

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 Children, Families, and Elder Affairs Committee

BILL: SPB 7058

INTRODUCER: Senator Storms

SUBJECT: Differential Response

DATE: March 8, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires the Department of Children and Family Services (DCF or department) to establish the Child Protective Response Workgroup (workgroup). The workgroup will develop a plan to allow the department to fully implement a differential response system for responding to reports of child abuse or neglect. The bill provides a minimum set of tasks for the workgroup, requires a report to the legislature by December 31, 2011, and specifies what must be included in the report.

The bill also requires the department to establish the Child Welfare Professional Advisory Council (council). The council will review and make recommendations relating to the education and qualifications of child welfare staff employed with the department, the sheriff's offices contracted to conduct child protective investigations, and the community-based care lead agencies and their contracted providers. The bill specifies a scope of work for the council, provides for members to be appointed by the secretary, specifies the entities that must be represented in the membership, and requires the department to provide administrative support. The bill specifies that the council members serve without compensation, but may be reimbursed for per diem if funds are available, and provides for an annual report to the legislature by December of each year, with the first report due by December 31, 2011.

II. Present Situation:

Differential Response

Differential response is a child protection services practice that allows more than one type of initial response to reports of child abuse and neglect. Also called “dual track,” “multiple track,” or “alternative response,” this approach recognizes variation in the types of reports and the value of responding differently to different types of cases. This approach is guided by the assumption that the use of a differential response system would allow agencies to protect children and support families in a less adversarial manner, while reserving agency resources for the more intensive, high-risk cases.¹

While definitions and approaches vary from state to state, a differential response system typically consists of two major types of response to reports of child abuse and neglect. The type of response chosen for each report begins with some entity determining how a call to the hotline will be handled. The report will either rise to the level of severe maltreatment or maltreatment that is potentially criminal and will receive an investigation response, or the report will involve low or moderate risk to the child and receive an assessment response.²

The Child Welfare League of America (CWLA) and The American Humane Association (AHA) identified core elements in a differential response system in an attempt to achieve definitional clarity and distinguish among the multitude of child protection reforms across state and county child welfare systems.³ These core elements include:

- The use of two or more discrete responses for intervention.
- The creation of multiple responses for reports of maltreatment that are screened in and accepted for response.
- The determination of the response assignment by the presence of imminent danger, level of risk, the number of previous reports, the source of the report, and/or presenting case characteristics such as type of alleged maltreatment and the age of the alleged victim.
- The ability to change the original response assignment based on additional information gathered during the investigation or assessment phase.

¹ Zielewski, E.H., Macomber, J., Bess, R. and Murray, J. (2006). Families’ Connections to Services in an Alternative Response System. The Urban Institute: Washington, D.C. Available at: http://www.americanhumane.org/assets/docs/protecting-children/PC-AR-families-connections_ui.pdf. (Last visited March 3, 2011.)

² Child Information Gateway. (2008). Differential Response to Reports of Child Abuse and Neglect. Washington, D.C.: U.S. Department of Health and Human Services. Available at: http://www.childwelfare.gov/pubs/issue_briefs/differential_response/differential_response.pdf. (Last visited March 3, 2011.) However, not all jurisdictions that employ a differential response system focus simply on choosing an assessment or investigation response. In some areas, there is more variation in types of response. Additional responses may include a resource referral/prevention response for reports that do not meet screening criteria for child protective services but suggest a need for community services, or a law enforcement response for cases that may require criminal charges.

³ Merkel-Holguin, L., Kaplan, C. and Kwak, A. (2006). National Study on Differential Response in Child Welfare, American Humane Association and Child Welfare League of America. Available at: <http://www.americanhumane.org/assets/docs/protecting-children/PC-DR-national-study2006.pdf>. (Last visited May 3, 2011).

- The establishment of multiple responses is codified in statute, policy and/or protocols.
- The ability of families who receive a non-investigatory response to accept or refuse the offered services after an assessment without consequence.
- No identification of perpetrators and victims when alleged reports of maltreatment receive a non-investigation response and services are offered without a formal determination of child maltreatment.⁴

While the use of a differential response system promises to better enable child protection agencies to protect children and strengthen families, implementing a differential response system poses many challenges. Crucial considerations for an efficient and successful differential response system include use of the most promising standardized tools; training and reinforcing the worker's use of a strength-based and non-adversarial model; and the availability of an adequate network of community services providers.⁵

In 1993, Florida was one of the first two states to implement a differential response system.⁶ The provisions in Florida law relating to the Family Service Response System (FSRS) constitute the assessment response of a differential response system. The approach provided for a nonadversarial response to reports of abuse and neglect by assessing for and delivering services to remove any determined risk, while providing support for the family.

The legislation allowed local HRS service districts the flexibility to design the FSRS to meet local community needs⁷ and required an ongoing community planning effort to include the approval of the recently established Health and Human Service Boards.⁸ The department began steps toward the implementation of FSRS in districts statewide. Despite positive findings reported in the 1996 outcome evaluation⁹ in some districts, difficulties identified during the course of the evaluation had a negative effect on the viability and support for FSRS.¹⁰

In addition to problems identified in the outcome evaluation, an assessment of dependency cases by Florida's Dependency Court Improvement Program (DCIP)¹¹ revealed enough judicial concern with the inconsistent implementation of the FSRS, and compromised child safety as a

⁴ *Id.*

⁵ Richardson, J. Differential Response: Literature Review, University of Illinois School of Social Work, Children and Family Research Center. November 2008.

⁶ The other state was Missouri. Missouri decided to expand its approach statewide after trying a pilot program in 14 counties. The approach has served as a model for differential response in other states. Crane, K. In Brief: Taking a Different Approach. National Conference of State Legislatures, January 2010. Available at: <http://www.ncsl.org/?tabid=19395>. (Last visited March 2, 2011.)

⁷ Section 415.5018, F.S. (1993).

⁸ *Id.*

⁹ Hernandez, M. and Barrett, B. Evaluation of Florida's Family Services Response System, Florida Mental Health Institute, University of South Florida, December 1996.

¹⁰ Alternative Response System Design Report, Prepared for the Florida Department of Children and Family Services by the Child Welfare Institute, December 2006.

¹¹ Florida's Dependency Court Improvement Program (DCIP) was established in 1995 when Congress funded a comprehensive research initiative to assess judicial management of foster care and adoption proceedings. The mandate to the highest court in every state was to assess the court's management of dependency cases to determine the level of compliance with the Adoption Assistance and Child Welfare Act and to develop an action plan to effect positive change in legislation, policy, judicial oversight, representation, and practice and procedure.

result of decisions being made by the HRS/DCF staff, that the DCIP recommended that Florida return to the use of a traditional protective investigation for all reports.¹²

During the 1998 session, legislation was enacted that incorporated all of the recommendations of the DCIP, as well as the mandated provisions of the newly enacted federal Adoption and Safe Families Act (ASFA), and Florida's version of a differential response system was repealed.¹³ As a result, all districts returned to the investigation of all child protective reports culminating in a finding associated with a child victim and perpetrator. Currently, Florida law does not allow for the use of a differential response system.

Child Welfare Staff

Experience in other states has shown that the need for a skilled workforce trained in strength-based and collaborative interventions with manageable workloads is central to the successful implementation of a differential response system. Because much of family assessment work depends on the ability to engage with families on an individual basis, workers are left with broad discretion in determining what services best fit the families' needs and how to link families to those services. Workers must have the appropriate skill set, support, and confidence to effectively do the work that a differential response system requires.¹⁴

According to the department, the minimum education and background requirements for child protective investigators are not specified in statute or rule.¹⁵ DCF's internal hiring practices have set educational requirements for new protective investigators, with candidates having any Bachelor's Degree and one year of child welfare related experience, or any Master's degree, which can substitute for the one year of child welfare experience. Preference is given to candidates with a human services related degree. The department is not involved in the hiring practices or standards established by the sheriff's offices.¹⁶

Currently, the department reports that they do not track the educational experience of protective investigators or community-based care (CBC) staff, but will be including that information in a future build of their learning management system. Anecdotally, the department believes that less than 25 percent of line staff have either BSWs or MSWs and less than 10 percent of supervisors have MSWs. CBCs report that they give preference to applicants who have social work degrees.¹⁷ There are, however, minimum training requirements that must be met in order to become Certified as a Child Welfare Professional, which is a requirement for being a protective

¹² Conversation with Kathleen Kearney, Chair of the Dependency Court Improvement Program (1996-1997), September 7, 2010.

¹³ Chapter 98-403, L.O.F. CS/HB 1019. Part III of chapter 39, F.S., entitled Protective Investigations, was created and all calls accepted by the hotline as reports were required to be investigated.

¹⁴ Richardson, J. Differential Response: Literature Review, University of Illinois School of Social Work, Children and Family Research Center. November 2008.

¹⁵ Rule does, however, require that personnel working in child placing agencies are required to have either a BSW, an MSW, or a degree in a related area of study depending on their job responsibilities. 65C-15.001, F.A.C.

¹⁶ Communication from the Department of Children and Family Services, Family Safety Office, September 16, 2010. Copy on file with the Committee on Children, Families, and Elder Affairs.

¹⁷ *Id.*

investigator, regardless of whether the protective investigator is an employee of the department or of a sheriff's office.¹⁸

A number of recent events would make it appear that in spite of the department's training and certification programs, the qualifications of child protective personnel to appropriately and adequately work with families may remain questionable:

- In the days following the death of Nubia Docter Barahona, DCF Secretary David Wilkins appointed a three- member panel to investigate the girl's death and her brother's severe abuse. During the three hearings held to date, panel members recounted all the warnings child welfare workers had received that Nubia was in jeopardy in her foster home.

The warnings began in 2004, when a nurse told a caseworker: "foster parent does not care for the child's well being," and continued for the next six years. DCF's top Miami administrator, Jacqui Colyer responded by saying, "We were getting signs early on, but we didn't tie it all together."¹⁹

Panel members have directed a series of assignments, including a review of the education, pay scale and training of caseworkers, investigators and supervisors.²⁰

- In a case from Charlotte County, a crime scene technician found a 10-year-old boy (T.M.B.) asleep inside the bathroom vanity and removed him from his home. His stepmother told detectives she had smeared feces and urine in his face, "like you would a dog," and slid peanut butter sandwiches under his door so she wouldn't have to see him.²¹

The boy had been seen by child welfare, school, medical and mental health officials, and law enforcement officers long before the arrests of his stepmother and father. The department's quality assurance report outlines many shortcomings:

- The child protective investigator, Gordon Smith failed to gauge the risk to the child, especially given his parent's admission they confined him for long periods to punish him.
- Smith said he had social services come to the home to provide such things as counseling. He blamed the system's bureaucracy for a communication gap. "If you don't hear anything back from the services, you assume everything is OK,

¹⁸ This training represents approximately 25 percent of the hours spent by a student in a BSW program with and Child Welfare Certificate. Information obtained from the College of Social Work, Florida State University, September 14, 2010. Copy on file with the Committee on Children, Families, and Elder Affairs.

¹⁹ Miami Herald, Before adoption, Nubia, brother told psychologist of morbid fears.

Available at: <http://www.miamiherald.com/2011/03/03/2095922/nubia-brother-told-psychologist.html#> (Last visited March 3, 2011).

²⁰ Department of Children and Family Services. Minutes from Department of Children and Families Barahona Investigative Team Meeting, Friday, February 25, 2011. Available at: <http://www.dcf.state.fl.us/initiatives/barahona/docs/meetings/MeetingSummary02-25-11.pdf>. (Last visited March 3, 2011).

²¹ The News Press. Exclusive: DCF missed clues of Port Charlotte boy's captivity. As father, stepmother await trial, questions linger for Florida agency. Available at: http://www.news-press.com/article/20110301/SS08/110227018/Exclusive-DCF-missed-clues-Port-Charlotte-boy-s-captivity?odyssey=mod_sectionstories. (Last visited March 3, 2011).

and that's the problem," he said. "I was relying on other people to tell me what was going on."

- Among other failings listed in the report: Smith neglected to question explanations for documented scratches on the boy's neck and thoroughly investigate a head injury. He failed to take the boy for mandatory interviews with a child protection team and asked for an exception to the process that would have brought an independent opinion.
- Smith did not remove the child in spite of the fact that the child continually expressed fear of his stepmother and stated he was afraid to be alone with her.^{22,23}

III. Effect of Proposed Changes:

The bill requires the department to establish a task force and an advisory council to address two issues raised in a Senate interim project report relating to differential response systems.²⁴

The bill requires the department to establish the Child Protective Response Workgroup (workgroup) for the purpose of developing a plan that will allow the department to fully implement a differential response system for responding to reports of child abuse or neglect. The bill provides minimum tasks for the workgroup that, at a minimum, include:

- An examination of best practices developed by other states that have successfully implemented a similar response system;
- An update and finalization of the work plan that was designed for the department by the Child Welfare Institute in 2006; and
- Consideration of the outcomes of the 2008 differential response pilots implemented by the department.

The bill requires a report to the legislature by December 31, 2011, that includes:

- A detailed list of tasks and a timeline for future implementation of a differential response system;
- The requirements and expectations for participation by community-based-care lead agencies;
- A plan to integrate the use of the sheriff's offices to conduct child protective investigations within the differential response system; and;
- A statewide survey of services available to families.

The bill also requires the department to establish the Child Welfare Professional Advisory Council (council) for the purpose of reviewing and making recommendations relating to the education and qualifications of child welfare staff employed with the department, the sheriff's

²² *Id.*

²³ Department of Children and Family Services. Quality Assurance Review, Suncoast Region Quality Assurance Unit. June 29, 2010.

²⁴ Senate Interim Project 2011-105. Differential Response To Reports Of Child Abuse And Neglect. Committee on Children, Families, and Elder Affairs. October 2010.

offices contracted to conduct child protective investigations, and the community-based care lead agencies and their contracted providers. The bill specifies a scope of work for the council that includes:

- Incentives necessary to hire and retain employees with bachelor's or master's degrees in social work;
- Incentives necessary to enable current staff to obtain a bachelor's or master's degree while continuing employment;
- An examination of child welfare certifications issued by either schools of social work, the department, or third party credentialing entities;
- An examination of hiring practices in other states that require all child welfare staff to hold degrees in social work, particularly those states that have privatized the provision of child welfare services, such as Kansas;
- An analysis of the benefits, including cost benefits, of having all child welfare staff hold a bachelor's or master's degree in social work from a degree program certified by the Council on Social Work Education or a degree from an accredited human services degree program; and
- An examination of ways to increase the amount of federal Title IV-E Child Welfare Program funding for social work education available to Florida.

The bill provides for members to be appointed by the secretary and specifies the entities that must be represented in the membership, to include representatives from:

- The headquarters and circuit offices of the department;
- Community-based care lead agencies;
- The sheriff's offices contracted to conduct child protective investigations;
- Third-party credentialing entities;
- State schools that are members of the Florida Association of the Deans and Directors of the Schools of Social Work; and
- Faculty members from those schools whose duties include working with Title IV-E child welfare program stipend students and teaching specialized child welfare courses.

The bill requires the department to provide administrative support to the council, specifies that the council members serve without compensation, but may be reimbursed for per diem if funds are available, and provides for an annual report to the legislature by December of each year, with the first report due by December 31, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Members of the Child Welfare Professional Advisory Council may incur per diem expenses associated with attendance at meetings, but the amount is expected to be *de minimus*.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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.