

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 217 Children Obtaining Driver Licenses  
**SPONSOR(S):** Children, Families & Seniors Subcommittee, Sullivan, Albritton and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 60

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	14 Y, 0 N, As CS	Tuszynski	Brazzell
2) Health Care Appropriations Subcommittee	14 Y, 0 N	Fontaine	Pridgeon
3) Health & Human Services Committee	18 Y, 0 N	Tuszynski	Calamas

### SUMMARY ANALYSIS

Florida's dependency system safeguards child welfare by providing services to prevent child abandonment, abuse, and neglect. The Department of Children and Families (DCF) works in partnership with local communities and the courts to ensure the safety, timely permanency, and well-being of children in the dependency system.

Children in the dependency system sometimes face barriers to having everyday life experiences common to young people their age. Florida statute recognizes that children in the dependency system should have normal age-appropriate experiences. One typical experience for teenagers is obtaining a driver license, which can facilitate having a job, attending school, engaging socially, and contributing to the community.

The Florida Legislature authorized the Keys to Independence Act in 2014. This created a 3-year pilot program to help children in licensed foster care overcome barriers to getting a driver license, such as the costs of education, licensure, and insurance, by providing reimbursement.

HB 217 makes the Keys to Independence program permanent. The bill expands the program to include, under certain conditions, children in non-licensed out-of-home care who have reached permanency or turned 18.

The bill requires the child's transition plan and the court to address the child's obtaining a driver license.

The bill permits a guardian ad litem authorized by a minor's caregiver to sign for the minor's learner license and not assume any obligation or liability for damages caused by the minor.

The current program is funded with a recurring appropriation of \$800,000 and will not require additional resources for this proposed expansion. The bill has no fiscal impact on local governments.

The bill has an effective date of upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Child Welfare System

Florida's dependency system safeguards child welfare by providing services to prevent child abandonment, abuse, and neglect.<sup>1</sup> The Department of Children and Families (DCF) works in partnership with local communities and the courts to ensure the safety, timely permanency, and well-being of children in the dependency system.

DCF contracts for foster care and related services with lead agencies, also known as community-based care organizations (CBCs). The transition to outsourced provision of child welfare services was intended to increase local community ownership of service delivery and design.<sup>2</sup>

DCF, through the CBCs, administers a system of care<sup>3</sup> for children to:

- Prevent children's separation from their families;
- Intervene to allow children to remain safely in their own homes;
- Reunify families who have had children removed from their care, if possible and appropriate;
- Ensure safety and normalcy for children who are separated from their families;
- Enhance children's well-being of children through educational stability and timely health care;
- Provide permanency; and
- Develop their independence and self-sufficiency.

###### *Normalcy and Driver Licenses*

Children in the dependency system sometimes face barriers to participating in everyday life experiences common to young people their age. Florida statute recognizes that children in out-of-home care are entitled to age-appropriate extracurricular, enrichment, and social activities.<sup>4</sup>

Nationally, 24.5% of 16-year-olds, 44.9% of 17-year-olds, and 60.1% of 18-year-olds are licensed drivers.<sup>5</sup>

DCF contracts with a private not-for-profit to survey youth in foster care every six months and to publish findings.<sup>6</sup> The Spring 2016 survey reported very different numbers for foster care youth who have driver licenses:

- 0% of 16-year-olds (1 child of 235 surveyed);
- 5% of 17-year-olds (12 children of 235 surveyed); and
- 3% of the total number of children surveyed (13 of 470 surveyed).

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<sup>1</sup> S. 39.001(8), F.S.

<sup>2</sup> Community-Based Care, The Department of Children and Families, accessible at <http://www.myflfamilies.com/service-programs/community-based-care> (last accessed January 28, 2017).

<sup>3</sup> S. 409.145(1), F.S.

<sup>4</sup> S. 409.145(3)(b)(1), F.S.

<sup>5</sup> Sivak, M., Schoettle, B, *Recent Decreases in the Proportion of Persons with a Driver's License Across All Age Groups*, The University of Michigan Transportation Research Institute, January 2016, available at <http://www.umich.edu/~umtriswt/PDF/UMTRI-2016-4.pdf> (last accessed February 13, 2017).

<sup>6</sup> My Services, Florida's Youth Survey: Spring 2016, available at <http://www.dcf.state.fl.us/programs/inliving/docs/My%20Services%20Spring%202016%20Final.pdf> (last accessed February 13, 2017).

The children surveyed reported the following percentages of learner license holders:

- 10% of 15-year-olds (23 children of 242 surveyed);
- 15% of 16-year-olds (35 children of 235 surveyed);
- 18% of 17-year-olds (43 children of 235 surveyed); and
- 14% of the total number of children surveyed (101 of 712 surveyed).

Barriers to a child in licensed out-of-home care being able to obtain a driver license include the costs of driver education, licensure, and motor vehicle insurance.<sup>7</sup>

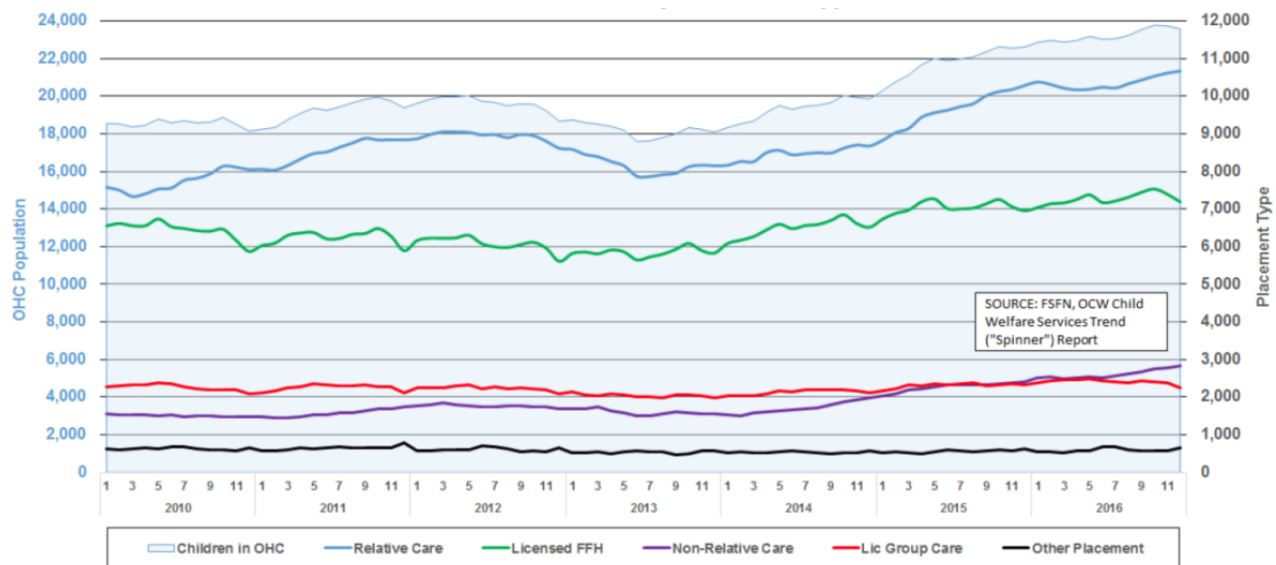
### *Types of Placement*

While in-home services are preferred, the child welfare system finds appropriate out-of-home placements for those who cannot safely stay in their own homes. Placements that require licensure include family foster homes and residential child-caring agencies (group homes).<sup>8</sup> The following out-of-home placements do not require licensure by DCF:

- Relative caregivers, such as an aunt or grandmother;
- Non-relative caregivers, such as a neighbor or family friend;
- An adoptive home which has been approved by DCF or by a licensed child-placing agency for children placed for adoption; and
- Persons or neighbors who care for children in their homes for less than 90 days.<sup>9</sup>

Out-of-home placements in Florida have increased the last three years, particularly placements that do not require DCF licensure.<sup>10</sup> DCF reports that, according to the Florida Safe Families Network,<sup>11</sup> as of November 2016, approximately 3,000 children resided in out-of-home care who were in the eligible age range for the program, with almost 900 of those children in non-licensed placements.<sup>12</sup>

Children in Out-of-Home Care by Placement Type<sup>13</sup>



<sup>7</sup> S. 409.1454(1), F.S.; Keys to Independence, Legislative Report, June 2016, available at: <https://www.dcf.state.fl.us/programs/childwelfare/docs/2016LMRs/Keys%20to%20Independence%20Annual%20Report.pdf> (last accessed March 11, 2017).

<sup>8</sup> Id.

<sup>9</sup> S. 409.175, F.S.

<sup>10</sup> Department of Children and Families, Child Welfare Key Indicators Monthly Report, pg. 25, January 2017, available at: [http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI\\_Monthly\\_Report\\_January\\_2017\\_Final.pdf](http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_January_2017_Final.pdf) (last accessed March 11, 2017).

<sup>11</sup> The FSFN system is the automated child welfare information system administered by the Department of Children and Families.

<sup>12</sup> Department of Children and Families, 2017 Agency Legislative Bill Analysis, HB 217, January 25, 2017.

<sup>13</sup> Supra, FN 10

### *Extended Foster Care*

In 2014, the Legislature provided an option for extended foster care.<sup>14</sup> Previously, youth could not remain in foster care after their 18th birthday. Now, through extended foster care, they may remain in care until they turn 21 or, if enrolled in an eligible post-secondary institution, receive financial assistance until age 23 as they continue pursuing academic and career goals.<sup>15</sup> In extended foster care, young adults continue to receive case management services and other supports to provide them with a sound platform for success as independent adults.

### *Judicial Review*

Children in foster care have judicial review hearings every 6 months. These hearings give the judge and all parties to a case an opportunity to review the case and the current status of permanency.<sup>16</sup> Prior to the judicial review hearing, DCF must provide the court and all parties a written report detailing many aspects of the child's placement and social well-being.

### Keys to Independence Pilot Program

The Florida Legislature enacted the Keys to Independence Act in 2014 (Act),<sup>17</sup> which created a 3-year pilot program to help children in licensed foster care overcome barriers to getting a driver license, such as the costs of education, licensure, and insurance, by providing reimbursement.<sup>18</sup> The Act required DCF to contract with a not-for-profit entity whose mission is to support youth aging out of foster care to develop procedures for operating and administering the pilot program, to include:<sup>19</sup>

- Determining eligibility, including responsibilities for the child and caregivers.
- Developing application and payment forms.
- Notifying eligible children, caregivers, group homes, and residential programs of the pilot program.
- Providing technical assistance to lead agencies, providers, group homes, and residential programs to support removing obstacles that prevent children in foster care from driving.

Community Based Care of Central Florida (CBCCF) was selected to develop, implement, manage and market the statewide pilot with the goal of getting as many children in foster care driving as possible.<sup>20</sup> The pilot ends June 30, 2017.

In the pilot program, youth aged 15-21 in licensed out-of-home care may be reimbursed for fees associated with obtaining a driver license, such as:

- Learner license fee
- Driver license fee
- Testing fees
- 4-Hour Traffic Law & Substance Abuse Course
- Driver education course
- Monthly insurance premium
- Insurance deductible

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<sup>14</sup> S. 39.6251, F.S.

<sup>15</sup> The Department of Children and Families, Extended Foster Care – My Future My Choice, available at: <http://www.myflfamilies.com/service-programs/independent-living/extended-foster-care> (last accessed March 10, 2017).

<sup>16</sup> S. 39.701, F.S.

<sup>17</sup> S. 409.1454, F.S.

<sup>18</sup> Keys to Independence, Legislative Report, June 2016, available at <https://www.dcf.state.fl.us/programs/childwelfare/docs/2016LMRs/Keys%20to%20Independence%20Annual%20Report.pdf> (last accessed March 10, 2017).

<sup>19</sup> S. 409.1454(5), F.S.

<sup>20</sup> Supra, FN 18 at pg. 3; See s. 409.1454(5), F.S.

Section 322.02(2), F.S., requires any individual under the age of 18 to hold a learner license for 12-months before testing for a driver license. The vast majority of youth enrolling in the Keys to Independence program enroll without a learner license (75%).<sup>21</sup>

*Results of the Pilot*

The program was advertised through many means, including a dedicated website, social media, targeted emails, and at trainings and outreach events held throughout the state. Program staff conducted in-person trainings in all CBC service areas, offering multiple presentations to groups of case managers, Guardians ad Litem, foster parents, residential providers, CBC staff and other stakeholders.<sup>22</sup>

As of December 31, 2016, 1,276 children in licensed out-of-home care were enrolled in the program. The chart below summarizes the results for the pilot by year.<sup>23</sup>

<b>Keys to Independence Participants<sup>24</sup></b>			
Participation Area	Number of Participants		
	FY 2014-15 (Pilot Year 1)	FY 2015-16 (Pilot Year 2)	FY 2016-17 YTD <sup>25</sup> (Pilot Year 3)
<b>Passed 4-Hour Traffic Law &amp; Substance Abuse Course</b>	45	126	109
<b>Obtained Learner License</b>	74	127	91
<b>Took Driver Education Class</b>	32	82	97
<b>Obtained Driver License</b>	30	65	59
<b>Received Reimbursement for Insurance<sup>26</sup></b>	17	36	38

<b>Keys to Independence Enrollment: Youth Ages 15-17 in Licensed Out-of-Home Care by CBC through December 1, 2016<sup>27</sup></b>					
Circuit	Counties	Lead Agency	# of Enrolled Children	Total Eligible	% Enrolled
1	Escambia, Okaloosa, Santa Rosa, Walton	Families First Network	24	96	25.0%
2, 14	Franklin, Gadsden, Jefferson, Leon, Liberty, Wakulla, Bay, Calhoun, Gulf, Holmes, Jackson, Washington	Big Bend CBC	23	53	43.4%

<sup>21</sup> Supra, FN 18 at pg. 3.

<sup>22</sup> Supra, FN 18 at pg. 7-8.

<sup>23</sup> Community Based Care Keys to Independence Program, *Mid-Year Snapshot*, December 2016 (on file with Children, Families, & Seniors Subcommittee).

<sup>24</sup> Email from David Finucane, Initiative Support Manager, Community Based Care of Central Florida, Re: Updated One Sheeter on Budget, (February 13, 2017).

<sup>25</sup> As of February 13, 2017.

<sup>26</sup> Insurance is reflective of those insurance policies for which the Keys to Independence program has provided reimbursement. Young adults over the age of 18 are not required to have auto insurance in the State of Florida unless they own a vehicle.

<sup>27</sup> Supra, FN 23.

**Keys to Independence Enrollment:  
Youth Ages 15-17 in Licensed Out-of-Home Care by CBC through December 1, 2016<sup>27</sup>**

Circuit	Counties	Lead Agency	# of Enrolled Children	Total Eligible	% Enrolled
3, 8	Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor, Alachua, Baker, Bradford, Gilchrist, Levy, Union	Partnership for Strong Families	16	34	47.1%
4	Clay	Kids First of Florida	10	14	71.4%
4	Duval, Nassau	Family Support Services of North Florida	47	52	90.4%
7	St. Johns	St. Johns County Board of Commissioners	8	9	88.9%
7	Flagler, Putnam, Volusia	Community Partnership of Children	58	61	95.1%
5	Citrus, Hernando, Lake, Marion, Sumter	Kids Central	76	82	92.7%
9	Orange, Osceola	CBC of Central Florida	71	92	77.2%
10	Hardee, Highlands, Polk	Heartland for Children	44	54	81.5%
18	Seminole	CBC of Central Florida	26	27	96.3%
18	Brevard	Brevard Family Partnership	16	41	39.0%
6	Pasco, Pinellas	Eckerd Community Alternatives	104	125	83.2%
12	DeSoto, Manatee, Sarasota	Sarasota Family YMCA	22	62	35.5%
13	Hillsborough	Eckerd Community Alternatives	95	132	72.0%
20	Charlotte, Collier, Glades, Hendry, Lee	Children's Network of Southwest Florida	38	97	39.2%
15	Palm Beach	ChildNet	32	104	30.8%
17	Broward	ChildNet	62	168	36.9%
19	Indian River, Martin, Okeechobee, St. Lucie	Devereux Families	29	34	85.3%
11, 16	Miami-Dade, Monroe	Our Kids of Miami-Dade/Monroe	40	174	23.0%
<b>Statewide Total</b>			<b>841</b>	<b>1511</b>	<b>55.6%</b>

*Special Driver's License and Insurance Provisions for Foster Children and Foster Parents*

Among the primary obstacles to these children being able to drive is the potential liability of the foster parents when the children drive vehicles owned by the foster parents and the attendant cost of insurance to protect foster parents from this liability.

Section 322.09(2), F.S., provides that any negligence or willful misconduct of the child operating a motor vehicle will be imputed to the adult who signed the application. That adult is jointly and severally liable with the child for any damages caused by the negligent or willful misconduct.

In 2001, s. 322.09, F.S., was amended to relieve foster parents or authorized representatives of a residential group home who sign for a foster child's license of liability for any damages or misconduct of the child.<sup>28</sup> While this provision addresses liability resulting directly from the signature on the driver license application, it does not address any vicarious liability that the foster parent may have because of the foster parent's ownership of the vehicle that the child drives.<sup>29</sup> This liability arises whenever an insured individual allows another to operate his or her motor vehicle and is independent of the provisions of s. 322.09, F.S. Thus, the foster parent who owns the motor vehicle continues to be subject to vicarious liability for the actions of the child while operating the foster parent's vehicle, in the same way the foster parent would be vicariously liable for the actions of any other person operating that vehicle. This vicarious liability is one of the risks for which insurance coverage is purchased.

Also in 2001, s. 627.746, F.S., was created to prohibit a motor vehicle insurance company from charging an additional premium on a motor vehicle owned by a foster parent for coverage of a child operating the vehicle while the child is holding a learner license.<sup>30</sup> This prohibition is only applicable until the child obtains a regular driver license.

## Effect of the Bill

The bill makes the Keys to Independence program permanent. It expands eligibility to children in the dependency system placed in non-licensed out-of-home placements, such as with relative and non-relative caregivers.

The bill extends the ability to receive the benefits of the program to six months after having achieved permanency or turning 18 years of age. Young adults who have chosen to extend foster care<sup>31</sup> would need to demonstrate that the cost of obtaining a driver license is a barrier to obtaining employment or completing educational goals. For any child 15 years of age or older, the bill requires a determination that appropriate steps are being taken to obtain a driver license or learner license at judicial reviews. Review hearings after a child has reached 17 years of age will require written verification that information on how to obtain a driver license has been provided to the child and that the child's transition plan addresses the option to obtain a driver license.

The bill also requires the non-for-profit contracted to run the program to publicize, engage in outreach, and provide incentives to encourage youth to obtain driver licenses.

The bill also permits a guardian ad litem authorized by a caregiver to sign for a learner license and not assume any obligation or liability for any damages caused by the minor.

Finally, the bill reenacts multiple sections of statute to incorporate conforming changes.

The bill provides for an effective date of upon becoming law.

## B. SECTION DIRECTORY:

- Section 1:** Amends s. 409.1454, F.S., relating to motor vehicle insurance for children in care.
- Section 2:** Amends s. 39.6035, F.S., relating to transition plans.
- Section 3:** Amends s. 39.701, F.S., relating to judicial review.
- Section 4:** Amends s. 322.09, F.S., relating to application of minors; responsibility for negligence or misconduct of minor.
- Section 5:** Reenacts s. 409.1451, F.S., relating to the Road-to-Independence program.
- Section 6:** Reenacts s. 322.05, F.S., relating to persons not to be licensed.
- Section 7:** Reenacts s. 322.56, F.S., relating to contracts for administration of driver license examination.
- Section 8:** Provides for an effective date of upon becoming law.

<sup>28</sup> Chapter 2001-83, Laws of Fla.

<sup>29</sup> See Hertz Corp. vs. Jackson, 617 So.2d 105 (Fla. 1993).

<sup>30</sup> Chapter 2001-83, Laws of Fla.

<sup>31</sup> S. 39.6251, F.S., allows a child, who meets certain criteria and who is living in licensed care when they turn 18 years of age, to elect to remain under the jurisdiction of the dependency court and in the care of DCF until 21 years of age.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The department anticipates that any increase in expenditures can be funded within existing resources.<sup>32</sup> The current program is funded with an annual appropriation of \$800,000 from the General Revenue Fund and should require no additional resources for the proposed expansion.<sup>33</sup> Section 409.1454(4), F.S., limits program expenditures to available funding.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The program received a recurring \$800,000 appropriation of general revenue funds pursuant to Chapter 2014-166, Laws of Florida. Actual program expenditures have been less than the recurring appropriation amount as shown in the table below.

<b>Expenditures by Fiscal Year<sup>34</sup></b>			
	Actual Expenditures FY 2014-15	Actual Expenditures FY 2015-16	Projected Expenditures FY 2016-17
Fixed Expenses	\$161,060	\$225,923	\$384,889
Cost-Reimbursed Expenses	\$30,923	\$104,262	\$138,568
<b>Total Expenses</b>	<b>\$191,983</b>	<b>\$330,185</b>	<b>\$523,457</b>

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

<sup>32</sup> Department of Children and Families, Agency Analysis of 2017 House Bill 217, p. 4 (January 25, 2017).

<sup>33</sup> Supra, FN 24.

<sup>34</sup> Supra, FN 24.



2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 16, 2017, the Children, Families, and Seniors Subcommittee adopted an amendment that maintains the program in ch. 409, F.S., instead of moving it to ch. 39, F.S. This aligns the House bill with the Senate companion.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.