HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 745 Motor Vehicle Insurance for Foster Children
SPONSOR(S): Reagan and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 236

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Healthy Families		Preston	Mitchell
2) Healthcare Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

The bill requires the Department of Children and Families (DCF or the department) to establish a three-year pilot program in, DeSoto, Hillsborough, Manatee, Pasco , Pinellas, and Sarasota 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 use 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, 2008.

The bill creates an undesignated section of Florida law and goes into effect July 1, 2007.

The bill provides for a $150,000 appropriation from the General Revenue Fund to the department for implementation of the act for Fiscal Year 2007-2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill creates a three-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. It also requires the department to submit an annual report.

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 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 whole family unit.

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 have historically been 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 Issue

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), and the location of the family within the state. 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 difficult for the child to obtain his/her own personal auto insurance coverage.

In Florida, the average foster family receives from the department $515 monthly per foster child aged 13 to 18. 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 typically much higher than adding the child to the family policy.

In 2001, the Legislature enacted section 627.746, Florida Statutes, 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.[3]

Addressing the Liability Issue

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, Florida Statutes, 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.
[3] See Chapter 2001-83, L.O.F.

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), Florida Statutes, 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.

Proposed Changes

The bill creates an undesignated section within the Florida Statutes. It requires the department to establish a three-year pilot program in DeSoto, Hillsborough, Manatee, Pasco, Pinellas, and Sarasota 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 three-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. Payments are to be made to eligible persons in the order each is determined eligible until the funds are exhausted.

According to the department, some children have received inheritances that 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 $515 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, 2008, 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 three-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 $150,000 appropriation from the General Revenue Fund to the Department of Children and Family Services to implement the act in Fiscal Year 2007-2008 and specifies how the appropriation is to be allocated among the counties included in the pilot.

Section 3. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill appropriates $150,000 from the General Revenue Fund to the Department of Children and Family Services for Fiscal Year 2007-2008.

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 percent. 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 estimates that as of January 2007, the total number of foster teens in department custody (16 and 17 year olds) in the counties proposed in the pilot is:

- Sarasota County – 26
- DeSoto County – 4
- Manatee County – 23
- Pinellas County – 108
- Pasco County – 24
- Hillsborough County – 161

Total for all six counties – 346

The department also estimates that the cost of insurance per year for an average teenager in the pilot areas would be approximately $2,200 annually.

Recurring or Annualized Costs:

	FY 07/08	FY 08/09	FY 09/10
Maximum			

Number potentially eligible, ages 16-17:	346	346	346
50% estimated annual rate	$ 1,100	$ 1,100	$ 1,100
Subtotal	$ 80,600	$380,600	$380,600
Administrative cost @ 8%	$ 30,448	$ 30,448	$ 30,448
Total maximum	**$411,048**	**$411,048**	**$411,048**

Minimum	**10%**	**15%**	**20%**
Number eligible by defined criteria	35	52	69
50% estimated annual rate	$ 1,100	$ 1,100	$ 1,100
Subtotal	$ 38,500	$ 57,200	$75,900
Administrative cost @ 8%	$ 3,080	$ 4,576	$ 6,072
Total minimum	**$ 41,580**	**$ 61,776**	**$81,972**

Minimum Estimate:

Assuming during the first year of the pilot program (2007-2008), that no more than 10 percent of the total potentially eligible population would obtain their driver's license and qualify for the pilot, approximately 35 foster youth would qualify for the motor vehicle insurance reimbursement. During 2008-2009, it is expected that the number of foster youth qualifying for the pilot would increase and for purposes of this analysis it is assumed that the number would be 15 percent or 52. During 2009-2010 it is again assumed that the number would increase and this time the assumption would be 20 percent or 69 youth. These numbers are assumptions as no data exists to project the number of youth who would qualify for this pilot.

Note: In January of 2005, Sarasota YMCA staff estimated 8 percent administrative costs to address the handling of funding and other associated activities which has been included in these projections.

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:

● 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 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.

● Although not specified, the department has the option of utilizing the allocation of $150,000 to contract with a provider to design and administer the pilot as required in the bill. The local community-based care lead agency chief executive officer serving the designated counties above has expressed support for this bill and willingness to partner to accomplish the legislative intent. Close collaboration at the local level is necessary to ensure success of the pilot.

● Lines 50-51 of the bill, provide for "encouraging" youth in foster care to pay for half of the insurance cost increase. The department has commented that “encouraging” is a fairly vague word and could mean different things to different people. While some youth will be able to earn or acquire the funds, others will struggle depending on their individual circumstances. The inability of youth to obtain funding for insurance payments has the potential to cause tension with foster parents or residential facility caregivers. This may inadvertently result in stress on the placement and perhaps even contribute to disruptions.

● Lines 59-63 of the bill require the use of "other available options for funding". It is unclear whether these funds are to be used to cover the child's portion or the caregiver portion. Youth in foster care without funding sources (such as Social Security, master trust or child support payments) may be at a disadvantage.

● Lines 71-977 of the bill, provide for the sum of $150,000 to be appropriated for the purpose of implementing this act during the 2007-2008 fiscal year. Clarification is needed regarding the funding for the remaining two years of the pilot. The total minimum estimate for all three years of the pilot is approximately $185,000.

D. STATEMENT OF THE SPONSOR

No response submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES