

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1271 Care of Children  
**SPONSOR(S):** Thompson  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 2644

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Committee on Healthy Families</u>	<u>8 Y, 0 N</u>	<u>Preston</u>	<u>Schoolfield</u>
2) <u>Healthcare Council</u>	<u></u>	<u>Preston/Massengale</u>	<u>Gormley</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
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**SUMMARY ANALYSIS**

The bill creates an additional program office within the Department of Children and Family Services (DCF or department) to be called the "Office of Grandparents' Liaison". The bill also adds physicians engaged in the care or treatment of a child to the list of entities that may have access to reports and records in cases of child abuse or neglect and it provides for specified medical records to be preserved in permanent form by the department.

The bill is anticipated to have a \$76,009 fiscal impact on the department for FY 2008-2009.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill requires the department to establish a new program office.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Departmental Organization**

The department is authorized to establish program offices and support offices, each of which is headed by a director or other management position. Those positions are appointed by and serve at the pleasure of the secretary.<sup>1</sup> Program offices and support offices may be consolidated, restructured, or rearranged by the secretary, in consultation with the Executive Office of the Governor, provided that the department remains capable of meeting functions and activities and achieving outcomes as required in state and federal laws, rules, and regulations.<sup>2</sup> Currently, the department has eight program offices:

- Adult Services.
- Child Care Services.
- Domestic Violence.
- Economic Self-Sufficiency Services.
- Family Safety.
- Mental Health.
- Refugee Services.
- Substance Abuse.<sup>3</sup>

Issues related to all relative caregivers, including grandparents, are handled within the Office of Family Safety. The Office of Family Safety also has a designated Out of Home Care specialist, as well as a program liaison for the University of South Florida's Kinship Care Program contract. The Kinship Care Program provides statewide technical assistance and resources for relatives serving as caregivers for children.

The bill provides for the establishment of a new program office to be called the Office of Grandparents' Liaison.

##### **Confidentiality of Records**

In order to protect the rights of children and their parents or other persons responsible for the child's welfare, all records in the possession of the department relating to reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, are confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by chapter 39, Florida Statutes.<sup>4</sup>

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<sup>1</sup> See s. 20.19(4)(a), Florida Statutes.

<sup>2</sup> See s. 20.19(c), Florida Statutes.

<sup>3</sup> See s. 20.19(4)(b), Florida Statutes.

<sup>4</sup> See s. 39.202(1), Florida Statutes.

With the exception of children who are missing, access to such records, excluding the name of the reporter, may be granted to a specified listed of entities, including, but not limited to, employees of the department, the Department of Health, the Agency for Persons with Disabilities, criminal justice agencies, a court, a grand jury, and the principal of a school.<sup>5</sup> Information necessary for the diagnosis and treatment of a child may also be released to professional persons.<sup>6</sup>

The bill adds physicians engaged in the care and treatment of the child to the list of entities that may have access to these records.

### **Medical Records**

Currently, any person required to investigate cases of suspected child abuse, abandonment, or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. Any child protection team that examines a child who is the subject of a report must take, or cause to be taken, photographs of any areas of trauma visible on the child. Photographs of physical abuse injuries are required to be provided to the department for inclusion in the investigative file and shall become part of that file. Photographs of sexual abuse trauma are required to be made part of the child protection team medical record.<sup>7</sup>

In addition, under certain circumstances a child may be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents or legal custodian. An examination may be performed by any licensed physician or an advanced registered nurse practitioner licensed pursuant to part I of chapter 464. If a licensed physician or advanced registered nurse practitioner has reasonable cause to suspect that an injury was the result of child abuse, abandonment, or neglect he or she may authorize a radiological examination to be performed on the child without the consent of the child's parent or legal custodian.<sup>8</sup>

Any facility licensed under chapter 395 is required to provide to the department, its agent, or a child protection team that contracts with the department any photograph or report on examinations made or X rays taken for the purpose of investigation or assessment of cases of abuse, abandonment, neglect, or exploitation of children.<sup>9</sup> Any photographs or report on examinations made or X rays are required to be sent to the department as soon as possible.<sup>10</sup>

The bill provides a requirement that photographs, reports on examinations, and X rays shall be preserved in a permanent form in records held by the department. This provision codifies current practice.

### **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 20.19, Florida Statutes, relating to the Department of Children and Family Services.

**Section 2.** Amends s. 39.202, Florida Statutes, relating to confidentiality of reports and records in cases of child abuse and neglect.

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<sup>5</sup> See s. 39.202(2), Florida Statutes.

<sup>6</sup> See s. 39.202(3), Florida Statutes.

<sup>7</sup> See s. 39.304(1), Florida Statutes.

<sup>8</sup> See s. 39.304(2), Florida Statutes.

<sup>9</sup> See s. 39.304(3), Florida Statutes.

<sup>10</sup> See s. 39.304(4), Florida Statutes.

**Section 3.** Amends s. 39.304, Florida Statutes, relating to photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected children.

**Section 4.** Provides for an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The department estimates it will cost \$76,009 to establish the new program office for FY 2008-2009. Since the office was not assigned any responsibilities or workload, this estimate is based on salary and benefits for one Senior Management Analyst position. It also includes non-recurring first-year start-up costs of \$3,388.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## 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.

D. STATEMENT OF THE SPONSOR

The provision in the bill establishing a program office to be called the Office of Grandparents Liaison will be amended out in order to eliminate the fiscal impact of the bill on the Department of Children and Family Services.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 18, 2008, the Committee on Healthy Families adopted an amendment that designates the first Sunday after Labor Day as “Grandparents and Family Caregivers” Recognition Day in the State of Florida.