

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1209 Caregivers for Children in Out-of-Home Care
SPONSOR(S): Children, Families & Seniors Subcommittee, Buchanan and others
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	Christy	Brazzell
2) Health & Human Services Committee	17 Y, 0 N	Christy	Calamas

SUMMARY ANALYSIS

When a child protective investigator determines that an abused, abandoned, or neglected child cannot receive in-home services, the investigator removes the child from the home and places the child with a safe and appropriate temporary placement. These temporary placements, referred to as out-of-home care, provide housing and services to children until they can return home to their families or achieve permanency with other families through adoption or guardianship. Out-of-home placements include temporary placements with family members, family foster homes, and other placements. When a relative or nonrelative caregiver placement is not possible, case managers try to place children in family foster homes licensed by the Department of Children and Families (DCF).

Current law places duties on DCF and community-based care lead agencies (CBCs) while working with caregivers who provide out-of-home care to dependent children.

HB 1209 establishes a goal for DCF to treat foster parents, kinship caregivers, and nonrelative caregivers with dignity, respect, and trust. The bill requires DCF to strive to accomplish certain objectives to the extent not otherwise prohibited by state or federal law and within current resources. The objectives require DCF to provide information and supports to foster parents, kinship caregivers, and nonrelative caregivers.

Additionally, HB 1209 creates a dispute resolution process for a caregiver who believes the objectives are not being met and such failure is harmful to the child or is inhibiting the caregiver's ability to meet the child's needs.

The bill has an insignificant, negative, indeterminate fiscal impact on DCF. It has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

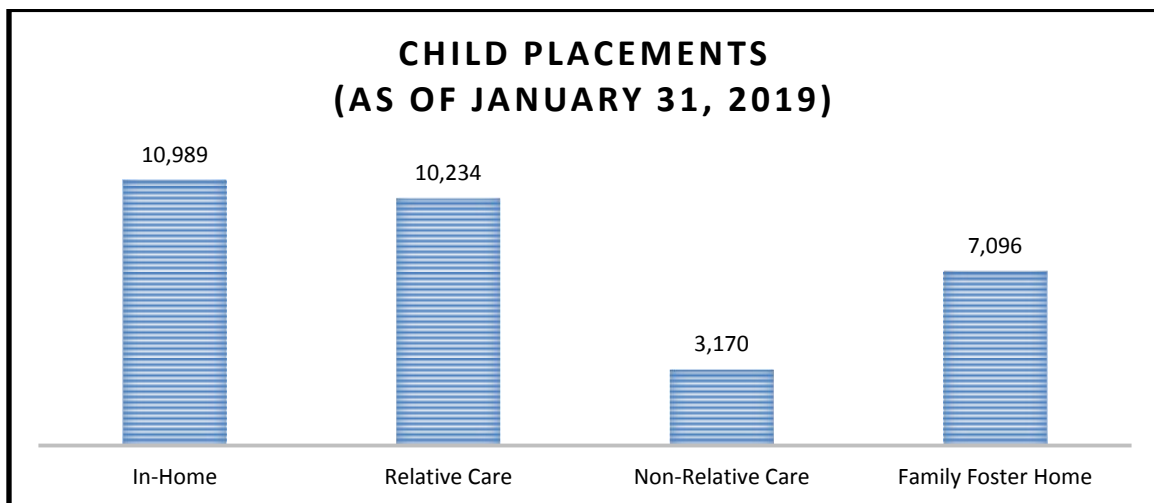
Background

Florida's Child Welfare System

The child welfare system administered by the Department of Children and Families (DCF) identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

Placement of Children in the Child Welfare System

DCF places children under departmental supervision in a variety of settings, including with relatives, non-relatives, and family foster homes. A recent account of placements in these settings is reflected below.



Source: Department of Children and Families, *Child Welfare Key Indicators Monthly Report, February 2019*, p. 31-32.

DCF is required to administer a system of care that endeavors to keep children with their families.¹ Protective investigators and community-based care lead agency (CBC) case managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes. As of January 31, 2019, 10,989 children were receiving in-home services.²

When a child protective investigator determines that a child cannot receive in-home services, the investigator removes the child from his or her home and places the child with a safe and appropriate temporary placement. These temporary placements, referred to as out-of-home care, provide housing and services to children until they can return home to their families or achieve permanency with other families through adoption or guardianship. Out-of-home placements range from a temporary placement with a family member to a family foster home to a residential child-caring agency to a permanent adoptive placement with a family previously unknown to the child.³ As of January 31, 2019, 23,616 children were in out-of-home care.

¹ S. 409.175, F.S.

² Department of Children and Families, *Child Welfare Key Indicators Monthly Report, February 2019*, p. 31, http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_FEB_2019.pdf (last visited Mar. 14, 2019).

³ S. 409.175, F.S.

CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.⁴ Legislative intent is to place children in a family-like environment when they are removed from their homes.⁵ When possible, child protective investigators and CBC case managers place children with relatives or responsible adults whom they know and with whom they have a relationship. These out-of-home placements are referred to as relative and nonrelative caregivers. When a relative or nonrelative caregiver placement is not possible, case managers try to place children in family foster homes licensed by DCF.

Relative and Nonrelative Caregivers

Research indicates that children in the care of relatives and nonrelatives, such as grandparents or family friends, benefit from increased placement stability compared to children placed in general foster care. As opposed to children living in foster care, children living in relative and nonrelative care are more likely to remain in their own neighborhoods, be placed with their siblings, and have more consistent interactions with their birth parents, all of which might contribute to less disruptive transitions into out-of-home care.⁶

Florida law maintains strong preferences for relative guardians throughout its child welfare system of care. Section 39.5085, F.S., includes guidelines for relative care and indicates that DCF should endeavor to:

- Recognize family relationships in which a grandparent or other relative is the head of a household that includes a child otherwise at risk of foster care placement.
- Enhance family preservation and stability by recognizing that most children in such placements with grandparents and other relatives do not need intensive supervision of the placement by the courts or by the department.⁷

For a child placed in out-of-home care in Florida, the goal is to find him or her a permanent home, whether through reunification with his or her parents or another permanent connection, such as adoption or legal guardianship with a relative or nonrelative who has a significant relationship with the child.⁸ To aid in these efforts, the Legislature established programs to search for and support placements with these individuals. A fictive kin is a person who is unrelated to the child but has such a close emotional relationship with the child that he or she may be considered family.⁹ Currently, child protective investigators, CBCs, and case management organizations search for family members and fictive kin who may help with care or support for a child who has been removed from his or her home due to abuse or neglect.

If no relative or fictive kin is willing and able to take care of the child, a child can be placed in licensed foster care.

Foster Care

Foster care is care provided to a child in a foster family or boarding home, group home, agency boarding home, or child care institution.¹⁰ A family foster home means a licensed private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such

⁴ R. 65C-28.004(1), F.A.C. (child specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement).

⁵ S. 39.001(1), F.S.

⁶ David Rubin and Downes, K., et al., *The Impact of Kinship Care on Behavioral Well-Being for Children in Out-of-Home Care* (June 2, 2008), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2654276/> (last visited Mar. 16, 2019).

⁷ Ss. 39.5085(1)(b) and (c), F.S.

⁸ S. 39.4015(1)(a), F.S.

⁹ Ss. 39.01(29) and 39.4015, F.S.

¹⁰ S. 39.01(3), F.S.

homes include emergency shelter family homes and specialized foster homes for children with special needs.¹¹ Foster homes are licensed and inspected regularly.¹²

DCF contracts with CBC partner agencies. The CBCs are tasked with recruiting and training families across Florida who are willing to serve as foster parents.¹³ As of November 2018, the total number of licensed foster homes was 5,358.¹⁴

To qualify as a potential foster parent, applicants must go through a rigorous interview process, complete a training program, and participate in a home inspection and background check.¹⁵ Foster parents are expected to:

- provide parenting that consists of a loving commitment to the child and the child's safety and well-being;
- provide opportunities to develop the child's interests and skills;
- care for the child in light of the child's culture, religion, ethnicity, special physical or psychological needs and unique situations;
- assist the biological parents in improving their ability to care for and protect their child and to provide continuity for the child;
- assist the child in visitation and other forms of communication with his or her biological family;
- obtain and maintain records that are important to the child's well-being, such as medical records and records of achievements;
- advocate for children in their care with the child welfare system, the court, and community agencies, such as schools, child care, and health care providers;
- participate fully in the child's medical, psychological, and dental care as they would for their biological child; and
- support the child's school success by participating in school activities and meetings.¹⁶

Department Duties While Working with Caregivers

Florida Statutes currently require DCF and CBCs to do certain things while working with caregivers, including, but not limited to:

- Ensuring caregivers are included in the development and implementation of the child's case plan for the child and his or her family. The caregiver is authorized to participate in all team meetings or court hearings related to the child's case and future plans. The caregiver's participation shall be facilitated through timely notification, an inclusive process, and alternative methods for participation for a caregiver who cannot be physically present.¹⁷
- Developing and making available to the caregiver information, services, training, and support that the caregiver needs to improve his or her skills in parenting children who have experienced trauma due to neglect, abuse, or separation from home, to meet these children's needs, and to advocate effectively with child welfare agencies, the courts, schools, and other community and governmental agencies.¹⁸

¹¹ The Department of Children and Families, *Community-Based Care*, <http://www.myflfamilies.com/service-programs/community-based-care> (last visited March 11, 2019).

¹² *Id.*

¹³ Florida Department of Children and Families, *Fostering Definitions*, <http://www.dcf.state.fl.us/service-programs/foster-care/definitions.shtml> (last visited March 11, 2019).

¹⁴ Florida Department of Children and Families, *Placement in Out-of-Home Care Data*, <http://www.dcf.state.fl.us/programs/childwelfare/placement.shtml> (last visited March 11, 2019).

¹⁵ Florida Department of Children and Families, *How Do I Become a Foster Parent?*, <http://www.dcf.state.fl.us/service-programs/foster-care/how-do-i.shtml> (last visited March 11, 2019).

¹⁶ Florida Department of Children and Families, *Partnership Plan for Children in Out-of-Home Care*, <http://centerforchildwelfare.fmhi.usf.edu/kb/OOHPublications/PartnershipPlan.pdf> (last visited March 11, 2019).

¹⁷ S. 409.145(2)(b), F.S.; See also ss. 39.6011(4)(a) and (b), F.S.

¹⁸ S. 409.145(2)(b), F.S.; See also s. 409.175(14), F.S.

- Providing caregivers with all information related to services and other benefits that are available to the child.¹⁹
- Ensuring each foster home is given a phone number so foster parents can contact the department if immediate assistance is needed and the child's case worker is unavailable.²⁰ The number must be staffed and answered by someone who can assist foster parents.²¹
- Providing child welfare records and information to a foster home who has assumed responsibility for the care of a child. The information includes, but is not limited to, medical, dental, psychological, psychiatric, and behavioral history, as well as ongoing evaluation or treatment needs; school records; copies of birth certificates; parental consents; court orders; visitation and case plans; Guardian ad Litem reports; staffing forms; and judicial review reports.²²
- Allowing DCF to share records from child protective investigations with foster parents and approved relatives or nonrelatives with whom a child is placed.²³

DCF's rules also require DCF and CBCs to do certain things while working with caregivers, including:

- Completing an appropriate placement matching assessment prior to the placement of a child.²⁴ There must also be a review with the caregiver regarding the care needed for the child.²⁵
- Discussing the needs of the child and providing the caregiver with a copy of the child's Resource Record which includes the child's prior placements.²⁶
- Providing the caregiver with written, detailed, and complete information regarding a child's behavior that may result in harm to others in the home. The information must include the dates of known incidences; the relationship between the child and any victim that has been harmed by the child's behavior; the types of behavior exhibited by the child; a brief description of an event related to the child's behavior; and the type of treatment needed and any current treatment outcomes.²⁷
- Providing at least two weeks' notice to caregivers prior to moving a child from one placement to another in non-emergency situations.²⁸
- Providing supportive services to caregivers to avoid a change of placement when possible.²⁹

Effect of Proposed Changes

HB 1209 establishes a goal for DCF to treat foster parents, kinship caregivers, and nonrelative caregivers with dignity, respect, and trust. To meet this goal, the bill requires DCF to strive to accomplish certain objectives to the extent not otherwise prohibited by state or federal law and within current resources.

All of the objectives in HB 1209 are currently laid out in Florida Statutes or in DCF rules; however, the bill reiterates them in one section. The bill requires DCF to:

- Provide an explanation of the role of DCF and the child's biological family as it relates to the services provided to the child.
- Provide training and support to caregivers.
- Provide all relevant information regarding a child and the child's family's background.
- Allow the caregiver to communicate with professionals who work with the child.

¹⁹ S. 409.145(2)(b), F.S.

²⁰ S. 409.1753, F.S.

²¹ Id.

²² S. 409.145(2)(d), F.S.

²³ S. 39.202(2)(t), F.S.

²⁴ R. 65C-28.004(6), F.A.C.

²⁵ Id.

²⁶ R. 65C-28.004(6), F.A.C.

²⁷ R. 65C-28.004(10)(b), F.A.C.

²⁸ R. 65C-28.005(1), F.A.C.

²⁹ R. 65C-28.005(3), F.A.C.

- Provide a means for the caregiver to contact the CBC at all times for the purposes of receiving services.
- Solicit and consider caregiver input on a child's case plan.
- Provide the caregiver with an explanation of any plan concerning the placement of a child in the caregiver's home.
- Provide information on any emergency situation that requires a child to be placed in the caregiver's home.
- Allow the caregiver to request the removal of a child from his or her home without retaliation.
- Inform the caregiver of any decision made by a court or a child-caring agency which concerns a child placed with the caregiver.
- Give at least seven days' notice of any meeting or court hearings related to a child in the caregiver's care, and giving the caregiver notice at the same time as the biological parents.
- Consider the caregiver as a placement option if a child who was formerly placed with the caregiver re-enters out-of-home care.
- Allow the caregiver a period of respite.
- Provide a caregiver with copies of all information DCF has on the caregiver.

Additionally, the bill creates a procedure for caregivers if they believe the objectives are not being met by DCF or an agency under contract with DCF. If the objectives are not being met and the caregiver believes such failure is resulting in harm or the possibility of harm to the child or it is inhibiting the caregiver's ability to meet the child's needs, the caregiver may notify a DCF liaison or case manager to make an attempt to resolve the dispute. If the caregiver is not satisfied that the dispute has been resolved, the caregiver may contact the DCF liaison's or case manager's supervisor. If the caregiver is still not satisfied that the dispute has been resolved, the caregiver may contact DCF, and DCF must conduct a review and respond in writing no later than 30 days after being contacted.

B. SECTION DIRECTORY:

Section 1: Creating s. 39.4087, F.S., relating to goals for caregivers; department requirements.

Section 2: Providing an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an insignificant, negative, indeterminate fiscal impact on DCF. DCF may incur a workload increase by reviewing caregiver concerns if disputes arise.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an insignificant, negative, indeterminate fiscal impact on the private sector. Lead agencies may incur a workload increase by addressing caregiver concerns if disputes arise.

D. FISCAL COMMENTS:

None.

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department has adequate rulemaking authority to implement this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES