abandonment, and neglect. The office shall appoint the members of the task force.

Evaluation: By February 1, 2009, the Legislature shall evaluate the office and determine whether it should continue to be housed in the Executive Office of the Governor or transferred to a state agency.

Independent Living

The bill amends s. 409.1451, Florida Statutes, related to independent living transition services, to include a number of new provisions. Specifically, the bill:

- Makes young adults who were placed with a court-approved nonrelative or guardian after reaching age 16 and have spent a minimum of 6 months in foster care to be eligible to be provided with independent living transition services;

- Requires the development of a plan by each community-based care service area to be submitted to the department;
- Provides for the direct deposit of RTI funds to the recipient with exceptions;
- Requires the development of a joint transition agreement and provides for access to a grievance process;
- Provides for community-based care lead agencies to purchase housing and other services in order to take advantage of economies of scale; and
- Provides for the expansion of Kidcare coverage for eligible young adults until age 20.

Additionally, the bill amends s.1009.25, Florida Statutes, to require that certain educational fee exemptions be granted to those individuals who, after spending at least 6 months in the custody of DCF after reaching age 16, were placed in a guardianship by the court.

Public School Personnel

The bill adds public school employees back into the definition of “other person responsible for a child’s welfare.” This makes public school personnel subject to the reporting requirements of Chapter 39, F.S.

Boarding Schools

The bill requires boarding schools to be accredited by either the Florida Council of Independent Schools or the Southern Association of Colleges and Schools and the Council on Accreditation. It also provides that a boarding school currently in existence or opening and seeking accreditation has three years to comply with the provisions of the bill. The bill provides sanctions for those schools not in compliance by failing to provide evidence of accreditation, documentation of an ongoing accreditation process or registration with the Department of Education.

Statewide and Local Advocacy Councils (SAC)

The bill adds language intended to resolve obstacles faced by the SAC in obtaining “client” records in those cases where information is entitled to them. The amended language restates the intent of the Legislature to use citizen volunteers as members of the SAC “to discover, monitor, investigate, and determine the presence of conditions or individuals that constitute a threat to the rights, health, safety, or welfare of persons who receive services from state agencies.” The bill clarify that it is further the intent of the Legislature that certain state agencies cooperate with the SAC to provide access to necessary client records.

The bill strengthens the ability of the SAC, and particularly the local councils, to monitor, investigate and resolve claims of abuse and neglect. The bill accomplishes this through the following provisions:

- (1) Encourages the Governor to give priority consideration to an individual with expertise in research design, statistical analysis, and/or agency evaluation in the selection of an executive director.
- (2) Provides that for all self-generated complaints the SAC shall develop written protocol to provide the Governor’s Office including the nature of the abuse or neglect, the agencies involved, additional information, and a strategy for approaching the problem.
- (3) Reduces the number of meeting requirements from six times per year to one time per year; and maintains the option for the SAC to hold additional meetings at the call of the Governor, or by written request of a specified number of members including the executive director.
- (4) Specifies the information contained in the interagency agreements between the SAC and state agencies, and to require that agreements are completed and reported to the Governor annually by no later than February 1 each year.

C. SECTION DIRECTORY:

Section 1: Amends s. 39.001, F.S., revising legislative purposes and intent of the chapter to include child abuse prevention; creates the Office of Child Abuse Prevention.

Section 2: Amends s. 39.0014, F.S., requiring all public agencies to cooperate and provide information to the Office of Child Abuse Prevention to meet its responsibilities.

Section 3: Amends s. 39.0015, F.S., revising the definition of “child abuse.”

Section 4: Amends s. 39.01, F.S., adding definition of “office” and revising definitions of “other person responsible for a child’s welfare.”

Section 5: Amends s. 39.202, F.S., providing access to records for agencies that provide early intervention and prevention services.

Section 6: Amends s. 39.302, F.S., providing a cross-reference.

Section 7: Amends s. 402.164, F.S., establishing legislative intent for the statewide and local advocacy councils.

Section 8: Amends s. 402.165, F.S., providing guidelines for selection of the executive director of the Florida Statewide Advocacy Council, establishing a process for investigating reports of abuse, revising council meeting requirements, providing requirements for interagency agreements, and requiring interagency agreement to be renewed annually and submitted to the Governor by a specified date.

Section 9: Amends s. 409.1451, F.S., revising duties of the department regarding independent living transition services.

Section 10: Amends s. 409.175, F.S., revising the definition of “boarding school” to require such schools to meet certain standards within a specified timeframe.

Sections 11 and 12: Amend ss. 39.013 and 39.701, F.S., conforming references to changes made in the act.

Section 13: Amends s. 1009.25, F.S., providing for fee exemption for eligible students.

Section 14: Provides that the act shall take effect July 1, 2006, only if a specific appropriation to fund the provisions of the bill is made in the General Appropriations Act for Fiscal Year 2006-2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The state will earn \$3,994,766 in Title XIX (Medicaid) funds for the expansion of health care coverage for young adults formerly in foster care up to their 20th birthday.

2. Expenditures:

See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments section.

D. FISCAL COMMENTS:

The Department of Children and Family Services provided the following Fiscal Comments on the Office of Child Abuse Prevention:

- The creation of this new office per the proposed bill language will require new appropriations. Three staff positions are needed to carry out the oversight, monitoring and analysis of the Prevention activities: Administration Director, Senior Management Analyst and an Administrative Assistant II. There will be a recurring budget need of **\$228,180** for Salaries, Expense and Human Resources; and a non-recurring budget need of **\$15,377** for Expense and Operating Capital Outlay. The salary numbers reflect a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

The Department of Children and Family Services provided the following Fiscal Comments on the Independent Living sections of the bill:

Expansion of the foster care population eligible to receive independent living transition services:

- An ad hoc report provided by the department's data staff indicates that 188 youth turned age 18 during FY04/05 who were in an unlicensed setting for at least 6 months and placed at age 16 or after. Approximately 50% of the total number of young adults exiting foster care received services from the RTI scholarship services, transitional support services, and/or aftercare support services.
- If the equivalent percentage of young adults who age out of unlicensed placements, as mentioned above, became eligible for the Road to Independence Program award, the additional participants would equal $188 \times .50 = 94$. The maximum amount of funding that each young adult could receive per year through the Road to Independence Program is \$5,000. The 94 additional participants would be potentially eligible for services until their 23rd birthday.
- Estimated costs per year to fund additional participants: 94 times \$5,000 equals \$470,000 x 5 years of participants (18, 19, 20, 21 and 22 year olds) not yet 23 years of age equals a total of **\$2,350,000** per year.

Increase in Casework Staff for Expanded Population:

- A reasonable number of casework staff would be required in order to determine eligibility for services, provide outreach, and provide case management. A 1:20 caseload ratio would be reasonable to provide these services for young adults. As assumed previously, an additional 94 young adults may be served with young adult services each year until age 23. Ninety-four young adults times 5 years equals 470 recipients divided by 20 = 23.5 additional staff needed. Supervisory staff will also be needed at a 6 to 1 ratio for a total of 4 additional supervisors.

- 23.5 caseworkers at \$44,531 per year = \$1,046,477 for salaries. There will be a recurring budget need of **\$1,206,184** for salaries, expense and human resources; and a non-recurring budget need of **\$123,211** for expense and operating capital outlay. The salary number reflects a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.
- 2 supervisors at \$49,579 per year = \$198,316 for salaries. There will be a recurring budget need of **\$225,500** for salaries, expense and human resources; and a non-recurring budget need of **\$20,972** for expense and operating capital outlay. The salary number reflects a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

Public School Personnel - The Department of Children and Family Services estimates that it will cost the agency **\$215,404** in recurring costs for salaries, expense and human resources, and **\$20,972** in non-recurring costs for expense and Operating Capital Outlay to implement this provision of the bill.

Expansion of Kidcare Coverage-The bill expands coverage of the Kidcare program for young adults formerly in foster care up to their 20th birthday. The estimated cost of this coverage is \$2,802,522 annually in state general revenue funds. This is based on 1,523 young adults age 18 and 19. The total cost would be \$6,797,288, which includes the state general revenue funds and federal matching dollars of \$3,994,766.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is provided to the Executive Office of the Governor for creation of the Office of Child Abuse Prevention.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by the Department of Children and Family Services:

- The Florida Legislature, in 1982, in recognition of the importance of reducing maltreatment by addressing conditions that are likely to promote the prevention of abuse, mandated that the Department of Children and Families develop a statewide plan for child abuse prevention. Following the guidelines set forth in Florida statute, the Department of Children and Families established the Florida Interprogram Task Force to work at the state level and with local communities to develop a statewide plan for the prevention of child abuse, neglect and abandonment. Florida's Plan for Prevention of Child Abuse, Abandonment and Neglect: July 2005 - June 2010 was produced. Local communities also developed a local prevention of child abuse, neglect and abandonment plan.

- The Interprogram Task Force has provided technical assistance to the local planning coordinators for the development, implementation, and review of the local plans to assure implementation efforts are successful. The Interprogram Task Force provides technical assistance to the local planning coordinators, both as requested and on a monthly conference call with all state local planners.
- The Executive Committee of the Interprogram Task Force has met on a bi-monthly basis since September 2005 to assure compliance with state and local prevention plan implementation. In addition, the Task Force has seven subcommittees that meet at least monthly. The purpose of the subcommittees is to review quarterly progress reports received from the local planning teams, to provide recommendations on best practices to local planners and to assist with the development of the annual progress report to the Legislature due June 30th of each year.
- In collaboration with the Prevent Child Abuse America Florida Chapter, the Interprogram Task Force will be involved in the Prevention Month kick-off scheduled for April 4, 2006 at the State Capitol in Tallahassee. Prevent Child Abuse America Florida Chapter under contract with the Department of Children and Families provides the annual prevention campaign throughout the state. The theme this year is "Winds of Change."
- If this bill passes and creates an Office of Child Abuse Prevention within the Executive Office of the Governor, it would be replicating the responsibilities of the Department of Children and Families. A number of the proposed requirements are already being completed by the Department of Children and Families and community-based contract providers. Examples of these requirements that are already under way include:
 1. Annual reporting to the Governor, Legislatures, etc.
 2. Establishing a Child Abuse Prevention Advisory Board (this is the Interprogram Task Force).
 3. Providing statewide coordination or single state agency responsibility for oversight of these programs (the Department of Children and Families is the current agency responsible for coordination of programs).
 4. Developing a strategic program and funding initiative that links the separate jurisdictional activities of state agencies (this is planned for the future with the Executive Task Force).
 5. Developing a Child Abuse prevention public awareness campaign; this is done on a yearly basis in April (Child Abuse Prevention Month) under contract with the Ounce of Prevention.

The Office of Child Abuse Prevention may replicate efforts of the Department of Children and Families; however, the mission and purpose of the Department of Children and Family Services as stated in s. 20.19(1), F.S., is to "...work in partnership with local communities to ensure safety, well-being, and self-sufficiency of the people served, to develop a strategic plan for fulfilling its mission...to ensure that the department is accountable to the people of Florida, and to the extent allowed by law and within specific appropriations, the department shall deliver services by contract through private providers."

By having an Office of Child Abuse Prevention with its sole mission and focus towards prevention and intervention will create government efficiency:

- The current system targets all levels of child abuse: primary, secondary, and tertiary. Prevention programs are located at all levels of government and in many different state agencies. In our current system the primary focus is on "tertiary prevention," clinical services, for cases in which the child or family has experienced abuse. This is an appropriate focus because the children and their families need immediate help to deal with abuse, as is the role of the Department of Children and Family Services.

- However, the “after the fact” approach will not prevent child abuse in Florida – it may only prevent a recurrence. Primary prevention programs must not be a secondary thought if Florida wants to decrease the incidence of child abuse. In the long run, prevention reduces harm to children and increases state efficiency.

Statewide and Local Advocacy Councils (SAC)

The purpose for this section of the bill is to resolve difficulties faced by the SAC in obtaining “client” records in those cases where information may be entitled to them. It is increasingly clear that even when the SAC meets all state and federal requirements for obtaining “client” records from appropriate agencies, the SAC has been refused such records. Further, the SAC reports receiving records that have necessary information redacted from them, such as the address or name of the client for whom a report of abuse or neglect was filed. Some reasons for this include incomplete or out-of-date Interagency Agreements, or a lack of clarity on the part of both the SAC and agencies regarding what information is entitled to be shared.

Still, the SAC would need to meet other federal and state requirements before obtaining records, such as: Social Security Administration’s requirement that the disclosure of information on Medicaid patients must be relevant to the administration of the state plan, and must have the consent of the recipient; and HIPAA’s requirement that access to records is only permitted for persons with comparable standards of confidentiality.

Problems of access may be better addressed by restating the role of the SAC, clarifying the responsibilities of “client” agencies in cooperating with SAC requests, and standardizing the process through with Interagency Agreements and requests for records are generated.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 21, 2006, the bill was amended in the Fiscal Council to remove the appropriation from the bill. It was also amended to specify that the act shall take effect only if a specific appropriation to fund the provision of the bill is made in the General Appropriations Act for Fiscal Year 2006-2007.

The bill analysis is written to reflect these changes.