

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
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>18 Y, 0 N, As CS</u>	<u>Preston/Massengale</u>	<u>Gormley</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Portions of the bill may be cited as the “Zahid Jones Give Relatives a Voice Act” and the bill makes a number of changes to chapter 39, Florida Statutes, in order to give grandparents and other relatives caring for children a greater chance of voicing concerns, including, but not limited to:

- Adds a component to the Department of Children and Family Services’ (DCF or department) quality assurance program related to unaccepted calls to the Hotline by identified relatives;
- Provides that a relative may request to receive notification of all proceedings and hearings related to a child;
- Provides that the attorney for DCF shall provide notification to a relative who so requests;
- Provides an addition to the legislative intent relating to the relative caregiver program regarding procedures and protocols to acknowledge the value of care provided by grandparents and other relatives;
- Provides the department with authority to develop liaison functions under the relative caregiver program for relatives who care for children;
- Requires the attorney for DCF to notify a relative who has requested such notification of the next judicial review hearing; and
- Adds physicians and mental health professionals 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.

In addition, the bill designates the first Sunday after Labor Day as “Grandparents’ and Family Caregiver’s” Day.

The bill is not anticipated to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

Empower families – The bill provides increased opportunities for family members to voice concerns and be involved in proceedings and hearings related to children that they provide care for.

B. EFFECT OF PROPOSED CHANGES:

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.¹

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.² Information necessary for the diagnosis and treatment of a child may also be released to professional persons.³

The bill adds physicians and licensed mental health professionals 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.⁴

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.⁵

¹ See s. 39.202(1), Florida Statutes.

² See. s. 39.202(2), Florida Statutes.

³ See s. 39.202(3), Florida Statutes.

⁴ See s. 39.304(1), Florida Statutes.

⁵ See s. 39.304(2), Florida Statutes.

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.⁶ Any photographs or report on examinations made or X rays are required to be sent to the department as soon as possible.⁷

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.

In addition, the bill amends a number of sections of chapter 39, Florida Statutes, relating to dependent children, to ensure that grandparents and other relatives caring for children have an increased opportunity to participate in proceedings and hearings related to those children, including being able to receive notification of those proceedings.

The bill also provides that the first Sunday after Labor Day is designated as “Grandparents’ and Family Caregiver’s” Day.

C. SECTION DIRECTORY:

Section 1. Provides a short title for portions of the bill.

Section 2. Amends s. 39.201, Florida Statutes, relating to mandatory reports of child abuse, abandonment, or neglect and the central abuse hotline.

Section 3. Amends s. 39.202, Florida Statutes, relating to confidentiality of reports and records in cases of child abuse and neglect.

Section 4. Amends s. 39.301, Florida Statutes, relating to the initiation of protective investigations.

Section 5. Amends s. 39.304, Florida Statutes, relating to photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected children.

Section 6. Amends s. 39.402, Florida Statutes, relating to placement in a shelter.

Section 7. Amends s. 39.502, Florida Statutes, relating to notice, process, and service.

Section 8. Amends s. 39.506, Florida Statutes, relating to arraignment hearings.

Section 9. Amends s. 39.5085, Florida Statutes, relating to the relative caregiver program.

Section 10. Amends s. 39.6011, Florida Statutes, relating to case plan development.

Section 11. Amends s. 39.701, Florida Statutes, relating to judicial review.

Section 12. Amends s. 683.10, relating to Grandmother’s Day.

Section 13. Provides for an effective date of July 1, 2008.

⁶ See s. 39.304(3), Florida Statutes.

⁷ See s. 39.304(4), Florida Statutes.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

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.

On April 1, 2008, the Healthcare Council adopted a strike all amendment to the bill that makes numerous changes to chapter 30, Florida Statutes, in order to provide grandparents and other relatives who care for children increased opportunities to participate in proceedings and hearings related to those children.

The bill was reported favorable as amended as a Council Substitute and the analysis reflects the substance of the amendment.