

**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 Appropriations Subcommittee on Health and Human Services

---

BILL: SB 1668

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Detert

SUBJECT: Child Welfare

DATE: March 31, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Sanford	Hendon		<b>CF SPB 7074 as introduced</b>
1.	Brown	Pigott	AHS	<b>Pre-meeting</b>
2.			AP	

---

**I. Summary:**

SB 1668 makes numerous statutory changes regarding the child welfare system.

The bill defines the term “sibling” and requires that when siblings are removed from a home as the result of abuse, neglect, or abandonment, the Department of Children and Families (DCF) must make every effort to keep the siblings together and, if separated, to keep them in communication with one another and to reunite them as quickly as feasible, unless doing so would not be in the best interest of the children.

The bill requires the DCF to conduct immediate investigations of deaths involving children that have been known to the child protection and child welfare systems. The bill requires the DCF to report on its website basic facts relating to all deaths of children which occur in this state and are reported to the DCF child abuse hotline.

The bill expands the DCF Relative Caregiver Program to include non-relatives who are willing to assume custody of a dependent child and the half-brother or half-sister of such a child when placed by a dependency court. If a child is placed with a nonrelative as described in the bill, the placement must be court-ordered, temporary legal custody to the relative under the protective supervision of the DCF.

The bill creates a new part V of ch. 409, F.S., to be entitled “Community-Based Child Welfare Care.” In this new part, current law relating to community-based care is reorganized, obsolete provisions are removed, and some provisions are clarified. Increased specificity relating to duties and accountability of both the DCF and community-based care lead agencies is provided.

The bill is estimated to have a negative fiscal impact of approximately \$15.6 million general revenue (\$461,000 nonrecurring) during Fiscal Year 2014-2015, which could vary somewhat depending on legislative appropriations.

## II. Present Situation:

### Siblings

Current law includes legislative intent that when siblings are placed in out-of-home care, the Department of Children and Families (DCF) must make every possible effort to place them together. If they are permanently placed, the DCF must attempt to place them in the same adoptive home, and if placement together is not possible, the DCF must attempt to keep them in contact with each other.<sup>1</sup> The term “sibling” is not defined and there is no provision at specific points in the child welfare system, such as at removal or at judicial review, to ensure that the DCF is attending to issues relating to siblings.

### Relative Caregiver Program

The Florida Legislature established the Relative Caregiver Program in 1998.<sup>2</sup> This program offers monthly cash assistance and Medicaid for a child under the age of 18 who is placed by a dependency court with a relative after the child is removed from his or her home as a result of abuse, neglect, or abandonment. The monthly payment provides financial help for a relative who would not be able to afford to care for the child without assistance. The amount of the payment varies depending on the child’s age and circumstances. Medicaid pays for the child’s health care. The child may also be eligible for subsidized child care.

Only persons who are within the fifth degree of relationship by blood or marriage to the parent or stepparent of a dependent child or a half-brother or half-sister of a dependent child and who are caring full-time for the child, are eligible for the Program.

Under the Relative Caregiver Program, the child may be in temporary custody of the relative under the protective supervision of the DCF, may be placed under guardianship,<sup>3</sup> or may be placed permanently with the relative.<sup>4</sup> Either of the last two options is considered a permanency placement for the child. Continued supervision of the placement by the DCF is required under the permanent placement option, but not under the guardianship option.

Funding for the Relative Caregiver Program is through Florida’s share of the block grant for Temporary Assistance for Needy Families (TANF), in accordance with Title IV-A of the Social Security Act (SSA). The SSA lists the purposes of the TANF program in Title IV-A, section 401. This section specifically states that one of the purposes is to “provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.”

The DCF currently places children with nonrelatives under court-ordered supervision, but has not been able to pay the nonrelatives due to restrictions on the TANF funding source. These children are placed in the nonrelative homes after studies by the DCF. The only current difference between relative and nonrelative placements is that relatives receive payments to offset the cost of caring for the children and nonrelatives do not. As of December 31, 2012, there

---

<sup>1</sup> Section 39.001(1)(k), F.S.

<sup>2</sup> Chapter 98-403, s. 70, Laws of Florida.

<sup>3</sup> Section 39.6221, F.S.

<sup>4</sup> Section 39.6231, F.S.

were 1,552 children in the care of nonrelatives under DCF supervision. The estimated monthly Relative Caregiver cost per child is \$257.09 for an average annual total of \$3,087 per child.<sup>5</sup>

### **Public Disclosure of Child Deaths**

There is currently no mechanism by which child deaths that have been reported to the DCF's child abuse hotline are made public. Arkansas has a database by which such deaths are reported, along with basic facts related to the case. This information is made available through the Arkansas social services website.<sup>6</sup>

### **Child Abuse Death Review Committee**

The State Child Abuse Death Review Committee (CADR) was established in Florida in 1999 by statute.<sup>7</sup> Case reviews began in 2000 and were expanded in 2004 to include all verified child abuse deaths. Current law establishes the CADR and local child abuse death review committees within the Department of Health (DOH).<sup>8</sup> The CADR is composed of 18 members, including experts from the medical, law enforcement, social services, and advocacy professions.<sup>9</sup> Members convene every other month to review facts and circumstances of the deaths of children whose deaths have been investigated by the DCF and closed with a "verified" finding of child abuse or neglect. The purpose of the child death review is to help prevent child deaths as a result of abuse or neglect by:<sup>10</sup>

- Developing a community-based approach to address child abuse deaths and contributing factors;
- Achieving a greater understanding of the causes and contributing factors of deaths resulting from child abuse or neglect;
- Identifying gaps, deficiencies, or problems in service delivery to children and families by public and private agencies that may be related to child abuse deaths; and
- Developing and implementing data-driven recommendations for reducing child abuse and neglect deaths.

The CADR is required to submit an annual statistical report to the governor and the Legislature by December 31 containing recommendations to reduce preventable child deaths.<sup>11</sup>

Local child abuse death review committees also conduct reviews of the verified deaths of children in their respective communities to develop prevention campaigns and prepare recommendations for improving local practices in child protection and support services to families. There are 23 local committees that provide coverage for Florida's 67 counties.<sup>12</sup>

---

<sup>5</sup> Department of Children and Families, *SB 770 Fiscal Analysis* (Feb. 4, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>6</sup> Arkansas Department of Human Services, Child Fatality Notification, *available at* <https://ardhs.sharepoint.com/CFN/default.aspx> (last visited March 4, 2014)

<sup>7</sup> Section 383.402, F.S.

<sup>8</sup> Section 383.402(1), F.S.

<sup>9</sup> Section 383.402(2)(a) and (b), F.S.

<sup>10</sup> Section 383.402(1), F.S.

<sup>11</sup> Section 383.402(3)(c), F.S.

<sup>12</sup> Child Abuse Death Review Committee, *Annual Report* (Dec. 2012), *available at* <http://www.floridahealth.gov/alternatesites/flcadr/reports.html> (last visited Dec. 9, 2013).

During 2011, 2,241 children under the age of 18 died in Florida. Of those deaths, 474 were reported to the Florida Abuse Hotline and 130 deaths were verified by the DCF as being related to child abuse or neglect. The CADR received 126 cases for review during the period of January through November 2012. The CADR is statutorily limited to the review of “verified” child death reports.<sup>13</sup>

### **Statutory Provisions Relating to Community-Based Care Lead Agencies**

The transition from government-delivered to outsourced child welfare sources began in earnest in Florida in 1996, when the Legislature directed the DCF to contract with established community-based organizations to establish pilot projects for the provision of foster care and related services.<sup>14</sup> In 1998, the Legislature required the DCF to privatize the provision of all foster care and related services statewide. The transition was completed in Fiscal Year 2004-2005. Currently, there are 19 community-based care lead agencies (lead agencies) providing child welfare services statewide.

From the beginning of the outsourcing of child welfare services, s. 409.1671, F.S., has been the primary statute providing legislative direction for the process. Consequently, the statute contains many provisions that are obsolete, some which are current, and some which need clarification. For example, there is no provision in statute currently describing the duties of the DCF in an outsourced child welfare system.

In addition, currently there is not a statutory requirement that the lead agencies be incorporated under Florida law. Also, the duty to provide community input for lead agencies is buried in the other duties ascribed to DCF Community Alliances, which are at present located in the DCF organizational statute, ch. 20.19, F.S.

### **III. Effect of Proposed Changes:**

**Section 1** revises s. 39.01, F.S., to provide a definition for “sibling.”

**Section 2** creates s. 39.2015, F.S., to direct DCF to establish critical incident rapid response teams to conduct an immediate investigation of all deaths or other serious incidents involving children reported to the hotline. This investigation does not take the place of child abuse investigations currently conducted by the DCF or sheriff’s offices. Rather than focusing on the cause of death, the rapid response team investigations will focus on the child protection and child welfare services provided or needed. The qualifications of the team members, the time periods under which they must work, their compensation, and their required reporting are all delineated.

The bill also provides for the DCF secretary to appoint an advisory committee for the teams, with the responsibility for reviewing their reports and making recommendations to improve policies and practices related to child protection services and child welfare services. The result of these investigations will be to identify operational changes within the child protection and child welfare system to prevent future child abuse deaths.

---

<sup>13</sup> *Id.*

<sup>14</sup> Chapter 96-402, Laws of Florida.

**Section 3** amends s. 39.202, F.S., to make conforming changes allowing for the posting on the DCF website of information relating to child deaths reported to the DCF hotline.

**Section 4** creates s. 39.2022, F.S., to require public disclosure of child deaths reported to the child abuse hotline. It describes the basic information to be provided and requires the DCF to post the information on its website. The bill preserves the DCF's current ability to provide additional information to any person if the death is determined to be the result of abuse, neglect, or abandonment. The bill also provides that any information that is otherwise confidential or exempt will not be posted on the website.

**Section 5** amends s. 39.402, F.S., to require that, at the time of a court's shelter hearing for a child removed from his or her home as the result of allegations of abuse, neglect, or abandonment, the DCF must report to the court that it has made reasonable efforts to keep siblings together unless the placement together is not in their best interest. The bill also provides that if siblings removed from their home cannot be placed together, the DCF must provide the court with a recommendation for frequent visitation or other ongoing interaction between the siblings unless such interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours of the shelter hearing, the DCF must provide justification to the court for the delay.

**Section 6** amends s. 39.5085, F.S., to allow payment to nonrelatives willing to assume custody and care of a dependent child and a dependent half-brother or half-sister of that dependent child, in the role of a substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver. The placement is required to be court-ordered, temporary legal custody to the nonrelative under the protective supervision of the DCF. Nonrelatives may receive payment for the care of the child at the same rate that relatives would be paid, subject to available funding.

**Section 7** amends s. 39.701, F.S., to require the DCF to report to the court at every judicial review the frequency, kind, and duration of sibling contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the children. It also requires that, at the time of the special judicial review hearing held for children who have become 17 years of age, the court must consider whether granting emancipation for the purposes of obtaining housing, turning on utilities, and opening bank accounts is in the child's best interest.

**Section 8** amends s. 39.802, F.S., to remove the requirement that petitions for termination of parental rights be signed by employees of the DCF. This change will reduce the administrative burden on the DCF, decrease the cost of processing the petitions, and increase the timeliness of the petitions.

**Section 9** amends s. s. 383.402, F.S., to expand the cases reviewed by the State Child Abuse Death Review Committee (CADR) to include all cases where the death was reported to the DCF child abuse hotline, as opposed to only those cases in which the death has been verified to have occurred as a result of abuse, neglect, or abandonment.

**Section 10** directs the Division of Law Revision and Information to create part V of ch. 409, F.S., to be entitled “Community-Based Child Welfare.”

**Section 11** moves provisions from s. 409.1671, F.S., to create s. 409.986, F.S. The new section provides legislative findings, intent, goals, and definitions related to community-based care.

**Section 12** moves provisions from s. 409.1671, F.S., to create s. 409.987, F.S. The new section clarifies the requirements for the DCF to procure community-based care lead agencies (lead agencies). The procurement must be conducted through a competitive process required by chapter 287, F.S. The bill describes the geographic size limitations for such procurements. The bill requires the DCF to produce a schedule for procurements and to share that schedule with community alliances. The bill creates requirements for an entity to compete for the award of a contract as a lead agency, including the requirement that the entity be organized as a Florida corporation governed by a local board of directors. The bill requires that the procurement be done in consultation with local community alliances.

**Section 13** moves provisions from s. 409.1671, F.S., and 409.1675, F.S., to create s. 409.988, F.S. The new section outlines the duties of the lead agencies and authorizes subcontracting for the provision of child welfare services.

**Section 14** moves provisions from s. 409.1671, F.S., and 409.16745, F.S., to create s. 409.990, F.S. The new section describes funding for lead agencies.

**Section 15** moves provisions from 409.16713, F.S., to create s. 409.991, F.S. The new section describes the allocation of funds for lead agencies.

**Section 16** moves provisions from s. 409.1671, F.S., to create s. 409.992, F.S. The new section provides for lead agency expenditures. The DCF must develop financial guidelines in consultation with the auditor general.

**Section 17** moves provisions from s. 409.1671, F.S., to create s. 409.993, F.S., to describe lead agency and subcontractor liability. The contents of this section are currently found in s. 409.1671(1)(h)-(l), F.S.

**Section 18** transfers and renumbers s. 409.1675, F.S., to create s. 409.994, F.S., describing receivership for lead agencies.

**Section 19** creates s. 409.996, F.S., to describe the duties of the DCF in contracting for child welfare services.

**Section 20** creates s. 409.997, F.S., to establish a results-oriented accountability system for child welfare. The bill requires that the DCF must maintain a comprehensive, results-oriented accountability system that monitors the use of resources, the quality and amount of services provided, and the child and family outcomes through data analysis, research review, evaluation, and quality improvement. The DCF is given direction for establishing such a system and is required to report the result of the accountability system at least quarterly on its website as well

as annually to the governor, the president of the Senate, and the speaker of the House of Representatives.

**Section 21** creates s. 409.998, F.S., to require that DCF establish community-based care alliances in each lead agency service area. It describes the duties, membership, and responsibilities of the alliances and provides that meetings of the alliances are open to the public.

**Section 22** repeals subsection (4) of s. 20.19, F.S. This statute describes the current composition and duties of the DCF community alliances, which the bill replaces with the community alliances described in new s. 409.998, F.S.

**Section 23** repeals ss. 409.1671, 409.16715, and 409.16745, F.S., all of which are incorporated into the new statutory scheme.

**Sections 24-30** amend ss. 39.201, 409.1676, 409.1677, 409.906, 409.912, 409.91211, and 420.628, F.S., respectively, to correct cross-references.

**Section 31** provides an effective date of July 1, 2014.

#### **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:

SB 1668 clarifies the responsibilities of the community-based care lead agencies but does not impose new requirements on them.

C. Government Sector Impact:

The Department of Children and Families (DCF) has made the following estimates of the bill's fiscal impacts for Fiscal Year 2014-2015 by component:

<b>Component</b>	<b>FTE</b>	<b>Recurring GR</b>	<b>Nonrecurring GR</b>	<b>Total GR Needed</b>
Critical incident response team		\$500,000		\$500,000
Advisory committee appointees		\$175,000		\$175,000
Public disclosure hotline		\$118,000	\$193,200	\$311,200
Nonrelative caregiver		\$4,791,024		\$4,791,024
Child death reviews	6	\$588,762	\$22,638	\$611,400
Technical assistance and consultation for lead agencies	7	\$722,589	\$26,411	\$749,000
Quality assurance	18	\$1,732,086	\$67,914	\$1,800,000
Results-oriented accountability	5	\$3,106,135	\$18,865	\$3,125,000
Community alliances	35	\$3,367,945	\$132,055	\$3,500,000
<b>Totals for Fiscal Year 2014-2015</b>	<b>71</b>	<b>\$15,101,541</b>	<b>\$461,083</b>	<b>\$15,562,624</b>

The DCF advises that in Fiscal Year 2015-2016 and beyond, the number of recipients in the nonrelative caregiver program will accumulate progressively because the assistance continues until the child reaches the age of 18 or otherwise becomes ineligible. This is expected to result in an increased program cost each year until the 17<sup>th</sup> year of the program.

**VI. Technical Deficiencies:**

The bill transfers current provisions relating to community-based care liability from s. 409.1671, F.S., to the newly created s. 409.993, F.S. Current law allows liability caps set in 1999 to increase by five percent each year. The bill does not update the amounts of the caps, resulting in a reduction of the caps back to the 1999 levels.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.201, 39.202, 39.402, 39.5085, 39.701, 39.802, 383.402, 409.16713, 409.1675, 409.1676, 409.1677, 409.906, 409.912, 409.91211, and 420.628.

This bill creates the following sections of the Florida Statutes: 39.2015, 39.2022, 409.986, 409.987, 409.988, 409.990, 409.991 (formerly s. 409.16713), 409.992, 409.993, 409.994 (formerly s. 409.1675), 409.996, 409.997, and 409.998.

This bill repeals the following sections of the Florida Statutes: 20.19(4), 409.1671, 409.16715, and 409.16745.



**IX. Additional Information:**

- A. **Committee Substitute – Statement of 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.

---