

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7081 PCB GAAC 10-01 Sunset Review, Dept. of Children and Family Services

SPONSOR(S): Government Accountability Act Council

TIED BILLS: _____ **IDEN./SIM. BILLS:** _____

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Government Accountability Act Council	15 Y, 0 N	Mahler	Mahler
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

The Government Accountability Act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten-year schedule. If the Legislature does not take action, the agency will continue to be subject to an annual sunset review each year until the Legislature enacts legislation that continues, modifies, or terminates the agency. The Department of Children and Families is scheduled to be reviewed by July 1, 2010.

The Proposed Council Bill reenacts the Department of Children and Family Services (DCF) with the following changes:

- Renames “Department of Children and Family Services” to “Department of Children and Families;”
- Codifies in statute the reorganization plans of the department that were developed in response to a 2007 legislative directive;
- Deletes the mission and purpose statement of the department in statute;
- Requires the appointment of the Assistant Secretary for Substance Abuse and Mental Health
- Integrates the substance abuse and mental health programs into the department;
- Allows the secretary to establish assistant secretary positions as necessary;
- Provides for certain program offices to be established and adds Homelessness as a program office;
- Changes the sub-state structure of the department by eliminating service districts and providing that services will be delivered through operating units known as circuits, which must be aligned with judicial circuits;
- Provides for the establishment of regions to provide administrative, management, and infrastructure support to the circuits operating within the region and allows the secretary to appoint a circuit administrator and region director for each circuit and region;
- Requires the department to establish a community alliances or partnership when requested by a county government. When established, the alliance membership must reflect the community and members are to be subject to ethics law and other restrictions;
- Provides additional purposes and legislative intent regarding the implementation of a unified family court program in the circuit courts;
- Extends the expiration date of the Substance Abuse and Mental Health Corporation to 2015;
- Eliminates the Family Builders Program;
- Eliminates the Behavioral Health Services Integration Workgroup;
- Allows the department to contract with local governments to license family day care homes;
- Requires local governments to bear the cost of licensing family day care homes when the requirement for licensure is mandated by local ordinance.

The bill has an indeterminate fiscal impact.

This bill provides an effective date of July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7081.gaac.doc

DATE: 3/4/2010

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Overview

Sections 11.901-11.920, F.S., the "Florida Government Accountability Act," creates an agency sunset review process to determine if a public need exists for the continuation of a state agency, its advisory committees, or its programs. The act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten-year schedule. If the Legislature does not take action before the review date to reenact the agency or its advisory committees, the agency will continue to be subject to an annual sunset review until the Legislature enacts legislation relating to the agency's abolition, continuation, or reorganization.

Sunset Review Process

The act requires the appointment of a Joint Legislative Sunset Committee to oversee the review process, obtain public input, and make recommendations to abolish, continue, or reorganize the agency under review.

Two reports are required prior to an agency's review date:

- No later than two years preceding the year in which an agency and its advisory committees are scheduled to be reviewed, the agency must provide the Legislature with a preliminary report detailing its programs and activities. Upon receipt of the agency's report, the sunset review committees of the Senate and House of Representatives are required to conduct independent reviews of the agency and its advisory committees. The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General are required to assist the Senate and House of Representatives in the review process.
- No later than March 1 of the year in which an agency is scheduled to be reviewed, the sunset committees of the Senate and House of Representatives are required to provide the President of the Senate and Speaker of the House of Representatives with recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees, and on the need for the performance of the functions of the agency and its advisory committees.

After reviewing DCF's sunset report, the Senate Committee on Children, Families, and Elder Affairs, in coordination with the House sunset committees, directed OPPAGA to research a number of issues identified during the review process. Below is a listing of the OPPAGA research memorandums that were reviewed by the Government Accountability Act Council.

DCF Advisory Committee Assessment

- Reviewed advisory committees to determine if the committees should continue, be modified, or abolished.

Statewide Advocacy Council

- Examined the advantages and disadvantages of continuing, eliminating, or transferring the Statewide Advocacy Council.

APD's Administrative Support

- Reviewed DCF's administrative support for the Agency for Persons with Disabilities to determine whether APD should become self-sufficient.

Child Care Regulation

- Evaluated the duplication among regulating agencies and assessed the advantages and disadvantages of consolidating the regulation of Child Care Services within one state or local entity.

Medicaid Waiver Program

- Reviewed the Aged and Disabled Adult (ADA) Home and Community-Based Services Waiver Program administered by DCF and the Department of Elder Affairs.

Commission on Marriage and Family Support Initiatives

- Assessed the performance of the Commission.

Child Abuse Prevention Program

- Examined whether duplication exists between the Department of Health's and DCF's child abuse prevention programs.

Family Builders Program

- Evaluated the need for the continuation of the Family Builders program.

Children's Legal Services

- Reviewed the implementation and performance of the newly restructured Children's Legal Services.

Eligibility Determinations

- Reviewed whether the financial eligibility determinations made by state agencies for various health and human services programs are duplicative of those made by DCF.

Child Protective Investigations

- Compared the child protective investigations conducted by the sheriff's offices with those conducted by the department.

Office of Adoption and Child Protection

- Reviewed the functions of the Office of Adoption and Child Protection and determine if those functions would be better consolidated within the department.

Agency Background

The Department of Children and Family Services (DCF) is created in section 20.19, Florida Statutes. The statutory mission of DCF is "to work in partnership with local communities to ensure the safety, well-being, and self-sufficiency of the people served." The head of DCF is the Secretary appointed by the Governor, subject to confirmation by the Senate. The Secretary is directed to appoint the following positions:

- Deputy Secretary;
- Assistant Secretary for Substance Abuse and Mental Health;
- Program Directors for Mental Health¹ and Program Director for Substance Abuse who have direct line authority over district mental health and substance abuse staff;
- Program directors for the management, policy, program, and fiscal functions of DCF; and
- District administrators for each of the service districts.

¹ s. 20.19, F.S., provides that mental health institutions shall report to the Program Director for Mental Health.

DCF is authorized to establish program and support offices as follows:

- Adult Services;
- Child Care Services;
- Domestic Violence;
- Economic Self-Sufficiency Services;
- Family Safety;
- Mental Health;
- Refugee Services; and
- Substance Abuse.

Florida Statutes direct DCF to plan and administer programs through 15 service districts and specified sub-districts. In addition, the law provides DCF the authority to consolidate management of certain judicial circuits into a prototype region. In accordance, DCF created the Suncoast Region.

Legislative Direction for Reorganization

The 2007 Legislature directed DCF to begin the process of reorganization subject to further legislative review and approval.² This legislation recognized the need for modifications to improve efficiency and effectiveness and specified that the modifications shall not impede the scheduled sunset review process for DCF. The 2007 legislation directed that the reorganization:

- Shall integrate substance abuse and mental health programs into the overall DCF structure and priorities.
- May plan for realignment of DCF districts to conform to judicial circuits.
- May phase in organizational changes to ensure children are not adversely affected.
- May establish community partnerships with DCF at the request of local communities.
- Provide the DCF Secretary with the discretion to establish advisory groups at the state level as necessary.

The community partnerships and advisory group members are to be subject to the code of ethics for Public Officers and Employees,³ and other specified meeting and travel requirements. The legislation also authorized DCF to begin using the name Department of Children and Families instead of Department of Children and Family Services as specified in s. 20.19, F.S. Finally, the legislation directed DCF to prepare a detailed report concerning the reorganization. The report to the Legislature was completed on January 1, 2008. Chapter 2007-174, L.O.F.

Effects of the bill:

The Proposed Council Bill re-enacts the Department of Children and Family Services and places in statute the reorganization plans already accomplished by DCF in response to direction given in Chapter 2007-174, L.O.F.

Department Reorganization

- Renames the “Department of Children and Family Services” to “Department of Children and Families;”
- Deletes the “Mission and Purpose” section of the statute;
- Deletes the requirement for the Secretary to appoint Program Directors for Mental Health and Substance Abuse, and deletes their statutory responsibilities, including but not limited to line authority over district staff;
- Deletes the directive for the Assistant Secretary for Mental Health and Substance Abuse to have direct authority over Mental Health Institutions;

² Chapter 2007-174, L.O.F.

³ Part III, chapter 112, F.S.

- Provides for the appointment of Assistant Secretary positions as necessary and requires the appointment of the Assistant Secretary for Substance Abuse and Mental Health;
- Provides that DCF is authorized to establish certain program offices and adds Homelessness as a program office, each headed by a program director;
- Deletes the requirement for the Governor to appoint the executive director of the State Office of Homelessness;
- Amends the current law changing *service districts* to *operating units* and provides that DCF will administer programs through operating units which must conform to the geographic boundaries of judicial circuits prescribed in s. 26.021, F.S., and provides for the combining of judicial circuits among operating units;
- Provides for the establishment of an unspecified number of regions to oversee one or more circuits;
- Provides that the Secretary may appoint a circuit administrator for each circuit and may appoint a region director for each region;
- Deletes the prototype region structure in current law, s. 20.19(7), F.S.;
- Deletes the requirement each fiscal year to develop projections of the number of child abuse cases and include in the department's legislative budget request a specific appropriation for an adequate number of child protective investigators and caseworkers;

Community Alliance

- Requires DCF to establish a community alliance or partnership when requested by a county government;
- Provides the department with discretion, in the absence of a county request, on the establishment of community alliances/partnerships, and provides for their duties;
- Deletes the specification of initial membership of a community alliance in s. 20.19(6)(d), F.S., and replaces it with a more general description of the organizations who should be included in the alliance and requires membership to reflect the diversity of the community;
- Deletes a prohibition for members who receive contractual payment for services from DCF or a community-based care lead agency;
- Retains current law, s. 20.19(6)(g)-(k), F.S., providing for alliances and partnership members to be reimbursed for certain expenses, subject to ethics provisions, and financial disclosures and provides that meetings are open to the public and public records provisions in statute. Further, actions taken by alliance meetings must be consistent with DCF policies and state and federal laws;
- Retains current law, s. 20.19(8), F.S., requiring consultation with counties on mandated programs;
- Deletes the requirement that divisions or offices for DCF can only be established by specific statutory enactment;
- Deletes obsolete language in s. 20.19(9) F.S., which exempts from competitive bids health services involving examination, diagnosis, or treatment;

Unified Family Court

In 2005, the Legislature implemented recommendations by the Florida Supreme Court related to the operation of a unified family court system. These recommendations were to:

- Allow the court system to create a unique identifier to identify all court cases related to the same family.
- Provide that specified orders entered in dependency court take precedence over court orders entered in other civil proceedings.
- Provide that final orders and evidence admitted in dependency actions are admissible in evidence in subsequent civil proceedings under certain circumstances.

This section of the bill provides additional purposes and legislative intent regarding the implementation of a unified family court program in the circuit courts. These additional purposes are added to chapter 39, F.S., pertaining to proceedings relating to children.

The additional purposes and legislative intent include:

- To provide all children and families with a fully integrated, comprehensive approach to handling all cases that involve children and families, while at the same time resolving family disputes in a fair, timely, efficient, and cost-effective manner;
- That the courts embrace methods of resolving disputes that do not cause additional emotional harm to the children and families who are required to interact with the judicial system;
- To support the development of a unified family court and to support the state courts system's efforts to improve the resolution of disputes involving children and families through a fully integrated, comprehensive approach;
- To focus on the needs of children who are involved in the litigation, refer families to resources that will make their relationships stronger, coordinate their cases to provide consistent results, and strive to leave families in better condition than when they entered the system.

Family Day Care Homes

Currently, s. 402.313(1), F.S., permits a county through resolution to require the licensure of family day care homes. If a county passes a local ordinance under this section, and is not a local licensing authority, the department licenses the family day care homes and bears the costs, s. 402.315(2), F.S. The bill makes the following changes to this section of law:

- Removes obsolete provisions regarding subsidized child care programs, s. 402.313(1) F.S.
- Clarifies that department may contract with a county for the licensure of family day care homes, if no county licensing authority exists, s.402.313(1) F.S.
- Requires the county, not the department, to bear the cost for licensure, when the licensure requirement is due to a local ordinance, s.402.315(2) F.S.

In addition to the provisions outlined above, the bill also:

- Extends the expiration date of the Substance Abuse and Mental Health Corporation from 2011 to 2015;
- Eliminates the Family Builders Program;
- Eliminates the Behavioral Health Services Integration Workgroup;

B. SECTION DIRECTORY:

Section 1. Amends s. 20.19, F.S., relating to the Department of Children and Families.

Section 2. Amends s. 20.04, F.S., relating to structure of executive branch.

Section 3. Amends s. 20.43, F.S., relating to the Department of Health.

Section 4. Amends s. s. 39.001, F.S., relating to purpose and intent of ch. 39, F.S.

Section 5. Amends s. 39.01, F.S., relating to definitions.

Section 6. Amends s. 39.0121, F.S., relating to rule making authority.

Section 7. Amends s. 39.301, F.S., relating to initiation of protective investigations.

Section 8. Amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.

Section 9. Amends s. 39.303, F.S., relating to child protection teams.

Section 10. Amends s. 39.806, F.S., relating to grounds for termination of parental rights.

Section 11. Amends s. 39.828, F.S., relating to grounds for appointment of a guardian advocate.

- Section 12. Amends s. 381.0072, F.S., relating to food service protection.
- Section 13. Amends s. 394.47865, F.S., relating to South Florida Hospital.
- Section 14. Amends s. 394.493, F.S., relating to target populations for child and adolescent mental health services funded through the department.
- Section 15. Amends s. 394.4985, F.S., relating to circuitwide information and referral network.
- Section 16. Amends s. 394.655, F.S., relating to Substance Abuse and Mental Health Corporation.
- Section 17. Amends s. 394.67, F.S., relating to definitions.
- Section 18. Amends s. 394.73, F.S., relating to Joint alcohol, drug abuse, and mental health service programs in two or more counties.
- Section 19. Amends s. 394.74, F.S., relating to contracts for provision of local substance abuse and mental health programs.
- Section 20. Amends s. 394.75, F.S., relating to state and circuit substance abuse and mental health plans.
- Section 21. Amends s. 394.76, F.S., relating to financing of circuit programs and services.
- Section 22. Amends s. 394.78, F.S., relating to operation and administration.
- Section 23. Amends s. 394.82, F.S., relating to funding of expanded services.
- Section 24. Amends s. 394.9084, F.S., relating to Florida Self-Directed Care program.
- Section 25. Amends s. 397.821, F.S., relating to juvenile substance abuse impairment prevention and early intervention councils.
- Section 26. Amends s. 402.313, F.S., relating to Family day care homes.
- Section 27. Amends s. 402.315, F.S., relating to funding; license fees.
- Section 28. Amends s. 402.49, F.S., relating to mediation process established.
- Section 29. Amends s. 409.152, F.S., relating to service integration and family preservation.
- Section 30. Amends s. 409.1671, F.S., relating to foster care and related services.
- Section 31. Amends s. 409.1755, F.S., relating to One Church, One Child of Florida Corporation Act.
- Section 32. Amends s. 410.0245, F.S., relating to study of service needs.
- Section 33. Amends s. 410.603, F.S., relating to definitions for Community Care for Disabled Adults Act.
- Section 34. Amends s. 410.604, F.S., relating to community care for disabled adults program.
- Section 35. Amends s. 411.224, F.S., relating to family support planning process.
- Section 36. Amends s. 414.24, F.S., relating to integrated welfare reform and child welfare services.
- Section 37. Amends s. 415.1113, F.S., relating to administrative fines for false report of abuse.

Section 38. Amends s. 420.621, F.S., relating to definitions.

Section 39. Amends s. 420.622, F.S., relating to State Office on Homelessness.

Section 40. Amends s. 420.623, F.S., relating to local coalitions for the homeless.

Section 41. Amends s. 420.625, F.S., relating to grant-in-aid program.

Section 42. Amends s. 429.35, F.S., relating to maintenance of records.

Section 43. Amends s. 1002.67, F.S., relating to performance standards.

Section 44. Repeals s. 39.311,39.312,39.313,39.314,39.315,39.316,39.318,394.9083, and 402.35, F.S.

Section 45. Directs the Division of Statutory Revision to prepare a reviser's bill.

Section 46. This bill shall take effect July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Costs are indeterminate; the state may receive revenues related to the licensure of family day care homes if a county opts to contract with the department for such services. See fiscal note.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

Expenditures are indeterminate, counties who opt to impose licensing requirements on family day care homes are required to bear the licensing costs. See fiscal note.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

Currently DCF provides licensure and inspection services for six counties—Clay, Duval, Miami-Dade, Nassau, Polk, and St. Johns that have passed local ordinances to require the licensure of family day care homes, and who are not local licensing authorities. The department estimates that this licensure requires approximately six FTEs to conduct inspections of family day care homes in these counties, at an annual cost to the department of \$300,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES