

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1241 Independent Living

**SPONSOR(S):** Health & Human Services Access Subcommittee; Glorioso and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1902

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	14 Y, 0 N, As CS	Batchelor	Schoolfield
2) Rulemaking & Regulation Subcommittee			
3) Health Care Appropriations Subcommittee			
4) Health & Human Services Committee			

### SUMMARY ANALYSIS

The bill makes significant changes to the Department of Children and Family Services (DCF) independent living transition services program for children and young adults.

The bill creates s. 39.6015, F.S., to provide educational requirements and guidelines for children who are eligible for the Independent Living Program and requires DCF and the Community Based Care Agencies (CBC's) to coordinate with local school districts for the best interest of the child.

The bill amends s. 409.1451, F.S., relating to the Independent Living Program, creating the Foundations First Program for young adults in care after age 18 and the College Bound Program for young adults who are enrolled in a postsecondary institution.

The bill amends s. 39.013, F.S., to establish that the court shall retain jurisdiction of a young adult who chooses to participate in the Foundations First Program, until they leave the program.

The bill amends s. 39.701, F.S. relating to judicial review processes to include that children are provided with certain documentation once the child turns 18.

The bill has an indeterminate fiscal impact.

The bill provides an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

###### *Independent Living Transition Services*

The Department of Children and Family Services (DCF) administers a system of independent living transition services to assist older children in foster care and 18 year olds exiting foster care to transition into self-sufficient adults.<sup>1</sup> This program was created in 2002, utilizing both state and federal funds to provide a continuum of services and financial assistance to prepare current and former foster youth to live independently.<sup>2</sup> Under the program, DCF serves children who have reached 13 years of age but are not 18 years of age and are in foster care.<sup>3</sup> DCF also serves young adults who have turned 18 years old but are not 23 years old and were in foster care when they turned 18 years old. They also serve youth, who after turning 16 years old were adopted from foster care or placed with a court approved dependency guardian and spent at least 6 months in foster care within the 12 months preceding placement or adoption.<sup>4</sup>

The DCF program provides services to assist young adults in obtaining life skills and education for independent living and employment.<sup>5</sup> DCF contracts with community based care lead agencies (CBC's) to provide these services.<sup>6</sup>

Florida's Independent Living Program has 6 service categories:<sup>7</sup>

- **Pre-Independent Living:** All 13-14 year old foster youth are eligible to receive services, those services include: life skills training, educational field trips and conferences.
- **Life Skills:** All 15-17 year old foster youth are eligible to receive services which include banking, and budgeting skills, educational support and employment training.
- **Subsidized Independent Living:** Some 16-17 year old youth who demonstrate self sufficiency skills may be chosen to participate in this program. The program allows youth to live independently of the daily care and supervision of an adult.
- **Road to Independence:** Eligible 18-22 year old young adults can receive financial assistance up to \$1,256 per month for educational and vocational training.
- **Aftercare:** Eligible 18-22 year old young adults can receive aftercare services to help develop the skills and abilities for independent living including tutoring, counseling and skills training.
- **Transition:** Eligible 18-22 year old young adults can receive short term services including financial, housing, counseling and employment.

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<sup>1</sup> s. 409.1451, F.S.

<sup>2</sup> *Id*

<sup>3</sup> s. 409.1451(2)(a)

<sup>4</sup> s. 409.1451(2)(b), F.S.

<sup>5</sup> s. 409.1451(1)(b), F.S.

<sup>6</sup> s. 409.1671, F.S.

<sup>7</sup> OPPAGA Report, *Comparisons to Other States and Funding Options for the Independent Living Program*, 2/2/11 (on file with committee staff).

## *Recent Reviews of the Independent Living Program*

A recent report<sup>8</sup> by the Independent Living Advisory Council (council)<sup>9</sup> provided a status report on independent living services for youth annually. According to the council, attention to the needs of children in care and young adults formerly in care has increased significantly over the past decade.<sup>10</sup> However, the services intended to help prepare young adults to live independently upon aging out of the child welfare system remain limited and fragmented. The council recommends increased accountability for the program, including improved data collection methods and processes that ensure measurable outcomes for youth aging out of foster care are being achieved. The outcomes must address areas of critical need including: education, employment, housing, financial stability and permanency.<sup>11</sup>

A 2010 report on the Independent Living Program by the Office of Program Policy Analysis and Government Accountability (OPPAGA) found that an effective mechanism to track whether 13 to 17 year-old youth receive services is still not in place. In addition, the report found that DCF does not routinely monitor whether lead agencies meet standards for independent living services.<sup>12</sup> DCF has improved its fiscal oversight of lead agency Independent Living expenditures for young adults age 18 and older to help ensure that federal funds for this age group are spent in compliance with federal law. The department also has broadened its contract monitoring and quality assurance systems to better address key elements of the Independent Living Program.

### *Fostering Connections Act*<sup>13</sup>:

The Fostering Connections to Success and Increasing Adoptions Act was established by Congress in 2008 to provide new supports and services to promote permanency and the improved well-being of older youth in foster care.<sup>14</sup> The new supports include foster care, adoption or guardianship assistance payments to children after the age of 18. One feature of the Act provides for the extension of foster care assistance to youth up to age 21. The Act also provides DCF the opportunity to receive additional federal funding.<sup>15</sup>

In order for Florida to participate in the Foster Connections Act, DCF must amend their state plan for Title IV E services. DCF has identified the following options to include in their amended state plan in order to become eligible for the Program:<sup>16</sup>

- Extend services to children up to age 21.
- Require youth to meet one of the following requirements:
  - Complete secondary education or a program leading to an equivalent credential. (Example: a youth could be finishing high school or taking classes in preparation for a general equivalency diploma exam.)
  - Enroll in an institution which provides post-secondary or vocational education-. (Example: a youth could be enrolled full-time or part-time in a university or college, or enrolled in a vocational or trade school.)

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<sup>8</sup> 2008 Report on Independent Living Services for Florida's Foster Youth, Independent Living Services Advisory Council.

<sup>9</sup> The Independent Living Services Advisory Council is established in s.409.1451(7), F.S., to review and make recommendations to DCF regarding the operation of the independent living transition services program.

<sup>10</sup> 2008 Report on Independent Living Services for Florida's Foster Youth, Independent Living Services Advisory Council.

<sup>11</sup> *Id*

<sup>12</sup> OPPAGA Report 10-30, DCF Has Improved Some Aspects of Independent Living Program Oversight; Other Long-Standing Problems Remain (March 2010).

<sup>13</sup> P.L.110-351.

<sup>14</sup> Fostering Connections Resource Program, <http://www.fosteringconnections.org/>. (last visited on 3/18/2011).

<sup>15</sup> DCF Staff Analysis of HB 1241, March 9, 2011.

<sup>16</sup> Email from DCF 3/18/2011. (on file with committee staff).

- Participate in a program or activity designed to promote, or remove barriers to employment. (Example: a youth could be in Job Corps or attending classes on resume writing and interview skills.)
- Be employed for at least 80 hours per month. (Example: a youth could be employed part time or full time, at one or more places of employment.)

### **Effect of Proposed Changes**

The bill amends s. 39.013, F.S., to establish that the court shall retain jurisdiction of a young adult who chooses to participate in the Foundations First Program, until they leave the program. It also mandates that the court shall review the status of a young adult at least every 12 months.

The bill amends s. 39.6012, F.S., to require that when case plans are developed efforts to keep children in the same school when possible is considered.

The bill creates s. 39.6015, F.S., relating to services for older children in licensed care:

The bill includes educational provisions for the child as follows:

- Requires that children are allowed to remain in the same school of origin if it is in the best interest of the child and that transportation is provided to the child if necessary;
- Requires that children with disabilities are allowed to continue in appropriate educational settings regardless of changes to the child's home or address;
- Requires that if a child is required to change schools the transition must be as least disruptive as possible and that the child is enrolled promptly in to a new school;
- Requires that CBC's and the caregiver eliminate any reasons that a child would not be in attendance at school and requires that appointments and court appearances are scheduled in a manner that the child misses the least amount of school possible;
- Provides that if a caregiver refuses to or fails to ensure that a child is attending school they are subject to penalties under s. 1003.27, F.S., related to compulsory school attendance
- Requires CBC's to document in a child's case plan that an education advocate has been designated or that a surrogate parent has been appointed for each child with a disability

The bill requires the following for children in middle school:

- Children must complete at least one course in career and education planning in the 7<sup>th</sup> or 8<sup>th</sup> grade, the course must include career exploration through Florida CHOICES Explorer or Florida CHOICES Planner and must include online advising;
- Each child must complete an electronic academic and career plan and the plan must inform students of high school graduation requirements, college entrance test requirements, college admissions requirements, scholarship opportunities and any advanced placement courses that may be available;
- Caregivers or the CBC provider are required to attend parent teacher conferences to monitor a child's progress;
- Requires that disabled children shall be involved in their educational planning. Additionally, CBC providers shall enter partnerships with school districts to deliver a curriculum that is designed to enable children to advocate for themselves;
- Provides that all children be provided information on the Road to Independence Program.
- Requires caregivers to access school resources available to ensure that children in care can achieve academic success;

The bill requires the following for children in high school:

- Requires an older child who plans to attend a university or college after high school graduation to take necessary courses needed to meet state university admission requirements;

- Requires an older child who plans to focus on a career technical program, to choose a course of study to ensure that they meet requirements for high school graduation and any scholarship opportunities;
- Provides that children with disabilities may chose to work towards a standard diploma or other diploma and requires school districts to offer services until they are 22 years old;
- Requires that academic planning and guidance should build on educational decisions and accomplishments made in middle school;
- Requires caregivers to attend parent teacher conferences;
- Requires CBC's to document the child's progress, achievement and vocational skills in the child's case plan;
- Requires that workforce readiness activities are available to students who plan to work after high school;
- Requires that every child is provided with enrichment activities for job placement and job preparation including volunteer opportunities and any opportunities with the Agency for Workforce Innovation (AWI).
- Requires that children are encouraged to participate in extracurricular activities and that transportation is provided by the caretaker in order for the child to be able to participate. The bill specifies that children may not be placed into homes if the caregiver is not willing to encourage extracurricular activities and provide for transportation, unless the CBC can make arrangements to ensure the child is able to participate;

*Transition plan:* The bill requires the development of a transition plan during the 90 day period before a child leaves care and turns 18 years old. The transition plan must take into account the child's education and other skills achieved during middle and high school and include specific options for the child on housing, health insurance and education. DCF and the CBC's are required to provide the child with documentation as specified in s. 39.701, F.S.

*Accountability Reporting:* The bill requires CBC lead agencies and contracted providers to annually report on school related activity and performance for children and young adults served.

*Judicial Review:* The bill amends s. 39.701, F.S., related to the requirements for the courts review. Included are the educational provision of s.39.6015, F.S., created by this bill and other specific health, financial and educational records.

### *Road to Independence*

The bill amends s. 409.1451, F.S., which is a substantial rewording of the existing statute for the Road to Independence Program. The bill creates two programs: The Foundations First Program and The College Bound Program.

*Foundations First Program:* This program is for young adults who have decided to remain in care after reaching the age of 18 and are not yet 21. The young adult must meet the following requirements:

- The young adult must have completed high school or its equivalent;
- The young adult must be enrolled in a postsecondary or vocational education program;
- The young adult must be employed at least 80 hours a month;
- The young adult must be participating in a program designed to promote employment;
- Or the young adult must be unable to participate due to a disability.

The bill provides that a young adult must leave the program if they knowingly and voluntarily withdraw from the program, leave care to live in a permanent home, reach the age of 21 or become incarcerated. DCF may not terminate a child from the program and the court may not terminate jurisdiction without a hearing with the youth or a judicial review. A transition plan shall be developed for the young adult 90 days before the young adult leaves care.

*Young Adults Remaining in Care:* The bill provides DCF and court responsibilities for youth who remain in care beyond 18 years of age. This includes annual judicial reviews, progress reports and an evaluation of the appropriateness of services for the youth. The bill also provides the court with authority to order DCF to provide certain services.

The bill provides that if the court believes that DCF or the CBC failed to comply with the young adult's case plan, the court can issue a show cause order. If cause is shown for failure to comply DCF and the CBC have 30 days to comply or be held in contempt.

### *College Bound Program*

The College Bound Program is designed for young adults who are 18 but not yet 23 years old and have graduated from high school and been accepted into college. The program provides the young adult with a stipend to help meet the financial needs of college. Funding for young adults in the program between the ages of 21-23 is contingent on available funding.

The bill provides that if a child under the age of 18 is placed in another state, the sending state is responsible for the child's care, if the child is over the age of 18 the state to which the child has moved is responsible for services for the child.

*Accountability Reporting:* The bill provides specific annual reporting requirements for community based care providers and subcontractors related to the Road to Independence program.

*Transition:* The bill provides that effective October 1, 2011 if a child or young adult is currently participating in the Road to Independence Program they may continue in the current program. Any child who applies for the program after October 1, 2011 shall be placed in the new program.

The bill requires DCF to develop a request for proposal for establishing and operating a system to provide for a child who is in care. DCF shall contract with a national nonprofit organization for the purpose of administering the Road to Independence Program.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 39.013, F.S., relating to procedures and jurisdiction; right to counsel.

**Section 2:** Amends s. 39.6012, F.S., relating to case plan tasks

**Section 3:** Creates s. 39.6015, F.S., relating to services for older children in licensed care.

**Section 4:** Creates s. 39.701, F.S., relating to judicial review.

**Section 5:** Amends s. 409.1451, F.S., relating to the Road to Independence Program.

**Section 6:** Creates an unspecified section of law, relating to the format of the case plan and judicial review.

**Section 7:** Creates an unspecified section of law, relating to participation in the Road to Independence Program.

**Section 8:** Creates an unspecified section of law relating to a request for proposal for establishing and operating a system to provide educational advocates.

**Section 9:** Creates an unspecified section of law relating to a contract between DCF and a national nonprofit organization that advocates and provides services for administering the Road to Independence Program.

**Section 10:** Creates an unspecified section of law relating to available funding for postsecondary education.

**Section 11:** Creates an effective date of July 1, 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
See fiscal comments.
2. Expenditures:  
See fiscal comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
None.

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

None.

### D. FISCAL COMMENTS:

DCF (in their analysis of HB 1241) indicated that under the new program model, DCF will receive additional federal Title IV-E funding to help serve young adults age 18 up to age 21 who choose to remain in foster care. DCF expresses that the new program will cost, in total, approximately the same as the total spent in FY 2010 (\$52 million). DCF believes that the additional federal earnings will allow the CBC's to reduce the amount shifted from other child welfare services to maintain Independent Living services.<sup>17</sup>

DCF indicated they will request budget authority from the Legislature for FY 2011-2012 to spend approximately \$5.6 million in federal Title IV-E funds to transition to this new program model. For FY 2012-2013, DCF intends to request Legislative budget authority to spend \$11.2 million in federal Title IV-E funds to sustain full implementation of the new program model.<sup>18</sup>

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:  
Not Applicable. This bill does not appear to effect county or municipal governments.
2. Other:  
None.

### B. RULE-MAKING AUTHORITY:

The bill provides the department with adequate rule making authority.

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<sup>17</sup>According to DCF fiscal comments in their Bill Analysis of HB 1241, During FY 2009-2010 the Community Based Care organizations spent \$52 million to sustain the current Independent Living Program model. This was \$22 million more than what they were specifically appropriated for the Independent Living Program. Funding was shifted from other child welfare services to supplement the deficit

<sup>18</sup>DCF Staff Analysis of HB 1241, March 9, 2011.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 23, 2011, the Health and Human Services Access Subcommittee adopted two amendments. The amendments do the following:

- Requires each Community Based Care Agency (CBC) to provide a report to DCF by September 30<sup>th</sup> of each year.
- Amend s. 39.013, F.S., to establish that the court shall retain jurisdiction of a young adult who chooses to participate in the Foundations First Program, until they leave the program;
- Amends s. 39.6012, F.S, requiring that efforts are made to allow children to remain in the same school if the child's living arrangements change;
- Creates s. 39.6015 to provide education and extracurricular activity provisions, development of a transition plan and accountability measures;
- Amends s. 39.701, F.S. relating to judicial review processes;
- Amends s. 409.1451, F.S. relating to the Road to Independence Program and establishes the Foundations First Program and the College Bound Program. This section also requires the CBC's to produce a report for DCF;
- Establishes a grandfathering process for the Road to Independence Program;
- Provides the department shall develop a request for proposal for establishing and operating a system to provide educational advocates;
- Requires DCF to contract with a national nonprofit organization for administering the Road to Independence Program;
- Provides that funding for postsecondary education (students 21-23) is contingent on available funding.

The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.