

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 404

INTRODUCER: Senators Wise and Lynn

SUBJECT: Transition-to-Adulthood Services

DATE: April 5, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Favorable
2.	Dugger	Cannon	CJ	Pre-Meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill makes changes to ch. 985, F.S., relating to juvenile justice, to provide transition-to-adulthood services to older youth who are in the custody of, or under the supervision of, the Department of Juvenile Justice (DJJ).

The bill requires that transition-to-adulthood services for a youth be part of an overall plan leading to the total independence of the child from DJJ’s supervision, and the bill specifies the requirements of the overall plan.

The bill also provides that youth who are adjudicated delinquent and are in the legal custody of the Department of Children and Family Services (DCF) may, if eligible, receive DCF’s independent living transition services pursuant to s. 409.1451, F.S. Adjudication of delinquency may not be considered, by itself, as disqualifying criteria for eligibility in DCF’s Independent Living Program. This is consistent with current DCF policy.¹

The bill also permits a court to retain jurisdiction for a year beyond the child’s 19th birthday if he or she is participating in the transition-to-adulthood program.

This bill substantially amends sections 985.03 and 985.0301, Florida Statutes. This bill creates section 985.461, Florida Statutes.

¹ Dep’t of Children and Families, *Staff Analysis and Economic Impact SB 404* (Jan. 25, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

II. Present Situation:

Florida Juvenile Justice System²

Historically, Florida provided services to children who are delinquent under a “rehabilitative” model of justice. When all “proceedings relating to children” were under the auspices of the Department of Health and Rehabilitative Services (HRS),³ HRS’s approach to children involved in dependency proceedings or delinquency proceedings was the same, which was to provide social services to the child and his or her family. Provisions relating to both dependent and delinquent children were contained in ch. 39, F.S.

The first of a number of efforts to shift the state’s juvenile justice system away from a social services model occurred in 1994. The Legislature created the Department of Juvenile Justice and provided for the transfer of powers, duties, property, records, personnel, and unexpended balances of related appropriations and other funds from HRS’s Juvenile Justice Program Office to the new department.⁴ The Department of Juvenile Justice (DJJ or department) was assigned responsibility for children who were delinquent and children and families who were in need of services (CINS/FINS).⁵ Statutory provisions relating to children being served in the juvenile justice system remained in ch. 39, F.S., and most of the new department’s employees were former HRS employees.

In 1997, while few changes were made to substantive law, provisions relating to children who were delinquent and CINS/FINS were removed from ch. 39, F.S. Provisions relating to CINS/FINS were placed in newly created ch. 984, F.S., and provisions relating to children who are delinquent were placed in newly created ch. 985, F.S.⁶

In 2000, comprehensive legislation, known as the “Tough Love Law,” provided statutory authority for DJJ to change its organizational structure. This legislation signified the most dramatic policy shift away from the social services model and toward a criminal justice approach.⁷ However, even under the “Tough Love” plan, DJJ maintains that:

[T]he juvenile justice system continued to be operationally and philosophically distinct from the adult criminal justice system. Florida continues to segregate juveniles from their adult counterparts, although there has been an expansion of the circumstances under which a juvenile can be prosecuted as an adult. Youth

² Information contained in this section of the Present Situation of this bill analysis is from the Department of Juvenile Justice’s website. Florida Dep’t of Juvenile Justice, *History of the Juvenile Justice System in Florida*, <http://www.djj.state.fl.us/AboutDJJ/history.html> (last visited Mar. 21, 2011).

³ The Department of Health and Rehabilitative Services (HRS) was renamed the Department of Children and Family Services (DCF) in 1996. Chapter 96-403, s. 2, Laws of Fla.

⁴ Chapter 94-209, s. 1, Laws of Fla.

⁵ The term “child in need of services” means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also be found by the court to be habitually truant from school, to have persistently run away from home, or to have persistently disobeyed the reasonable demands of his or her parents and to be beyond their control. Section 984.03(9), F.S.

⁶ Chapter 97-238, Laws of Fla.

⁷ Five bills passed in the 2000 session comprise the Tough Love Law: ch. 2000-137, ch. 2000-136, ch. 2000-135, ch. 2000-134, and ch. 2000-119, Laws of Fla. See Senate Bills 69, 1192/80, 1196, 1548, 2464 (2000).

continue to be managed under a strategy of redirection and rehabilitation, rather than punishment. Although the State strengthened its hold on juvenile delinquents under the “Tough Love” plan, the system maintained focus on “treatment” designed to effect positive behavioral change.⁸

The department is currently required to provide independent living services as a program component of both the early delinquency intervention and the serious or habitual juvenile offender programs.⁹

The department is also tasked with providing conditional-release services to youth exiting juvenile justice residential programs. Conditional release is the care, treatment, help, and supervision provided to juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.¹⁰ The program is intended to help prepare youth for a successful transition from DJJ commitment back to the community. Each youth committed to a DJJ residential program is to be assessed to determine the need for conditional-release services upon release from the program.¹¹ The department may also supervise the juvenile when released into the community from a residential program and provide such counseling and other services as may be necessary for families and assisting families’ preparations for the return of the child.¹²

Independent Living Transition Services for Dependent Children¹³

Each year thousands of dependent children leave state foster care systems because they reach the age of 18 and are no longer eligible for out-of-home care. Since the early 1980’s, research and anecdotal evidence have indicated that many of these young adults experience numerous difficulties in their attempts to achieve self-sufficiency. When compared to young adults with no exposure to the child welfare system, former foster youth are less likely to earn a high school diploma or GED and, subsequently, have lower rates of college attendance.¹⁴ They suffer more from mental health problems; have a higher rate of involvement with the criminal justice system; are more likely to have a difficult time achieving financial independence, thus increasing their reliance on public assistance; and experience high rates of housing instability and homelessness.¹⁵

⁸ Florida Dep’t of Juvenile Justice, *supra* note 2.

⁹ See ss. 985.47 and 985.61, F.S.

¹⁰ Section 985.46(1)(a), F.S.

¹¹ Section 985.46(2)(c), F.S.

¹² Section 985.46(3), F.S.

¹³ Information contained in this section of the Present Situation of this bill analysis is from an interim report by the Committee on Children, Families, and Elder Affairs. See Comm. Children, Families, and Elder Affairs, The Florida Senate, *Review of the Provisions of Independent Living Services to Minors* (Interim Report 2010-105) (Nov. 2009), available at http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-105cf.pdf (last visited Mar. 21, 2011).

¹⁴ Wilhelmina A. Leigh et al., *Aging out of the Foster Care System to Adulthood: Findings, Challenges, and Recommendations*, JOINT CTR. FOR POLITICAL AND ECONOMIC STUDIES, HEALTH POLICY INSTITUTE, 3-4 (Dec. 2007) (on file with the Senate Committee on Children, Families, and Elder Affairs) (citing Mark Courtney, *Youth Aging Out of Foster Care*, NETWORK ON TRANSITIONS TO ADULTHOOD, Policy Brief Issue 19 (April 2005), available at <http://www.transad.pop.upenn.edu/downloads/courtney--foster%20care.pdf> (last visited Mar. 21, 2011)).

¹⁵ *Id.*

The federal government responded to the needs of foster care youth who age out by enacting the Foster Care Independence Act of 1999 (known as the CFCIP or the Chafee Act).¹⁶ The Chafee Act provides states with flexible funding that enables programs to be designed and conducted to:

- Identify and assist youths who are likely to remain in foster care until 18 years of age;
- Provide education, training, and services necessary to obtain employment for those youths;
- Prepare those youths to enter postsecondary training and education institutions; and
- Provide support through mentors and the promotion of interactions with dedicated adults.¹⁷

Age restrictions were also eliminated, allowing states to offer independent living services to youth earlier than age 16.¹⁸ The Chafee Act grants wide discretion to the states, allowing them to set their own criteria regarding which foster care youths receive services.¹⁹ However, states must use objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients.²⁰

With the enactment of federal legislation and increased available funding, the 2002 Florida Legislature established a new framework for the state’s independent living transition services to be provided to older youth in foster care.²¹ Specifically provided for was a continuum of independent living transition services to enable youth who are 13 to 17 years of age and in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Service categories established for minors in foster care include the following:²²

CATEGORIES OF SERVICES	SERVICES INCLUDED	ELIGIBILITY
Pre-independent living services	Life skills training, educational field trips and conferences.	13 and 14 year olds in foster care.
Life skills services	Training to develop banking and budgeting skills, parenting skills, and time management and organizational skills, educational support, employment training, and counseling.	15,16, and 17 year olds in foster care.
Subsidized independent living services	Living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175, F.S.	16 and 17 year olds who demonstrate IL skills.

For fiscal year 2009-2010, \$35.6 million was budgeted for the Independent Living Transition Services Program from a number of sources.²³ This represents a \$3.9 million increase in the

¹⁶ Public Law No. 106-169, 113 Stat. 1822 (1999). Federal funds for independent living initiatives were first made available under the Consolidated Omnibus Budget Reconciliation Act of 1985.
¹⁷ 42 U.S.C. s. 677 (2002).
¹⁸ 42 U.S.C. s. 677(b)(2)(C) (2002).
¹⁹ 42 U.S.C. s. 677(b)(2).
²⁰ 42 U.S.C. s. 677(b)(2)(E).
²¹ The department provided independent living services to older youth in foster care prior to the creation of s. 409.1451, F.S., with provisions for those services appearing in a number of sections of Florida Statutes, including s. 409.145, F.S., relating to care of children (2001), and s. 409.165, F.S., relating to alternative care of children (2001).
²² Section 409.1451(4), F.S. The legislation also contained provisions for young adults who are 18 to 23 years of age who were formerly in foster care, including aftercare services, the Road-to-Independence Program, and transitional support services. See s. 409.1451(5), F.S.
²³ Chafee ILP - \$7,046,049; Chafee ETV - \$2,396,966; Chafee ILP Match - \$1,761,513; Chafee ETV Match - \$599,241; General Revenue - \$21,303,202; and Title IV-E - \$2,495,646. Comm. on Children, Families, and Elder Affairs, *supra* note

budget from fiscal year 2008-2009, but is \$2.9 million less than was actually spent in fiscal year 2008-2009.²⁴ The actual expenditure of the program in 2010 was almost \$52 million.²⁵ The projected spending for 2011 is \$58.5 million.²⁶

If a dependent child is also adjudicated delinquent, DCF shares responsibility for that child with DJJ and while not specifically required by statute, DCF allows youth who are eligible for independent living transition services under s. 409.1451, F.S., and who have been adjudicated delinquent to receive those services.²⁷

Court Jurisdiction

Except under certain specified circumstances, the court shall retain jurisdiction of a child who has committed a delinquent act, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child that the court had prior to the child becoming an adult.²⁸ Current law provides that the court may retain jurisdiction beyond 19 years of age under certain other circumstances, including, but not limited to:

- Jurisdiction may be retained until 22 years of age for a youth placed in a juvenile prison or in a high-risk or maximum-risk residential commitment program to allow the child to participate in a juvenile conditional release program.
- Jurisdiction may be retained until 21 years of age for a youth committed to the DJJ for placement in an intensive residential treatment program for 10-year-old to 13-year-old offenders, in the residential commitment program in a juvenile prison, in a residential sex offender program, or in a program for serious or habitual juvenile offenders, solely for the purpose of the child completing the program.

III. Effect of Proposed Changes:

The bill creates s. 985.461, F.S., titled “Transition to adulthood,” which the bill defines to mean “services that are provided for youth in the custody of the department [Department of Juvenile Justice] or under the supervision of the department and that have the objective of instilling the knowledge, skills, and aptitudes essential to a socially integrated, self-supporting adult life.” The bill specifies that these services may include, but are not limited to:

- Assessment of the youth’s ability and readiness for adult life;
- A plan for the youth to acquire the knowledge, information, and counseling necessary to make a successful transition to adulthood; and
- Services that have been proven effective toward achieving the transition to adulthood.

The bill provides legislative intent that the Department of Juvenile Justice (DJJ or department) may provide older youth in its custody or under its supervision opportunities to participate in

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²⁴ *Id.*

²⁵ Information from the Dep’t of Children and Families provided to Professional Staff of the Senate Committee on Children, Families, and Elder Affairs on Mar. 2, 2011 (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁶ *Id.*

²⁷ Dep’t of Children and Families, *supra* note 1.

²⁸ Section 985.0301(5)(a), F.S.

transition-to-adulthood services while in DJJ's commitment programs or in probation or conditional release programs in the community.²⁹ The bill specifies that these services should be reasonable and appropriate for the youths' respective ages or for any special needs the youth may have.

The bill also provides that youth who enter a DJJ placement from a foster care placement and who are in the legal custody of the Department of Children and Family Services (DCF) may, if eligible, receive DCF's independent living transition services pursuant to s. 409.1451, F.S. The bill also provides that court-ordered commitment or probation is not a barrier to eligibility for youth to receive the array of services available if they were in foster care. This is consistent with current DCF policy.³⁰

The bill provides that adjudication of delinquency may not, by itself, disqualify a dependent youth for eligibility to receive independent living transition services from DCF.

The bill allows DJJ to:

- Assess a child's skills and abilities to live independently and become self sufficient;
- Develop a list of age-appropriate activities and responsibilities to be incorporated into the child's written case plan for any youth 17 years of age or older. The activities may include, but are not limited to, life skills such as banking and budgeting skills, interviewing and career planning skills, parenting skills, personal health management, and time management or organizational skills; educational support; employment training; and counseling;
- Provide information related to social security insurance benefits and public assistance;
- Request parental or guardian permission for the youth to participate in the transition-to-adulthood services. Upon such consent, the age-appropriate activities must be incorporated into the youth's written case plan. The case plan may include specific goals and objectives and must be reviewed and updated quarterly. The plan may not interfere with the parent's or guardian's rights to train the child; and
- Contract for transition-to-adulthood services, which include residential services and assistance, that allow for the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175, F.S. The bill provides for program eligibility to include youth at least 17 but not yet 19 years of age and who are not a danger to the public and have a demonstrated sufficient skills and aptitude for living under decreased adult supervision.

The bill requires that transition-to-adulthood services be part of an overall plan leading to the total independence of the child from DJJ's supervision. The plan must include:

- A description of the child's skills and a plan for learning additional identified skills;
- The behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities;
- The provision for future educational, vocational, and training skills;

²⁹ This appears to be a similar authority to that which currently exists in the conditional release program operated by DJJ for youth transitioning back to the community. See s. 985.46, F.S.

³⁰ Dep't of Children and Families, *supra* note 1.

- Present financial and budgeting capabilities and a plan for improving resources and abilities;
- A description of the proposed residence;
- Documentation that the child understands the specific consequences of his or her conduct in such a program;
- Documentation of proposed services to be provided by DJJ and other agencies, including the type of services and the nature and frequency of contact; and
- A plan for maintaining or developing relationships with family, other adults, friends, and the community.

These changes will permit DJJ to provide services to youth in their custody or supervision which may increase a youth's ability to live independently and become a self-sufficient adult.

The bill also amends s. 985.0301(5)(a), F.S., to allow a court to retain jurisdiction for an additional 365 days following a child's 19th birthday if the child is participating in a DJJ transition-to-adulthood program. The bill also provides that the transition services created in s. 985.461, F.S., require voluntary participation by affected youth and are not intended to create an extension of involuntary court-sanctioned residential commitment.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

Neither the Department of Children and Family Services nor the Department of Juvenile Justice expects there to be a fiscal impact.³¹

VI. **Technical Deficiencies:**

There are several places in the bill where the language appears duplicative. For example, lines 81-83 provide that the Department of Juvenile Justice may “develop a list of age-appropriate activities and responsibilities to be incorporated in the child’s written case plan . . .” and lines 93-95 provide that “age-appropriate activities shall be incorporated into the youth’s written case plan.”

Additionally, the terms “child” and “youth” are used interchangeably throughout the bill. The Legislature may wish to amend the bill to use one term in order to provide consistency.

VII. **Related Issues:**

The Department of Children and Family Services (DCF) is attempting to amend portions of chs. 39 and 409, F.S., to support the federal H.R. 6893, “Fostering Connections to Success and Increasing Adoptions Act,” passed by the 110th Congress in 2008. If these amendments are made, DCF’s current Independent Living services will be modified. According to DCF, if the changes to chs. 39 and 409, F.S., are made to include the Fostering Connections to Success and Increasing Adoptions Act, there may be a fiscal impact to implement this bill.³²

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

³¹ Dep’t of Children and Families, *supra* note 1; Department of Juvenile Justice, Senate Bill 404 (Mar. 1, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³² Dep’t of Children and Families, *supra* note 1.