

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 Committee on Children, Families, and Elder Affairs

BILL: SPB 7074

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Child Welfare

DATE: March 10, 2014 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sanford	Hendon		Submitted as Committee Bill

I. Summary:

SPB 7074 makes a number of changes to improve the care of children in the child welfare system. Specifically, 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 or the department) must make every effort to keep the siblings together and, if separated, to keep them in communication with one another and reunited as quickly as feasible, unless doing so would not be in the best interest of the children.

The bill directs the department to conduct immediate investigations of deaths involving children that have been known to the child protection and child welfare system. The purpose of the teams is to identify root causes and to rapidly determine the need to change policies and practices related to child protection and child welfare.

The bill requires the department to report on its website basic facts relating to all deaths of children which occur in this state and which are reported to the DCF child abuse hotline. It describes the information to be posted and continues current protection for information which is otherwise confidential or exempt.

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 the dependency court. The court must find that the placement is in the best interest of the child. 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 DCF.

The bill adds to the actions to be conducted on the special review hearing after a child in out-of-home care becomes 17 years of age a determination by the court whether the removal of the disability of nonage for the purpose of signing a residential lease, obtaining utilities, or establishing a bank account is in the child’s best interest and to remove those disabilities if doing so is in the child’s best interest.

The bill expands the scope of child deaths to be reviewed by the statewide child death abuse review committee from those determined to have been the result of child abuse or neglect to all child deaths reported to the department's child abuse hotline.

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 DCF and Community Based Care Lead Agencies (CBCs) is provided.

The bill will have an indeterminate fiscal impact. It provides for an effective date of July 1, 2014.

II. Present Situation:

Siblings

Current law includes legislative intent that when siblings are placed in out-of-home care, the department makes every possible effort to place them together; if they are permanently placed, to place them in the same adoptive home, and if placement together is not possible, to keep them in contact with each other.¹ 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 reviews to ensure that the department is attending to issues relating to siblings.

Relative Caregiver Program

The Florida Legislature established the Relative Caregiver Program in the 1998 Legislative Session.² This program offers monthly cash assistance and Medicaid for a child under the age of 18 who is placed by the 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 fulltime for the child are eligible for the Program.

Under the Relative Caregiver Program, the child may either be in temporary custody of the relative under the protective supervision of DCF or may be placed in the guardianship³ or in a placement with the relative.⁴ Either of the last two options is considered a permanency placement for the child. Continued supervision of the placement by DCF is required under the permanent placement option, but not under the guardianship option.

¹ Section 39.001(1)(k), F.S.

² Chapter 98-403, s. 70, Laws of Fla.

³ Section 39.6221, F.S.

⁴ Section 39.6231, F.S.

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 department 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 home studies by the department. 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 were 1,552 children in the care of nonrelatives under DCF supervision. The estimated monthly Relative Caregiver cost per child is \$257.09, for the annual total of \$3,087 per child.⁵

Public Disclosure of Child Deaths

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

Child Abuse Death Review Committee

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

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

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

⁷ Section 383.402, F.S.

⁸ Section 383.402(1), F.S.

⁹ Section 383.402(2)(a) and (b), F.S.

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:¹⁰

- 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 state committee is required to submit an annual statistical report to the Governor and the Legislature by December 31st containing recommendations to reduce preventable child deaths.¹¹

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.¹²

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 department as being related to child abuse or neglect. The State Committee received 126 cases for review during the period of January through November 2012. The four cases verified after the review period will be reviewed in 2013. The State Committee is statutorily limited to the review of "verified" child death reports, which limits understanding of why children are dying in Florida.¹³

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 department to contract with established community-based organizations to establish pilot projects for the provision of foster care and related services.¹⁴ In 1998, the Legislature required the department to privatize the provision of all foster care and related services statewide. The transition was completed in FY 2004-2005. Currently, there are 19 community-based care lead agencies (CBCs) providing child welfare services statewide.

From the beginning of the transition to outsourced child welfare services, s. 409.1671, F.S., has been the primary legislative provision describing 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 DCF in an outsourced child welfare world.

¹⁰ Section 383.402(1), F.S.

¹¹ Section 383.402(3)(c), F.S.

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

¹³ *Id.*

¹⁴ Chapter 96-402, Laws of Fla.

In addition, currently there is not a statutory requirement that the CBCs be incorporated under Florida law. Also, the duty to provide community input for CBCs is buried in the other duties ascribed to the DCF Community Alliances, which are at present located in the DCF organizational statute, ch. 20.19, F.S. There is no provision for a Direct Support Organization (DSO) affiliated with the community alliances.

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 the child abuse investigation currently conducted by the department or sheriff office. The investigation rather than focusing on the cause of death, will focus on the child protection and child welfare services provided or needed. The qualifications of the team, the time periods under which they must work, their compensation, and their required reporting are all provided. The section 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.

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 that DCF post the information on its website. It preserves the current ability of DCF to provide additional information to any person if the death is determined to be the result of abuse, neglect, or abandonment. It 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, at the time of a shelter hearing for a child removed from their home as the result of allegations of abuse, neglect, or abandonment, that DCF report to the court that it has made reasonable efforts to keep siblings together unless the placement together is not in their best interest. It also provides that if siblings removed from their home cannot be placed together, that 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, 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 department. 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 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 child. 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 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 department. This change will reduce the administrative burden on the department, decrease the cost of processing such petitions, and increase the timeliness of such petitions.

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

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." This will improve the use and organization of statutory provisions relating to community based care.

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 DCF to procure community based care lead agencies. The procurement must be conducted through a competitive process required by chapter 287 and describes the geographic size limitations for such procurements. It requires DCF to produce a schedule for procurements and to share that schedule with community alliances. It sets for the 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. It 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 CBC lead agencies and to authorize 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 community-based care 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 department 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 current s. 409.1675, F.S., to create s. 409.994, F.S., describing community based care lead agencies and receivership.

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

Section 20 creates s. 409.997, F.S., to establish a child welfare results-oriented accountability system. The section requires that DCF 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 department 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 service area of CBCs. It describes the duties, membership, and responsibilities of the alliances and their members and provides that meetings of the alliance are open to the public.

Section 22 repeals subsection (4) of s. 20.19, F.S. This is the section describing the current composition and duties of the DCF community alliances, which the bill replaces with the community alliances described in 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, with amendments.

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:

The bill clarifies the responsibilities of the CBCs, but does not impose new requirements on them.

C. Government Sector Impact:

The bill calls for the creation of critical incident rapid response teams to review certain child abuse deaths. The team members may be reimbursed for expenses and salaries. It is unknown how many cases each year would be investigated by the teams so the cost of these new investigations is unknown.

The bill requires the posting on the DCF website of information relating to child deaths reported to the DCF hotline. The information is currently collected and maintained in the Florida Safe Families Network (FSFN). The costs to post this information on the DCF website would be insignificant.

The bill allows for the payment to nonrelatives willing to assume custody and care of a dependent child. Based on the number of children currently in this placement, the department estimates that the cost could be up to \$4.8 million each year.

The bill expands the cases reviewed by the State Child Abuse Death Review Committee. The reviews cost \$714 each and the costs are paid from the expense budget of the Department of Health. Based on these current costs and an estimated additional 346 cases to be reviewed under the bill, the increased costs would be \$247,143 each year.

The bill requires DCF repurpose the current community alliances to focus exclusively on the child protection and child welfare system. The cost to perform these new duties is unknown, but is not expected to be significant.

VI. Technical Deficiencies:

The bill transfers current provisions relating to community based care liability from s. 409.1671 to the newly created s. 409.993, F.S. Current law allows liability caps set in 1999 to increase by

5 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, 409.1655, 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, 409.992, 409.993, 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.