

By Senator Detert

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1 A bill to be entitled
2 An act relating to children in out-of-home care;
3 amending s. 409.145, F.S.; providing legislative
4 findings and intent; removing provisions requiring the
5 Department of Children and Families to develop,
6 implement, and administer a coordinated community-
7 based system of care for children directed toward
8 specified goals; authorizing children of certain ages
9 to be placed in a residential group home setting using
10 a shift-care model only under specified circumstances;
11 requiring the department to develop a proposal for a
12 continuum of care for children in out-of-home care;
13 repealing s. 39.523, F.S., relating to the placement
14 in residential group care; repealing s. 409.165, F.S.,
15 relating to alternate care for children; repealing s.
16 409.1676, F.S., relating to comprehensive residential
17 group care services to children who have extraordinary
18 needs; repealing s. 409.1677, F.S., relating to model
19 comprehensive residential services programs; repealing
20 s. 409.1679, F.S., relating to additional requirement
21 and reimbursement methodology; amending s. 409.1451,
22 F.S.; conforming cross-references; amending ss.
23 39.202, 39.5085, and 1002.3305, F.S.; conforming
24 provisions to changes made by the act; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 409.145, Florida Statutes, is amended to

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30 read:

31 409.145 Continuum of care; residential group home placement
32 ~~Care of children; quality parenting; "reasonable and prudent~~
33 ~~parent" standard. The child welfare system of the department~~
34 ~~shall operate as a coordinated community based system of care~~
35 ~~which empowers all caregivers for children in foster care to~~
36 ~~provide quality parenting, including approving or disapproving a~~
37 ~~child's participation in activities based on the caregiver's~~
38 ~~assessment using the "reasonable and prudent parent" standard.~~

39 (1) LEGISLATIVE FINDINGS AND INTENT SYSTEM OF CARE. ~~The~~
40 ~~department shall develop, implement, and administer a~~
41 ~~coordinated community based system of care for children who are~~
42 ~~found to be dependent and their families. This system of care~~
43 ~~must be directed toward the following goals:~~

44 (a) The Legislature finds that all children, including
45 those in out-of-home care, deserve to grow up with families and
46 develop a sense of community ~~Prevention of separation of~~
47 ~~children from their families.~~

48 (b) The Legislature also finds that it is well documented
49 that children residing long term in group homes with shift-based
50 care is not in their best interest. Not only is it
51 developmentally inappropriate, it frequently creates lifelong
52 behaviors requiring institutionalization and contributes to
53 higher levels of involvement with the juvenile justice system
54 and to poor educational outcomes ~~Intervention to allow children~~
55 ~~to remain safely in their own homes.~~

56 (c) The Legislature further finds that Florida relies on
57 placing children, particularly older children, in group settings
58 with shift-based care at a high rate, that many of those

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59 children remain in those group settings for 6 months or more,
60 and that the state's inability to recruit and retain a
61 sufficient number of foster families has left few options for
62 getting children out of congregate foster care and into family
63 homes ~~Reunification of families who have had children removed~~
64 ~~from their care.~~

65 (d) Therefore, it is the intent of the Legislature to
66 restructure placement options and services in order to reduce
67 reliance on group homes using a shift-care model as a long-term
68 placement setting. This restructuring will be accomplished by
69 narrowly defining the purpose of residential group care, by
70 placing conditions on admissions to certain types of group
71 homes, and by increasing the capacity of home-based family care
72 to better address the individual needs of all children in out-
73 of-home care ~~Safety for children who are separated from their~~
74 ~~families by providing alternative emergency or longer-term~~
75 ~~parenting arrangements.~~

76 (e) ~~Focus on the well-being of children through emphasis on~~
77 ~~maintaining educational stability and providing timely health~~
78 ~~care.~~

79 (f) ~~Permanency for children for whom reunification with~~
80 ~~their families is not possible or is not in the best interest of~~
81 ~~the child.~~

82 (g) ~~The transition to independence and self-sufficiency for~~
83 ~~older children who remain in foster care through adolescence.~~

84 (2) RESIDENTIAL GROUP HOME PLACEMENT.-

85 (a) A child 6 years of age or younger may be placed in a
86 residential group home setting using a shift-care model only
87 under any of the following circumstances:

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88 1. When a case plan indicates that placement is for
89 purposes of providing short-term, specialized, and intensive
90 treatment for the child; the case plan specifies the need for,
91 nature of, and anticipated duration of this treatment; the
92 facility meets the applicable regulations adopted under s.
93 409.175; and the Assistant Secretary for Child Welfare for the
94 department has approved the case plan.

95 2. The short-term, specialized, and intensive treatment
96 period may not exceed 120 days, unless the community-based care
97 lead agency has made progress toward or is actively working
98 toward implementing the case plan that identifies the services
99 or supports necessary to transition the child to a family
100 setting, circumstances beyond the lead agency's control have
101 prevented the agency from obtaining those services or supports
102 within the timeline documented in the case plan, and the need
103 for additional time pursuant to the case plan is documented by
104 the caseworker and approved by the Assistant Secretary for Child
105 Welfare for the department.

106 3. To the extent that placements pursuant to this
107 subsection are extended beyond an initial 120 days, the
108 requirements of subparagraphs 1. and 2. shall apply to each
109 extension. In addition, the Assistant Secretary for Child
110 Welfare for the department shall approve the continued placement
111 no less frequently than every 60 days.

112 (b) A child 7-12 years of age may be placed in a
113 residential group home setting using a shift-care model only
114 under any of the following circumstances:

115 1. When a case plan indicates that placement is for
116 purposes of providing short-term, specialized, and intensive

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117 treatment for the child; the case plan specifies the need for,
118 nature of, and anticipated duration of this treatment; the
119 facility meets the applicable regulations adopted under s.
120 409.175; and the Assistant Secretary for Child Welfare for the
121 department has approved the case plan.

122 2. The short-term, specialized, and intensive treatment
123 period may not exceed 6 months, unless the community-based care
124 lead agency has made progress toward or is actively working
125 toward implementing the case plan that identifies the services
126 or supports necessary to transition the child to a family
127 setting, circumstances beyond the lead agency's control have
128 prevented the agency from obtaining those services or supports
129 within the timeline documented in the case plan, and the need
130 for additional time pursuant to the case plan is documented by
131 the caseworker and approved by the Assistant Secretary for Child
132 Welfare for the department.

133 3. To the extent that placements pursuant to this
134 subsection are extended beyond an initial 120 days, the
135 requirements of subparagraphs 1. and 2. shall apply to each
136 extension. In addition, the Assistant Secretary for Child
137 Welfare for the department shall approve the continued placement
138 no less frequently than every 60 days.

139 (3) CREATION OF CONTINUUM OF CARE.—The department shall
140 develop a proposal to address the placement and service needs of
141 children who are cared for outside of their own homes by
142 creating a continuum of care that consists of recruiting,
143 training, and supporting an adequate supply of home-based family
144 care; providing needed services and supports in those family
145 care settings; and limiting congregate care to only those

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146 situations in which adequate services cannot be safely provided
147 while a child lives with a family, and then for only the minimum
148 amount of time required for stabilization.

149 (4)-(2) QUALITY PARENTING.—A child in foster care shall be
150 placed only with a caregiver who has the ability to care for the
151 child, is willing to accept responsibility for providing care,
152 and is willing and able to learn about and be respectful of the
153 child's culture, religion and ethnicity, special physical or
154 psychological needs, any circumstances unique to the child, and
155 family relationships. The department, the community-based care
156 lead agency, and other agencies shall provide such caregiver
157 with all available information necessary to assist the caregiver
158 in determining whether he or she is able to appropriately care
159 for a particular child.

160 (a) *Roles and responsibilities of caregivers.*—A caregiver
161 shall:

162 1. Participate in developing the case plan for the child
163 and his or her family and work with others involved in his or
164 her care to implement this plan. This participation includes the
165 caregiver's involvement in all team meetings or court hearings
166 related to the child's care.

167 2. Complete all training needed to improve skills in
168 parenting a child who has experienced trauma due to neglect,
169 abuse, or separation from home, to meet the child's special
170 needs, and to work effectively with child welfare agencies, the
171 court, the schools, and other community and governmental
172 agencies.

173 3. Respect and support the child's ties to members of his
174 or her biological family and assist the child in maintaining

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175 allowable visitation and other forms of communication.

176 4. Effectively advocate for the child in the caregiver's
177 care with the child welfare system, the court, and community
178 agencies, including the school, child care, health and mental
179 health providers, and employers.

180 5. Participate fully in the child's medical, psychological,
181 and dental care as the caregiver would for his or her biological
182 child.

183 6. Support the child's school success by participating in
184 school activities and meetings, including Individual Education
185 Plan meetings, assisting with school assignments, supporting
186 tutoring programs, meeting with teachers and working with an
187 educational surrogate if one has been appointed, and encouraging
188 the child's participation in extracurricular activities.

189 7. Work in partnership with other stakeholders to obtain
190 and maintain records that are important to the child's well-
191 being, including child resource records, medical records, school
192 records, photographs, and records of special events and
193 achievements.

194 8. Ensure that the child in the caregiver's care who is
195 between 13 and 17 years of age learns and masters independent
196 living skills.

197 9. Ensure that the child in the caregiver's care is aware
198 of the requirements and benefits of the Road-to-Independence
199 Program.

200 10. Work to enable the child in the caregiver's care to
201 establish and maintain naturally occurring mentoring
202 relationships.

203 (b) *Roles and responsibilities of the department, the*

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204 *community-based care lead agency, and other agency staff.*—The
205 department, the community-based care lead agency, and other
206 agency staff shall:

207 1. Include a caregiver in the development and
208 implementation of the case plan for the child and his or her
209 family. The caregiver shall be authorized to participate in all
210 team meetings or court hearings related to the child's care and
211 future plans. The caregiver's participation shall be facilitated
212 through timely notification, an inclusive process, and
213 alternative methods for participation for a caregiver who cannot
214 be physically present.

215 2. Develop and make available to the caregiver the
216 information, services, training, and support that the caregiver
217 needs to improve his or her skills in parenting children who
218 have experienced trauma due to neglect, abuse, or separation
219 from home, to meet these children's special needs, and to
220 advocate effectively with child welfare agencies, the courts,
221 schools, and other community and governmental agencies.

222 3. Provide the caregiver with all information related to
223 services and other benefits that are available to the child.

224 (c) *Transitions.*—

225 1. Once a caregiver accepts the responsibility of caring
226 for a child, the child will be removed from the home of that
227 caregiver only if:

228 a. The caregiver is clearly unable to safely or legally
229 care for the child;

230 b. The child and his or her biological family are
231 reunified;

232 c. The child is being placed in a legally permanent home

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233 pursuant to the case plan or a court order; or

234 d. The removal is demonstrably in the child's best
235 interest.

236 2. In the absence of an emergency, if a child leaves the
237 caregiver's home for a reason provided under subparagraph 1.,
238 the transition must be accomplished according to a plan that
239 involves cooperation and sharing of information among all
240 persons involved, respects the child's developmental stage and
241 psychological needs, ensures the child has all of his or her
242 belongings, allows for a gradual transition from the caregiver's
243 home and, if possible, for continued contact with the caregiver
244 after the child leaves.

245 (d) *Information sharing.*—Whenever a foster home or
246 residential group home assumes responsibility for the care of a
247 child, the department and any additional providers shall make
248 available to the caregiver as soon as is practicable all
249 relevant information concerning the child. Records and
250 information that are required to be shared with caregivers
251 include, but are not limited to:

252 1. Medical, dental, psychological, psychiatric, and
253 behavioral history, as well as ongoing evaluation or treatment
254 needs;

255 2. School records;

256 3. Copies of his or her birth certificate and, if
257 appropriate, immigration status documents;

258 4. Consents signed by parents;

259 5. Comprehensive behavioral assessments and other social
260 assessments;

261 6. Court orders;

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262 7. Visitation and case plans;
263 8. Guardian ad litem reports;
264 9. Staffing forms; and
265 10. Judicial or citizen review panel reports and
266 attachments filed with the court, except confidential medical,
267 psychiatric, and psychological information regarding any party
268 or participant other than the child.

269 (e) *Caregivers employed by residential group homes.*—All
270 caregivers in residential group homes shall meet the same
271 education, training, and background and other screening
272 requirements as foster parents.

273 (5)~~(3)~~ REASONABLE AND PRUDENT PARENT STANDARD.—

274 (a) *Definitions.*—As used in this subsection, the term:

275 1. "Age-appropriate" means an activity or item that is
276 generally accepted as suitable for a child of the same
277 chronological age or level of maturity. Age appropriateness is
278 based on the development of cognitive, emotional, physical, and
279 behavioral capacity which is typical for an age or age group.

280 2. "Caregiver" means a person with whom the child is placed
281 in out-of-home care, or a designated official for a group care
282 facility licensed by the department under s. 409.175.

283 3. "Reasonable and prudent parent" standard means the
284 standard of care used by a caregiver in determining whether to
285 allow a child in his or her care to participate in
286 extracurricular, enrichment, and social activities. This
287 standard is characterized by careful and thoughtful parental
288 decisionmaking that is intended to maintain a child's health,
289 safety, and best interest while encouraging the child's
290 emotional and developmental growth.

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291 (b) *Application of standard of care.*—

292 1. Every child who comes into out-of-home care pursuant to
293 this chapter is entitled to participate in age-appropriate
294 extracurricular, enrichment, and social activities.

295 2. Each caregiver shall use the reasonable and prudent
296 parent standard in determining whether to give permission for a
297 child living in out-of-home care to participate in
298 extracurricular, enrichment, or social activities. When using
299 the reasonable and prudent parent standard, the caregiver must
300 consider:

301 a. The child's age, maturity, and developmental level to
302 maintain the overall health and safety of the child.

303 b. The potential risk factors and the appropriateness of
304 the extracurricular, enrichment, or social activity.

305 c. The best interest of the child, based on information
306 known by the caregiver.

307 d. The importance of encouraging the child's emotional and
308 developmental growth.

309 e. The importance of providing the child with the most
310 family-like living experience possible.

311 f. The behavioral history of the child and the child's
312 ability to safely participate in the proposed activity.

313 (c) *Verification of services delivered.*—The department and
314 each community-based care lead agency shall verify that private
315 agencies providing out-of-home care services to dependent
316 children have policies in place which are consistent with this
317 section and that these agencies promote and protect the ability
318 of dependent children to participate in age-appropriate
319 extracurricular, enrichment, and social activities.

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320 (d) *Limitation of liability.*—A caregiver is not liable for
 321 harm caused to a child who participates in an activity approved
 322 by the caregiver, provided that the caregiver has acted in
 323 accordance with the reasonable and prudent parent standard. This
 324 paragraph may not be interpreted as removing or limiting any
 325 existing liability protection afforded by law.

326 (6)~~(4)~~ FOSTER PARENT ROOM AND BOARD RATES.—

327 (a) Effective January 1, 2014, room and board rates paid to
 328 foster parents are as follows:

329

Monthly			
Foster	0-5 Years	6-12 Years	13-21 Years
Care Rate	Age	Age	Age
	\$429	\$440	\$515

330

331

332 (b) Foster parents shall receive an annual cost of living
 333 increase. The department shall calculate the new room and board
 334 rate increase equal to the percentage change in the Consumer
 335 Price Index for All Urban Consumers, U.S. City Average, All
 336 Items, not seasonally adjusted, or successor reports, for the
 337 preceding December compared to the prior December as initially
 338 reported by the United States Department of Labor, Bureau of
 339 Labor Statistics. The department shall make available the
 340 adjusted room and board rates annually.

341 (c) The amount of the monthly foster care board rate may be
 342 increased upon agreement among the department, the community-
 343 based care lead agency, and the foster parent.

344 (d) Community-based care lead agencies providing care under

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345 contract with the department shall pay a supplemental room and
 346 board payment to foster care parents for providing independent
 347 life skills and normalcy supports to children who are 13 through
 348 17 years of age placed in their care. The supplemental payment
 349 shall be paid monthly to the foster care parents on a per-child
 350 basis in addition to the current monthly room and board rate
 351 payment. The supplemental monthly payment shall be based on 10
 352 percent of the monthly room and board rate for children 13
 353 through 21 years of age as provided under this section and
 354 adjusted annually.

355 (7)~~(5)~~ RULEMAKING.—The department shall adopt by rule
 356 procedures to administer this section.

357 Section 2. Sections 39.523, 409.165, 409.1676, 409.1677,
 358 and 409.1679, Florida Statutes, are repealed.

359 Section 3. Paragraph (b) of subsection (2) of section
 360 409.1451, Florida Statutes, is amended to read:

361 409.1451 The Road-to-Independence Program.—

362 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

363 (b) The amount of the financial assistance shall be as
 364 follows:

365 1. For a young adult who does not remain in foster care and
 366 is attending a postsecondary school as provided in s. 1009.533,
 367 the amount is \$1,256 monthly.

368 2. For a young adult who remains in foster care, is
 369 attending a postsecondary school, as provided in s. 1009.533,
 370 and continues to reside in a licensed foster home, the amount is
 371 the established room and board rate for foster parents. This
 372 takes the place of the payment provided for in s. 409.145(6) ~~s.~~
 373 ~~409.145(4)~~.

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374 3. For a young adult who remains in foster care, but
375 temporarily resides away from a licensed foster home for
376 purposes of attending a postsecondary school as provided in s.
377 1009.533, the amount is \$1,256 monthly. This takes the place of
378 the payment provided for in s. 409.145(6) ~~s. 409.145(4)~~.

379 4. For a young adult who remains in foster care, is
380 attending a postsecondary school as provided in s. 1009.533, and
381 continues to reside in a licensed group home, the amount is
382 negotiated between the community-based care lead agency and the
383 licensed group home provider.

384 5. For a young adult who remains in foster care, but
385 temporarily resides away from a licensed group home for purposes
386 of attending a postsecondary school as provided in s. 1009.533,
387 the amount is \$1,256 monthly. This takes the place of a
388 negotiated room and board rate.

389 6. The amount of the award may be disregarded for purposes
390 of determining the eligibility for, or the amount of, any other
391 federal or federally supported assistance.

392 7. A young adult is eligible to receive financial
393 assistance during the months when enrolled in a postsecondary
394 educational institution.

395 Section 4. Paragraph (s) of subsection (2) of section
396 39.202, Florida Statutes, is amended to read:

397 39.202 Confidentiality of reports and records in cases of
398 child abuse or neglect.—

399 (2) Except as provided in subsection (4), access to such
400 records, excluding the name of the reporter which shall be
401 released only as provided in subsection (5), shall be granted
402 only to the following persons, officials, and agencies:

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403 (s) Persons with whom the department is seeking to place
 404 the child or to whom placement has been granted, including
 405 foster parents for whom an approved home study has been
 406 conducted, the designee of a licensed residential group home
 407 ~~described in s. 39.523~~, an approved relative or nonrelative with
 408 whom a child is placed pursuant to s. 39.402, preadoptive
 409 parents for whom a favorable preliminary adoptive home study has
 410 been conducted, adoptive parents, or an adoption entity acting
 411 on behalf of preadoptive or adoptive parents.

412 Section 5. Paragraph (f) of subsection (2) of section
 413 39.5085, Florida Statutes, is amended to read:

414 39.5085 Relative Caregiver Program.—

415 (2)

416 (f) Within available funding, the Relative Caregiver
 417 Program shall provide caregivers with family support and
 418 preservation services, flexible funds ~~in accordance with s.~~
 419 ~~409.165~~, school readiness, and other available services in order
 420 to support the child's safety, growth, and healthy development.
 421 Children living with caregivers who are receiving assistance
 422 under this section shall be eligible for Medicaid coverage.

423 Section 6. Subsection (11) of section 1002.3305, Florida
 424 Statutes, is amended to read:

425 1002.3305 College-Preparatory Boarding Academy Pilot
 426 Program for at-risk students.—

427 (11) STUDENT HOUSING.—Notwithstanding s. ss. 409.1677(3)(d)
 428 ~~and 409.176~~ or any other provision of law, an operator may house
 429 and educate dependent, at-risk youth in its residential school
 430 for the purpose of facilitating the mission of the program and
 431 encouraging innovative practices.

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Section 7. This act shall take effect July 1, 2015.