

**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.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 60

INTRODUCER: Senator Bean

SUBJECT: Children Obtaining Driver Licenses

DATE: January 20, 2017      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	<b>Pre-meeting</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 60 expands the program to children in out-of-home care and relocates the program providing assistance to children in out-of-home care to obtain motor vehicle insurance and driver licenses from chapter 409, F.S., to chapter 39, F.S. It also provides assistance to children who have reached permanency or turned 18 under certain circumstances. The program is authorized to pay for a child in out-of-home care to complete a driver education program and obtain a driver license or the related costs of licensure under certain circumstances. The bill makes the 3-year pilot program permanent.

The bill requires the child’s transition plan and the court to address the issue of children in care being able to obtain a driver license.

The bill also provides that a guardian ad litem authorized by a minor’s caregiver may sign for the minor’s learner’s driver license and not assume any obligation or liability for damages caused by the minor.

The current program is funded with an annual appropriation of \$800,000 and should require no additional resources for the proposed expansion.

The bill has an effective of upon becoming law.

**II. Present Situation:**

**Background**

Children in the foster care system often face barriers to participating in everyday life experiences common to other young people their age. These life experiences are a part of how all children are prepared for the responsibilities they will assume as adults. The Florida State Youth Advisory

Board has long identified barriers to driving an automobile that are experienced by the children in Florida's foster care system as a concern. The Department of Children and Families (department or DCF) concurs that foster care children who are not able to learn or gain experience driving miss an important part of learning how to be independent, including being able to work. Florida law supports the efforts of teens in foster care to engage in age-appropriate activities.<sup>1</sup>

At the end of January 2014, before the beginning of the pilot program, the department reported that there were 385 15-year-olds, 458 16-year-olds, and 517 17-year-olds in foster care. The department has contracted with Cby25, a private not-for-profit corporation, to survey youth in foster care every six months and to publish findings.<sup>2</sup>

According to the spring 2013 report:

- 5 percent of 15-year-old respondents (11 children of 243 surveyed) had learner's permits;
- 8 percent of 16-year-olds (25 children of 300 surveyed) had learner's permits;
- 13 percent of 17-year-olds (52 children of 387 surveyed) had learner's permits; and
- 9 percent of the total number of children surveyed (88 of 930 surveyed) had learner's permits.

Children surveyed reported the following regarding drivers' licenses:

- 1 percent of 16-year-olds (4 children of 300 surveyed) had driver's licenses;
- 4 percent of 17-year-olds (16 children of 387 surveyed) had driver's licenses; and
- 3 percent of the total number of children surveyed (20 of 687 surveyed) had driver's licenses.<sup>3</sup>

The pilot program was limited to children in licensed out-of-home care which would include foster homes and other residential group homes or facilities.

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

Among the primary obstacles to these children being able to drive are the potential liability of the foster parents when the children drive vehicles owned by the foster parent 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 provide that foster parents or authorized representatives of a residential group home who sign for a foster child's license do not become liable for any damages or misconduct of the child.<sup>4</sup> While this provision relieves the foster parent of liability

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

<sup>2</sup> My Services, Answers from Youth in Foster Care, available at <http://www.dcf.state.fl.us/programs/indliving/docs/MyServicesSpring2013SurveyReport.pdf>. (last visited Jan. 17, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> Chapter 2001-83, Laws of Fla.

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>5</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’s permit.<sup>6</sup> This prohibition is only applicable until the child obtains a regular driver’s license.

**Results from the Pilot**

Community Based Care of Central Florida (CBCCF) was selected through a competitive bid process to manage the development and implementation of this statewide pilot, overseen by the department. CBCCF began accepting applications for enrollment on October 15, 2014.

CBCCF publicizes the availability of the program through many outlets, including through a dedicated website, social media, targeted emails, and at trainings and outreach events held throughout the state. Program staff have conducted in-person trainings in 100% of Florida’s community-based care lead agency (CBC) regions, offering multiple presentations to groups of case managers, Guardians ad Litem, foster parents, residential providers, CBC staff and other stakeholders. As of December 31, 2016, 1,276 youth in licensed foster care have been enrolled in the program, well above the target originally set by DCF for the program. The chart below summarizes the results for the pilot by year.<sup>7</sup>

	<b>Year 1</b>	<b>Year 2</b>	<b>Projected FY 2017</b>	<b>Projected FY 2018</b>	<b>TOTALS</b>
<b>4 Hour Course Achieved</b>	45	126	149	176	<b>496</b>
<b>Learner’s License</b>	74	127	154	187	<b>542</b>
<b>Driver’s Education</b>	32	82	120	176	<b>410</b>
<b>Driver’s License</b>	30	65	104	166	<b>365</b>
<b>Insurance<sup>8</sup></b>	17	36	42	49	<b>144</b>

**Percentage of Eligible Youth Enrolled by Community Based Care Lead Agency (CBC)<sup>9</sup>**

<sup>5</sup> See Hertz Corp. vs. Jackson, 617 So.2d 105 (Fla. 1993).

<sup>6</sup> Chapter 2001-83, Laws of Fla.

<sup>7</sup> Community Based Care Keys to Independence Program, Mid-Year Snapshot, December 2016.

<sup>8</sup> Insurance is reflective of those insurance policies for which the Keys to Independence program has provided reimbursement. Youth over the age of 18 are not required to have auto insurance in the State of Florida unless they own a vehicle.

<sup>9</sup> Community Based Care Keys to Independence Program, Mid-Year Snapshot, December 2016.

<b>Circuit</b>	<b>Counties</b>	<b>Lead Agency</b>	<b># of Enrolled Youth</b>	<b>Total Eligible</b>	<b>% Enrolled</b>
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%
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>	841	1511	55.6%

**III. Effect of Proposed Changes:**

**Section 1** amends s. 39.4091, F.S., The bill moves the program from s. 409.1454, F.S., to s. 39.4091, F.S., and removes the pilot status of the program. The bill expands eligibility to include

children placed in non-licensed out-of-home care settings. Additionally, it allows children to continue to receive benefits for up to six months after having achieved permanency or turning 18 years of age.

The only condition to this expansion impacts those young adults in Extended Foster Care. Although the enhancement would allow for young adults to live in non-licensed settings, eligibility is contingent upon their demonstration that the costs of obtaining licensure are a barrier to obtaining employment or completing their educational goals.

**Section 2** amends s. 39.6035, F.S., to require services relating to obtaining a driver license to be specifically addressed in the transition plan.

**Section 3** amends s. 39.701, F.S., to require a determination of steps for a child who is 15 years of age or older to have obtained a driver license or learner's permit during judicial reviews. Review hearings for 17-year-olds will require written verification that information is provided to the child on how to obtain a license. Additionally, this section allows for the guardian ad litem to sign for a youth's learner's permit if authorized by the child's caregiver.

**Section 4** amends s. 322.09, F.S., to allow a guardian ad litem authorized by a minor's caregiver to sign for the minor's learner's driver license and not assume any obligation or liability for damages caused by the minor.

**Section 5** reenacts s. 409.1451(5)(a), F.S., to incorporate the amendment made by the bill to s.39.6035, F.S.

**Section 6** reenacts s. 322.05(3), F.S., to incorporate the amendment made by the bill to s. 322.09, F.S.

**Section 7** reenacts s. 322.56(8)(a), F.S., to incorporate the amendment made by the bill to s. 322.09, F.S.

**Section 8** provides for an effective date of upon becoming law.

#### **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:

None.

C. Government Sector Impact:

The department reported that according to the Florida Safe Families Network (FSFN), the statewide automated child welfare information system, as of November 2016, the count of youth in the eligible age range residing in out-of-home care is approximately 3,000. Of that number, almost 900 of those youth are in relative and non-relative placements. This expansion would increase rates of participation in the program and also allow for a smoother transition when teens exit care. Approximately 900 potentially eligible foster youth in non-licensed placements who were not previously eligible will become eligible under this bill.<sup>10</sup> The department estimates this increase can be implemented within existing resources.<sup>11</sup>

CBCCF, who manages the contract with the department for the program, reported the following fiscal projections.<sup>12</sup>

	Actual FY 2015	Actual FY 2016	Projection FY 2017	Projection FY 2018	Totals
Fixed Expenses	\$161,060	\$225,923	\$378,678	\$426,556	\$1,192,217
Cost Reimbursed Expenses	\$ 30,923	\$104,262	\$143,039	\$370,618	\$ 648,842
<b>Total Expenses</b>	<b>\$191,983</b>	<b>\$330,185</b>	<b>\$521,717</b>	<b>\$797,173</b>	<b>\$1,841,059</b>

**VI. Technical Deficiencies:**

The program should remain in chapter 409, rather than be relocated to chapter 39.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.4091, 39.6035, 39.701, 322.09, and 409.1454.

<sup>10</sup> Department of Children and Families, 2017 Agency Legislative Bill Analysis, SB 60, November 28, 2016.

<sup>11</sup> *Id.*

<sup>12</sup> Community Based Care Keys to Independence Program, Mid-Year Snapshot, December 2016.

This bill reenacts the following sections of the Florida Statutes: 322.05, 322.56, and 409.1451

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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