

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7099      PCB CFS 19-01      Child Welfare  
**SPONSOR(S):** Children, Families & Seniors Subcommittee, Stevenson  
**TIED BILLS:**            **IDEN./SIM. BILLS:** CS/SB 1650

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Children, Families & Seniors Subcommittee	15 Y, 0 N	Christy	Brazzell
1) Health Care Appropriations Subcommittee	9 Y, 0 N	Fontaine	Clark
2) Health & Human Services Committee			

### SUMMARY ANALYSIS

While states bear primary responsibility for child welfare, Congress appropriates funds to states through a variety of funding streams for services to children who have suffered maltreatment. Florida uses funds from several federal sources, including federal Title IV-E. In 1994, Congress authorized states to participate in waiver demonstrations to waive certain provisions of Title IV-E. Florida's waiver is due to end September 30, 2019, at which point, it will revert to traditional Title IV-E requirements.

Due to Florida reverting back to traditional Title IV-E, Florida will experience a reduction in federal revenue; therefore, Florida is implementing federal programs to draw down federal funds. Below are specific changes the bill makes to bring the state into compliance with Title IV-E requirements.

#### Guardianship Assistance Program (GAP) eligibility:

- States that the reasons for terminating a GAP payment are all due to a guardian no longer providing support to the child.
- Specifies that the case plan must describe information regarding permanent guardianship if the guardian is pursuing guardianship assistance payments.
- States that a family foster home is a home licensed by the Department of Children and Families (DCF).

#### Licensure changes:

- Aligns background screening requirements for child-only homes with those for the initial placement with relatives.
- Removes statutory requirements for preservice and inservice training hours.
- Expands the basis for denying, suspending, or revoking licenses of a family foster home.
- Lists family foster homes as one of the entities to which prohibitions regarding background screening would apply, such as release or misuse of the screening results.
- Gives DCF the ability to extend a license up to, but not more than, 30 days.
- Removes DCF's ability to provide a provisional license.

#### Benefits for GAP-funded children:

- Includes children who receive GAP funding as categorically eligible for Medicaid, as are children currently in the Relative Caregiver Program.
- Includes youth eligible for GAP as an eligibility criterion for a state college, university, and workforce program tuition and fee exemption, as are children currently in the Relative Caregiver Program.

#### Financing:

- Includes GAP funding as an exemption from core services funds allocated to CBCs.
- Allows TANF funds to be used to fund some GAP benefits.

The bill addresses the federal method for entry into foster care, providing all options available to enter Extended Foster Care (EFC) to maximize claiming of Title IV-E funding and the judicial requirements.

The bill limits the eligibility for the Relative Caregiver Program to those who are unable to be licensed under GAP. It also deletes a duplicative definition of "fictive kin." Additionally, the bill provides DCF with rulemaking authority to administer the EFC and GAP programs.

The bill has a significant, positive, indeterminate fiscal impact on state government and no impact on local government.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h7099a.HCA

**DATE:** 4/2/2019

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 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. Out-of-home placements range from 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.<sup>1</sup>

Florida uses funds from a variety of sources for child welfare services, such as the federal Social Services Block Grant, the federal Temporary Assistance to Needy Families block grant, federal Title XIX Medicaid administration, federal Title IV-B, federal Title IV-E, various other child welfare grants, and state general revenue.

##### **Community-Based Care Organizations and Services**

DCF contracts for case management, out-of-home services and related services with lead agencies, also known as community-based care organizations (CBCs). The model of using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design.<sup>2</sup>

CBCs are responsible for providing foster care and related services. These services include, but are not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.<sup>3</sup> The CBC must give priority to services that are evidence-based and trauma informed.<sup>4</sup> CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.<sup>5</sup>

DCF must provide funding to the CBCs based on an equity allocation model. The model was designed to allocate funds among CBCs based on the particular population served by each organization. The model includes "core services funding," which is defined to mean all funds allocated to the CBCs operating under contract with DCF pursuant to s. 409.987, F.S., with exceptions including:

- Funds appropriated for independent living;
- Funds appropriated for maintenance adoption subsidies;
- Funds allocated by DCF for protective investigations training;
- Nonrecurring funds;
- Designated mental health wrap-around services funds; and

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<sup>1</sup> S. 409.175, F.S.

<sup>2</sup> Department of Children and Families, *Community-Based Care*, <http://www.dcf.state.fl.us/service-programs/community-based-care/> (last visited Mar. 15, 2019).

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

<sup>4</sup> S. 409.988(3), F.S.

<sup>5</sup> Department of Children and Families, *Community Based Care Lead Agency Map*, available at <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last visited Mar. 15, 2019).

- Funds for special projects for a designated CBC.<sup>6</sup>

## Title IV-E Funding for Child Welfare

While states bear primary responsibility for child welfare, Congress appropriates funds to states through a variety of funding streams for services to children who have suffered maltreatment. One of these funding streams is established in Title IV-E of the Social Security Act. Title IV-E provides federal reimbursement to states for a portion of the cost of foster care, adoption assistance, and (in states electing to provide this kind of support) kinship guardian assistance on behalf of each child who meets federal eligibility criteria. Title IV-E also authorizes funding to support services to youth who “age-out” of foster care, or are expected to age out without placement in a permanent family. While Title IV-E funding is an entitlement, eligibility is limited to those children who:

- Are from a home with very low income (less than 50 percent of federal poverty level in most states),
- Have been determined by a judge to need certain care,
- Are living in a licensed family foster home or a “child care institution,” and
- Are under 18 years old, unless the state has included older youth in its Title IV-E plan.

In addition to narrow eligibility, Title IV-E places strict limits on the use of federal matching funds.

Eligible Title IV-E expenditures include:

- Foster care maintenance payments (for the child’s room and board);
- Caseworker time to perform required activities on behalf of eligible children in foster care or children at imminent risk of entering foster care (e.g., finding a foster care placement for a child and planning services needed to ensure a child does not need to enter care, is reunited with his or her parents, has a new permanent home, or is otherwise prepared to leave foster care);
- Program-related data system development and operation, training, and recruitment of foster care providers; and
- Other program administration costs.<sup>7</sup>

The federal government pays a share of these costs ranging from 50 percent to 83 percent, depending on the nature of the expenditure, and additionally in regard to foster care maintenance payments, the state’s per capita income.<sup>8</sup>

Title IV-E funds generally cannot be used for an array of services that may be vital to the foster care population, such as family support services, intensive in-home services, and mental health and substance abuse services. While Title IV-E is an entitlement program that may be used to pay a portion of the foster care maintenance costs of all eligible children, it cannot be used to provide services to either prevent out-of-home placement or to hasten a child’s return home.<sup>9</sup>

### *Title IV-E Waivers*

In 1994, Congress authorized the U.S. Department of Health and Human Services (HHS) to approve state demonstration projects made possible by waiving certain provisions of Title IV-E. This provided

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<sup>6</sup> S. 409.991(1)(a), F.S.

<sup>7</sup> Emelie Stoltzfus, *Child Welfare: An Overview of Federal Programs and their Current Funding*, Congressional Research Service (Jan. 10, 2017), <https://fas.org/sqp/crs/misc/R43458.pdf> (last visited Mar. 10, 2019).

<sup>8</sup> Id.

<sup>9</sup> U.S. Department of Health and Human Services, Administration for Children and Families, *Synthesis of Findings: Title IV-E Flexible Funding Child Welfare Waiver Demonstrations*, (Sept. 2005), [https://www.acf.hhs.gov/sites/default/files/cb/synthesis\\_of\\_findings\\_assisted\\_guardianship\\_flexible\\_funding.pdf](https://www.acf.hhs.gov/sites/default/files/cb/synthesis_of_findings_assisted_guardianship_flexible_funding.pdf) (last visited Mar. 10, 2019).

states flexibility in using federal funds for services promoting safety, well-being, and permanency for children in the child welfare system.<sup>10</sup> HHS may waive compliance with standard Title IV-E requirements and instead allow states to establish projects that allow them to serve children and provide services that are not typically eligible. To do so, states must enter into an agreement with the federal government outlining the terms and conditions to which the state will adhere in using the federal funds. The states also agree to evaluate the projects.<sup>11</sup> Currently, 26 states have approved projects, including Florida.

### *Florida's Title IV-E Waiver*

Florida's original Title IV-E waiver was initially effective October 1, 2006, and was to extend for five years. Key features of the waiver were:

- A capped allocation of funds, similar to a block grant, distributed to CBCs for service provision;
- Flexibility to use funds for a broader array of services beyond out-of-home care; and
- Ability to serve children who did not meet Title IV-E criteria.<sup>12</sup>

The original waiver tested the hypotheses that under this approach:

- An expanded array of CBC services would become available;
- Fewer children would need to enter out-of-home care;
- Child outcomes would improve; and
- Out-of-home care costs would decrease while expenditures for in-home and preventive services would increase.

Results indicated that the waiver generally achieved these goals, though evaluators noted areas of improvement available regarding the ongoing assessment of fathers' needs; assessment of children's dental, educational, and physical health needs and provision of needed services; frequency of case manager visits with parents; and engagement of fathers in services.<sup>13</sup>

Florida's waiver is due to end September 30, 2019. Florida will revert to the more restrictive (non-waived) Title IV-E federal funding requirements beginning October 1, 2019. When the waiver expires, the state will be required to revert to a traditional Title IV-E service model, which will both eliminate federal support for many current services and create a significant funding deficit for the state. DCF estimates that expiration of the waiver will lead to an operating deficit of roughly \$70-90 million per year over the next five fiscal years.

### Family First Prevention Services Act

On February 8, 2018, Congress enacted and the president signed into law H.R. 1862, also known as the Bipartisan Budget Act of 2018.<sup>14</sup> The bill was a continuing resolution that funded the federal government through March 23, 2018; however, the bill also included the substance of the Family First Prevention Services Act (FFPSA), a bill that was introduced in both 2016-17 and 2017-18 congressional terms.

The FFPSA has permanent provisions impacting federal support for child welfare and foster care. Unlike the previous Title IV-E provisions which primarily funded out-of-home care for families with very low incomes, the FFPSA gives states the ability to earn federal Title IV-E matching funds in support of

<sup>10</sup> Amy C Vargo et al., *IV-E Waiver Demonstration Evaluation, Final Evaluation Report, SFY 11-12*, (Mar. 15, 2012), <http://centerforchildwelfare.org/kb/LegislativeMandatedRpts/IV-EWaiverFinalReport3-28-12.pdf> (last visited Mar. 15, 2019).

<sup>11</sup> 42 U.S.C. § 1320a-9(f).

<sup>12</sup> Amy C Vargo et al., *Supra* note 10.

<sup>13</sup> M.I. Armstrong, et al., *Evaluation brief on the status, activities and findings related to Florida's IV-E Waiver Demonstration Project: Two Years Post-Implementation*, (Jan. 2010), [https://www.dcf.state.fl.us/admin/publications/APSR/S10-008463\\_Title%20IV-E%20Brief%20%20January2010.pdf](https://www.dcf.state.fl.us/admin/publications/APSR/S10-008463_Title%20IV-E%20Brief%20%20January2010.pdf) (last visited Mar. 15, 2019).

<sup>14</sup> H.R. 1862 of 2018. P.L. 115-123.

certain prevention services provided on a time-limited basis that avoid an out-of-home placement for children without regard to family income. The services that states can be reimbursed for providing to children and their families meeting eligibility requirements address mental health, substance abuse, family counseling, and parent skills training. However, the FFPSA also introduces new limits on federal funding for placements in group homes.

The FFPSA also includes funding opportunities for states that establish and operate kinship navigator programs.<sup>15</sup> These programs offer information to help relative caregivers and fictive kin learn about and access the range of support services available to them and children in their care provided by public, private, community, and faith-based organizations.<sup>16</sup>

As Florida provides these types of preventative services to families in the child welfare system, the state may be able to offset some of the costs associated with the expiration of its Title IV-E waiver by taking advantage of the new and enhanced federal funds available under the FFPSA. Florida also uses Title IV-E funds for placements in group care. How much additional federal revenue the state will be able to earn under the FFPSA is presently unknown. The Congressional Budget Office estimates that the FFPSA will result in new federal outlays nationally over the next ten years of approximately \$1.5 billion for foster care prevention services (an average of \$150 million per year, nationwide) and programs and approximately \$125 million in Title IV-E payments for evidence-based kinship navigator programs over the next ten fiscal years (an average of \$12.5 million per year, nationwide).<sup>17</sup> The FFPSA may partially reduce the amount of the deficit Florida will experience with the loss of its Title IV-E waiver.

FFPSA includes other requirements affecting child welfare practice, such as that the court must conduct an initial hearing to review a child's treatment plan within 60 days after the child's admission to a residential treatment program

### Florida's Dependency Case Process

When child welfare necessitates that DCF remove a child from his or her home, a series of dependency court proceedings must occur to adjudicate the child dependent and place him or her in out-of-home care.

If a child is removed from the home after a child protective investigation, a shelter hearing must occur within 24 hours and the judge must determine whether a child should remain in out-of-home care.<sup>18</sup> To be reimbursed for expenses related to the out-of-home care of a child under traditional Title IV-E, federal guidelines require that the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.<sup>19</sup> Currently, Florida Statutes do not specify that the department has placement and care responsibility in these situations.

When determining whether to return a child to the home from which he or she was removed or to move forward with another permanency option, the court assesses whether the circumstances that caused the out-of-home placement have been remedied to the extent that the safety, well-being and health of the child are not endangered by an in-home placement.<sup>20</sup>

Throughout the dependency process, DCF must develop and refine a case plan with input from all parties to the dependency case that details the problems being addressed as well as the goals, tasks,

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<sup>15</sup> Id.

<sup>16</sup> See Grandfamilies.org, *Kinship Navigator Programs – Summary & Analysis*, <http://www.grandfamilies.org/Topics/Kinship-Navigator-Programs/Kinship-Navigator-Programs-Summary-Analysis> (last visited Mar. 15, 2019).

<sup>17</sup> Congressional Budget Office, *Estimated Direct Spending and Revenue Effects of Division E of Senate Amendment 1930, the Bipartisan Budget Act of 2018*, (Feb. 8, 2018), <https://www.cbo.gov/publication/53557> (last visited Mar. 17, 2019).

<sup>18</sup> S. 39.401, F.S.

<sup>19</sup> 42 U.S.C. § 671(9) and 42 U.S.C. § 672(2)(B).

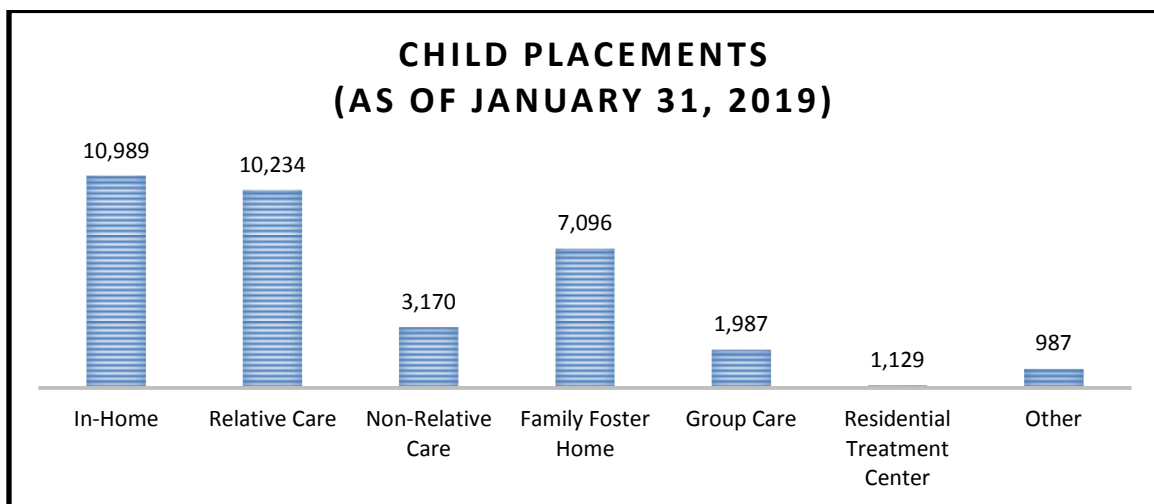
<sup>20</sup> S. 39.522, F.S.

services, and responsibilities required to ameliorate the concerns of the state.<sup>21</sup> The case plan follows the child from the provision of voluntary services through dependency or termination of parental rights.<sup>22</sup> Once a child is found dependent, a judge reviews the case plan, and if the judge accepts the case plan as drafted, orders the case plan to be followed.<sup>23</sup> To support the permanency goal, the court continues to monitor a parent's efforts to comply with the tasks assigned in the case plan.<sup>24</sup>

The court reviews the placement decision and the child's status at judicial review hearings at least every six months until the child reaches permanency.<sup>25</sup> Section 39. 701(2)(d), F.S., outlines actions the court can take during these review hearings for children younger than 18 years old, including reunifying the child with his or her parent, keeping the child in out-of-home care, or terminating the parent's parental rights.<sup>26</sup> Federal law requires the court to order the department has placement and care responsibility for any child who remains in out-of-home care in a placement other than with a parent at the conclusion of any judicial review hearing.<sup>27</sup> Currently, Florida Statutes do not address this federal requirement at judicial review hearings.

### Placement of Children in the Child Welfare System

DCF places children under departmental supervision in a variety of settings, and a recent accounting of those placements 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 and provides interventions to allow children to remain safely in their own homes.<sup>28</sup> Protective investigators and 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 services in their homes.<sup>29</sup>

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

<sup>21</sup> Ss. 39.6011 and 39.6012, F.S.

<sup>22</sup> S. 39.01(11), F.S.

<sup>23</sup> S. 39.521, F.S.

<sup>24</sup> S. 39.621, F.S.

<sup>25</sup> S. 39.701(1)(a), F.S.

<sup>26</sup> S. 39.701(2)(d), F.S.

<sup>27</sup> 42 U.S.C. § 671(9) and 42 U.S.C. §672(2)(B)

<sup>28</sup> S. 409.175, F.S.

<sup>29</sup> Department of Children and Families, *Child Welfare Key Indicators Monthly Report, February 2019*, p. 31, available at [http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI\\_Monthly\\_Report\\_FEB\\_2019.pdf](http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_FEB_2019.pdf) (last visited Mar. 14, 2019).



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 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.<sup>30</sup> As of January 31, 2019, 23,616 children were in out-of-home care.

CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.<sup>31</sup> Legislative intent is to place children in a family-like environment when they are removed from their homes.<sup>32</sup> 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 than do children who are placed in foster care, all of which might contribute to less disruptive transitions into out-of-home care.<sup>33</sup>

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 finding another permanent connection, such as adoption or legal guardianship with a relative or nonrelative who has a significant relationship with the child.<sup>34</sup> 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.<sup>35</sup> 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.

There are currently two slightly different definitions for fictive kin in Florida Statutes which apply to different sections. Having two different definitions could lead to confusion and misinterpretation.

### *Family Foster Homes*

A family foster home means a licensed private residence in which children who are unattended by parents or legal guardians are provided 24-hour care. Foster homes are inspected regularly and foster parents go through a rigorous interview and training process before being approved.<sup>36</sup> Such homes also include specialized foster homes for children with special needs.<sup>37</sup>

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<sup>30</sup> S. 409.175, F.S.

<sup>31</sup> 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).

<sup>32</sup> S. 39.001(1), F.S.

<sup>33</sup> 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).

<sup>34</sup> S. 39.4015(1)(a), F.S.

<sup>35</sup> Ss. 39.01(29) and 39.4015, F.S.

<sup>36</sup> Department of Children and Families, *Fostering Definitions*, <http://www.myflfamilies.com/service-programs/foster-care/definitions> (last visited Mar. 16, 2019).

<sup>37</sup> S. 409.175, F.S.

## Licensure of Foster Homes

Last year, the Legislature established a 5-tier foster home licensing structure which assigns requirements to all foster care settings based on the characteristics of the child or children who would be placed in the home. The level of licensure are:

- Level I – Child-Specific Foster Homes;
- Level II – Non-Child Specific Foster Homes;
- Level III – Safe Foster Homes for Human Trafficking;
- Level IV – Therapeutic Foster Homes; and
- Level V – Medical Foster Homes.

Level I is aimed at providing licenses for relative caregivers and fictive kin caring for specific children. DCF has the flexibility to waive non-safety licensure requirements for relative caregivers and fictive kin on a case-by-case basis. However, all other requirements for licensure and operation of family foster homes must be met.

As a condition of licensure, all foster parents must complete a minimum of 21 hours of preservice training. Additionally, foster parents with a Level I license must complete four hours of annual inservice training.<sup>38</sup> Foster parents with a Level II through Level V license must complete eight hours of inservice training for licensure renewal.<sup>39</sup>

Currently, Florida Statutes do not address whether DCF can extend the expiration date of a foster home license. However, federal requirements allow states to give foster parents a one-time extension of a license.

DCF may issue a provisional license to an applicant who is unable to conform to certain licensing requirements that are not of immediate danger to children at the time of application, but who is believed able to meet the requirements within the time allowed by the provisional license.<sup>40</sup> The provisional license cannot be issued for a period longer than one year and cannot be renewed. Although Florida Statutes allow for provisional licenses, Federal regulations do not.<sup>41</sup>

Section 409.175(9), F.S., authorizes the department to deny, suspend or revoke a foster home license based on:

- An intentional or negligent act that affects the health or safety of children;
- A violation of the provisions of statutory licensing requirements or rules regarding licensing;
- Noncompliance with the requirements for good moral character;
- Failure to dismiss personnel found in noncompliance with requirements for good moral character; and
- Failure to comply with the requirements of ss. 63.0422 and 790.335, F.S.

Further, s. 409.175(12), F.S., outlines unlawful actions related to the operation of a licensed foster home and the charges for committing such unlawful actions. These include:

- Operating a home or facility without a license,
- Willfully or intentionally failing to comply with requirements for screening personnel,
- Using information from criminal records obtained for any purpose other than screening or releasing such information, and
- Using information from juvenile records for any purpose other than screening or releasing such information.

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<sup>38</sup> S. 409.175(14), F.S.

<sup>39</sup> S. 409.175(14), F.S.

<sup>40</sup> Ss. 409.175(7)(a) and (b), F.S.

<sup>41</sup> 42 U.S.C. § 672(c).



### *Residential Group Care*

DCF licenses Residential Group Care (RGC) placements as residential child-caring agencies<sup>42</sup> that provide staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged.<sup>43</sup> These include maternity homes, runaway shelters, group homes, and emergency shelters.<sup>44</sup> The two primary models of group care are the shift model, with staff working in shifts providing 24-hour supervision, and the family model, which has a house parent or parents who live with and are responsible for 24-hour care of children within the group home.<sup>45</sup>

CBCs must consider placement in RGC if the following criteria are met:

- The child is 11 or older;
- The child has been in licensed family foster care for six months or longer and removed from family foster care more than once; and
- The child has serious behavioral problems or has been determined to be without the options of either family reunification or adoption.<sup>46</sup>

In addition, CBCs must consider information from several sources, including psychological evaluations, professionals with knowledge of the child, and the desires of the child concerning placement.<sup>47</sup> If the CBC case managers determine that RGC would be an appropriate placement, the child must be placed in RGC if a bed is available. Children who do not meet the specified criteria may be placed in RGC if such placement is the most appropriate one for the child.

### *Residential Treatment Centers*

Residential Treatment Centers (RTCs) are licensed under s. 394.875, F.S., and include hospitals licensed under ch. 395, F.S., that provide residential mental health treatment.

Section 39.407(6), F.S., authorizes DCF to place a child who is in its custody in an RTC or a hospital for residential mental health treatment under certain circumstances and allows the court to place the child in an RTC or a hospital for residential mental health treatment. Before the child is admitted, he or she must be assessed for suitability for residential treatment by a qualified evaluator and a personal examination and assessment must be made. The court must conduct a hearing to review the status of the child's residential treatment plan no later than three months after the child's admission to the residential treatment program and subsequently must conduct a review of the child's residential treatment plan every 90 days.

Thus the FFPSA's new requirement that the court must conduct an initial hearing to review the child's residential treatment plan within 60 days after the child's admission to the residential treatment program conflicts with state law.

### **Relative and Nonrelative Care in Florida**

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.

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<sup>42</sup> S. 409.175, F.S.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> S. 39.523(1), F.S.

<sup>47</sup> Id.

- 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.<sup>48</sup>

Currently, there are four options for placement with relatives or fictive kin in Florida, which vary in the amount of funding, funding source, and the relationship of the caregiver to the child. These options are:

- Relative Caregiver Program (relative component);
- Relative Caregiver Program (nonrelative component);
- TANF child-only funding; or,
- Placement or permanent guardianship without funding.

#### *Relative Caregiver Program*

Florida created the Relative Caregiver Program (RCP) in 1998<sup>49</sup> to provide financial assistance to eligible relatives caring for children who would otherwise be in the foster care system. In 2014, the Legislature expanded the program to include nonrelatives with whom a child may have a close relationship but are not blood relatives or relatives by marriage.<sup>50</sup> Those nonrelatives, known as “fictive kin,” are eligible for financial assistance if they are able and willing to care for the child and provide a safe, stable home environment. The court must find that a proposed placement is in the best interest of the child.<sup>51</sup>

The intent of the RCP is to provide support to relative and nonrelative caregivers who would otherwise struggle with the financial impact of taking children into their homes. The program is funded with a combination of federal revenues under the Temporary Assistance to Needy Families (TANF) program and state revenues (particularly for the nonrelative component, which does not qualify for TANF funding).<sup>52</sup> Currently, the basic monthly payment amount to relative and nonrelative caregivers under RCP is linked to the age of the child in care:

- Age 0 through age 5 - \$242 per month;
- Age 6 through age 12 - \$249 per month;
- Age 13 through age 18 - \$ 298 per month.<sup>53</sup>

Relative and nonrelative caregivers may become eligible for these subsidies without having to meet foster care licensure standards.<sup>54</sup>

#### *TANF Child-Only Funding*

The TANF program is a block grant that provides states, territories, and tribes with federal funds each year to cover benefits, administrative expenses, and services targeted to needy families. States receive block grants to operate their individual programs and to accomplish the goals of the TANF program. Florida’s Temporary Cash Assistance (TCA) program is funded through the TANF block grant and provides cash assistance to needy families with children who meet eligibility requirements.

Children and caregivers who do not meet the eligibility criteria for the RCP may be eligible for child-only subsidies under the TCA program if:

- The child has not been adjudicated dependent, but is living with a relative,<sup>55</sup> or

<sup>48</sup> Ss. 39.5085(1)(b) and (c), F.S.

<sup>49</sup> S. 39.5085, F.S.

<sup>50</sup> Ch. 2014-224, L.O.F.

<sup>51</sup> S. 409.988(3), F.S.

<sup>52</sup> Some children placed with a relative guardian are eligible for the TANF “child only” program. See Department of Children and Families, *Temporary Assistance to Needy Families State Plan Renewal: October 1, 2017 – September 30, 2020*, <http://www.dcf.state.fl.us/programs/access/docs/TANF-Plan.pdf> (last visited Mar. 17, 2019).

<sup>53</sup> R. 65C–28.008(2)(g), F.A.C.

<sup>54</sup> S. 39.5085(2)(c), F.S.

<sup>55</sup> Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirements or the TANF time limit.

- The child still resides with his or her custodial parent, but that parent is not eligible to receive TCA.<sup>56</sup>

Financial support from the TANF child-only program is limited to relatives and provides a lower monthly subsidy than the RCP.<sup>57</sup>

### *Permanent Guardianship without Funding*

It is also possible for caregivers to become permanent guardians without any financial assistance. Section 39.6221, F.S., sets the criteria by which an individual may seek permanent guardianship of a child. In cases where reunification or adoption is not in the best interest of a child, permanent guardianship may be considered by the court.<sup>58</sup> For families and children who do not meet the criteria for the RCP or TANF child-only funding, the court may establish unsubsidized guardianship. The following chart summarizes the guardianship options currently available. The chart does not contain information regarding Florida's Guardianship Assistance Program (GAP) because it will not become effective until July 1, 2019. A fuller discussion of GAP is below.

	Relative Caregiver Program		TANF Child-Only	Unsubsidized Guardianship
	Relative Component	Nonrelative Component		
<b>Statutory Authority</b>	S. 39.5085, F.S.	S. 39.5085, F.S.	S. 414.045, F.S. 45 CFR Part 233	S. 39.6221, F.S.
<b>Relationship to Child</b>	Relative "within the fifth degree by blood or marriage"	Nonrelative	Relative	Relative or nonrelative
<b>Fund Source</b>	State and Federal	State Only	State and Federal	NA
<b>Benefit Amount (monthly)</b>	Age 0-5: \$242 Age 6-12: \$249 Age 13-18: \$298	Age 0-5: \$242 Age 6-12: \$249 Age 13-18: \$298	\$95-\$180	NA

### Guardianship Assistance Program

Congress approved the Fostering Connections and Increasing Adoptions Act in 2008.<sup>59</sup> A key element of the legislation is the creation of a federally-supported Guardianship Assistance Program (GAP) for relatives and fictive kin. The GAP gives states the option of using federal Title IV-E funds to support kinship guardianship payments for children living in the homes of relative caregivers who become these children's legal guardians. The GAP reflects a significant body of research establishing the importance of linking foster children with relatives and other adults with whom they have a close relationships.

Florida established its GAP program in law in 2018, and the program will begin on July 1, 2019. Establishment of the GAP framework allows the state to receive other Title IV-E funds to support guardians, which could mitigate the aggregate loss of the Title IV-E funds because of the expiration of the waiver. Florida's GAP also allows DCF to provide caregivers who establish legal guardianship with a larger monthly stipend relative to existing state programs.

Under the federal requirements, if a child meets select Title IV-E eligibility standards, the child's caregiver may also be eligible for a GAP subsidy if:

<sup>56</sup> Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments, is not a U.S. citizen and is ineligible to receive TCA due to his or her immigration status, or has been sanctioned for noncompliance with work requirements.

<sup>57</sup> Ss. 409.175(7)(a) and (b), F.S.

<sup>58</sup> S. 39.6221(1), F.S.

<sup>59</sup> H.R. 6893 of 2008. P.L. 110-351.

- The child has been removed from his or her family's home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child's welfare;
- The child is eligible for federal foster care maintenance payments under Title IV-E of the Social Security Act for at least six consecutive months while residing in the home of the prospective relative guardian who is licensed or approved as meeting the licensure requirements as a foster family home;
- Returning home or adoption are not appropriate permanency options for the child;
- The guardian demonstrates a strong commitment to caring permanently for the child; and
- The child has been consulted regarding the guardianship arrangement (applicable to children age 14 and older).<sup>60</sup>

Likewise, a prospective guardian must meet certain conditions to qualify for a GAP subsidy. He or she must:

- Be the eligible child's relative or close fictive kin;
- Have undergone fingerprint-based criminal record checks and child abuse and neglect registry checks;
- Must be a licensed foster parent and approved for guardianship assistance by the relevant state department;
- Display a strong commitment to caring permanently for the child; and
- Have obtained legal guardianship of the child after the guardianship assistance agreement has been negotiated and finalized with the department.

Section s. 39.6225, F.S., sets the eligibility requirements to participate in Florida's GAP. In keeping with federal requirements, for a guardian to qualify to receive benefits on behalf of the child, he or she must:

- Have the child's placement approved by the court;
- Have the court grant legal custody to the guardian;
- Be licensed as a Level I provider of foster care under s. 409.175, F.S.; and,
- Be a guardian for a child who was eligible for federal foster care maintenance payments under Title IV-E for at least six consecutive months while the child resided in the home of the guardian and the guardian was licensed as a provider of foster care.

DCF provides GAP participants assistance payments of \$4,000 annually, or another amount specified in a written agreement, paid on a monthly basis.<sup>61</sup> Participants are also eligible for a one-time payment of up to \$2,000 for expenses associated with obtaining legal guardianship of a child.

DCF must redetermine eligibility annually for GAP participants. Payments can continue even if the family moves out of the state, or until the child reaches 18 or 21 if a guardianship assistance agreement was first established when the child was 16 or 17 years old. Establishment and enforcement of child support is not a part of Title IV-E GAP eligibility requirements.

If a child has a permanency goal of a permanent guardianship in which the guardian is *receiving* GAP payments, the child's case plan must include:

- How the child meets the program's eligibility requirements,
- How the department determined reunification or adoption was not in the child's best interest.
- Efforts to discuss adoption of the child with child's permanent guardian.
- Efforts to discuss guardianship assistance with the child's parent or the reason why those efforts were not made.

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<sup>60</sup> 42 U.S.C. § 673(d)(3)(A).

<sup>61</sup> S. 39.6225(5)(d), F.S.

- Reasons why permanent placement with the guardian is in the child's best interest.
- If the child is separated from his or her siblings, why such separation occurred during placement.
- If the child is older than 14 years old, efforts to discuss the permanent guardianship arrangement.<sup>62</sup>

Currently, Florida Statutes specify the required information in the child's case plan must be included when the guardian is in receipt of GAP payments. However, once the guardian begins receiving GAP payments, the child's case is closed because permanency has been achieved. This can result in the information not being included or updated in the child's case plan because court supervision has ended. Federal law requires the specific information above to be included in the child's case plan. If the information is not included, DCF is not able to seek federal reimbursement for GAP payments.

Pursuant to s. 39.6225(6), F.S., DCF must terminate guardianship assistance benefits if:

- The child is absent from the guardian's home for at least 60 consecutive days and the absence is not due to medical care, school attendance, runaway status, or juvenile detention, and the child continues to be under the care and custody of the guardian; or
- The court modifies the placement of the child and the guardian is no longer eligible to receive payments.

However, federal requirements state that guardianship assistance benefits shall be terminated if the guardian is no longer *providing* support to the child.<sup>63</sup> Florida Statutes currently do not state that termination is based on whether the guardian is no longer supporting the child, but includes examples of reasons for termination. Florida's GAP will provide stipends to children and guardians who meet these criteria regardless of whether they qualify for federal Title IV-E reimbursement. Other funding may be used to do so, including TANF funding and state general revenue.

Nonrelative caregivers currently receive monthly assistance through state general revenue. Until the Legislature authorized GAP effective July 1, 2019, the RCP provided the only financial assistance available to relative and nonrelative caregivers who have children placed with them who were in the custody of the department. The RCP and GAP programs will run concurrently starting July 1, 2019, and relative and nonrelative caregivers can choose to apply for either program.

### *Medicaid Eligibility*

Section 409.903(4), F.S., addresses children who are categorically eligible for Medicaid coverage. The Agency for Health Care Administration must make payments for medical assistance and related services to those who DCF determines to be eligible because of income, assets, and categorical edibility tests set forth in state and federal law. Currently, children who receive care through the RCP are categorically eligible to receive Medicaid coverage.<sup>64</sup> However, children being served under the Title IV-E GAP program are currently not considered categorically eligible. Excluding these children from being categorically eligible is not in compliance with federal requirements and would hinder the department from receiving federal reimbursement.<sup>65</sup>

### Extended Foster Care

In 2013, the Legislature established the framework for extended foster care, which applies to young adults age 18 to 21 who did not achieved permanency prior to their 18<sup>th</sup> birthday.<sup>66</sup> The program builds on independent living assistance services that were previously available to young adults who "aged-

<sup>62</sup> S. 39.6225(10), F.S.

<sup>63</sup> 42 U.S.C. § 673(a)(4).

<sup>64</sup> S. 409.903, F.S.

<sup>65</sup> 42 U.S.C. § 673(b)(3)(C).

<sup>66</sup> Ch. 2013-178, L.O.F.

out” of the foster care system.<sup>67</sup> Extended Foster Care (EFC) is a Title IV-E program, meaning if the state meets the federal requirements, the state can be reimbursed for providing the services.

Section 39.6251(2), F.S., sets the eligibility parameters for EFC services, which are available to young adults who are living in licensed care on their 18<sup>th</sup> birthday and who are:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in programs or activities listed above full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation.<sup>68</sup>

Currently, Florida Statutes do not require a young adult to furnish documentation regarding whether his or her participation meets these requirements.

Subsections 39.6251(3) and (4), F.S., establish additional requirements for participation in EFC, including that:

- The statutory permanency goal for the young adult who chooses to remain in care is transitioning from licensed care to independent living; and
- The young adult must reside in a supervised living environment that is approved by the department or a CBC, with the first choice being a licensed foster home.

Eligibility for young adults to remain in EFC ends when the young adult either:

- Reaches 21 years old or, in the case of a young adult with a disability, 22 years old,
- Leaves care to live in a permanent home, or
- Knowingly or voluntarily withdraws his or her consent to participate in EFC, which must be verified by the court unless the young adult refuses to participate in further court proceedings.

If a young adult voluntarily leaves EFC, he or she may return to care by applying to the CBC for readmission and shall be readmitted if he or she meets the eligibility requirements. Within 30 days of readmission, the department must petition the court to reinstate jurisdiction over the young adult.<sup>69</sup>

Section 39.701(4), F.S., outlines the action the court may take or require to be taken at judicial review hearings for young adults in foster care. Currently, this section does not address the federal option available for a young adult to enter into the EFC through a voluntary placement agreement. Voluntary placement agreements serve as a contract between the young adult and the department. The agreement allows the young adult to reenter EFC after voluntarily leaving without requiring the department to petition the court to reinstate jurisdiction over the young adult.

Additionally, s. 39.701(4), F.S., does not address federal requirements regarding the department having placement and care responsibility over the young adult nor does it address the court entering an order a minimum of every 12 months, including a finding of whether the department has made reasonable efforts to finalize the permanency plan.<sup>70</sup> For children whom the department has placement and care responsibility, federal law requires a finding that reasonable efforts have been made to finalize a permanency plan at court hearings at which evidence is presented in order for the young adult to remain eligible for federal funds.<sup>71</sup>

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<sup>67</sup> See Bill Analysis and Fiscal Impact Statement of CS/SB 1036, Senate Appropriations Committee (Apr. 21, 2013) <http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=2013s1036.ap.DOCX&DocumentType=Analysis&BillNumber=1036&Session=2013>

<sup>68</sup> S. 39.6251(2), F.S.

<sup>69</sup> S. 39.6251(6), F.S.

<sup>70</sup> 42 U.S.C. § 671(a)(9), 42 U.S.C. § 671(a)(15), 42 U.S.C. § 672(a)(2)(A)(iii), and 42 U.S.C. § 672(2)(B).

<sup>71</sup> 42 U.S.C. § 671(a)(15).

## *Postsecondary Education Services and Support and Aftercare Services*

Since the passage of the Foster Care Independence Act of 1999, federal law has encouraged states to create programs to support a continuum of services to youth aging out of foster care. In addition to the EFC program, Florida currently offers two other independent living programs: Postsecondary Education Services and Support (PESS) and Aftercare Services.

In 2014, Florida implemented the Nancy C. Detert Common Sense and Compassion Independent Living Act, which allows for the state to disregard financial assistance given to young adults engaging in independent living programs. However, s. 409.1451(2), F.S., states that young adults may receive PESS and allows the PESS funding to be disregarded for purposes of determining the eligibility for any other federal or federally supported assistance. Currently, Florida Statutes do not address whether assistance given under EFC or Aftercare Services can be disregarded.

### **Effect of Proposed Changes**

The bill brings Florida Statutes into compliance with federal Title IV-E and the Family First Prevention Services Act (FFPSA) requirements and makes changes to enhance the state's new Title IV-E programs.

### **Definitions**

The bill amends s. 39.4015, F.S., relating to family finding, to remove the definition of "fictive kin." The definition of "fictive kin" in s. 39.01(29), F.S., meets the Title IV-E requirements for federal reimbursement, and would apply to all references of "fictive kin" in ch. 39. Because the two definitions are almost identical, there would be no substantive impact by deleting the duplicative definition in s. 39.4015, F.S.

### **Placement of Children**

The bill amends s. 39.402(8)(h), F.S., to require that a court order for placement of a child in shelter care contain a statement that the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing. Additionally, the bill amends s. 39.701(2)(d), F.S., by adding a new requirement that if the court determines at any judicial review that the child must remain in out-of-home care, then it must order that the department has placement and care responsibility for the child. There would be no substantive impact on the courts for this change, but these changes bring the state into compliance with federal requirements.

The bill amends s. 39.407(6), F.S., to require the court to conduct an initial hearing to review the child's residential treatment plan within 60-days after the child's admission to the residential treatment program. This change complies with federal requirements established in the FFPSA. Judges will now have to review the child's placement in a residential treatment center within 60-days rather than 3-months.

### **Relative Caregiver Program**

The bill amends s. 39.5085, F.S., to allow relative and nonrelative caregivers to apply for the Relative Caregiver Program if they do not meet eligibility requirements for Level I licensure under s. 39.6225, F.S. This will require a potential guardian to be determined ineligible for GAP before applying for the Relative Caregiver Program.



## **Guardianship Assistance Program**

The bill amends s. 39.6225(6), F.S., to specifically require termination of guardianship assistance payments when the guardian is no longer providing support to the child. This change is a federal requirement and was suggested by the Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services. Current statute lists specific situations requiring termination but does not state the reason is due to the guardian's ceasing providing support to the child.

The bill amends s. 39.6225(10), F.S., to require the case plan to describe information regarding permanent guardianship if the guardian is pursuing guardianship assistance payments. This change would require the information regarding permanent guardianship to be included in the case plan if the guardian is pursuing the payments, rather than receiving payments. This change is important because as soon as the guardian receives payments, the case is closed and the case plan cannot be updated with the federally-required information.

The bill amends s. 409.903(4), F.S., to include children who receive GAP as categorically eligible for Medicaid. Changes to this section bring the department into compliance with federal requirements.

Further, the bill amends s. 409.991(1)(a), F.S., to include GAP funding as an exemption from CBC core services funding in determining the allocation for the CBCs. Similar to the current exclusion of Maintenance Adoption Subsidy from core services, this allows the funds to be distributed based on the projected population and GAP payments made by the CBCs.

The bill amends s. 414.045(1)(b), F.S., to add families in GAP as "child-only" cases. This allows the state to use TANF funding for GAP payments when a child does not meet Title IV-E eligibility requirements.

The bill also amends s. 1009.251(d), F.S., to allow for a tuition fee exemption to youth eligible for GAP. The change gives children who are permanently placed with a relative access to tuition exemptions whether they are eligible for GAP or the RCP.

## **Extended Foster Care**

The bill amends s. 39.6251(2), F.S., to require a young adult to furnish documentation of participation in a program required for eligibility in Extended Foster Care (EFC). The young adult can either furnish the documentation themselves or execute a consent for release of records to the department or CBC to obtain the documentation. This will allow the state to verify that a young adult is participating in the activities required for the EFC program.

The bill amends s. 39.6251(3), F.S., to require a young adult who chooses to remain in the care and custody of the state past his or her 18<sup>th</sup> birthday to have a permanency goal of transition to independence.

The bill amends s. 39.6251(10), F.S., to provide the department with rulemaking authority to administer the continuing care for young adults in the EFC program. The department is authorized to develop rules to establish processes and procedures for the Title IV-E EFC program. This change will help provide consistent application of the program statewide.

The bill amends s. 39.6251(6), F.S., to allow a young adult who is between the ages of 18 and 21 and who has left care, to apply with the CBC for readmission through the execution of a voluntary placement agreement. This change allows the state to request Title IV-E reimbursement for young adults who reenter care.

The bill addresses an additional way to enter EFC, which will expand the department's ability to seek reimbursement of Title IV-E funds. Specially, the bill amends s. 39.701, F.S., to allow a young adult to elect to voluntarily leave EFC for the sole purpose of ending a removal episode and immediately thereafter executes a voluntary placement agreement with the department to reenroll in EFC. When this occurs, the court shall enter an order finding that the prior removal episode has ended. Under these circumstances, the court does not lose jurisdiction and no petition to reinstate jurisdiction is required. Ultimately, this allows a young adult to voluntarily leave and reenter foster care without the court losing jurisdiction.

The bill adds s. 39.701(4)(g), F.S., to require when youth enter EFC by executing a voluntary placement agreement, the court shall enter an order within 180 days of the agreement that determines whether the supervised living arrangement is in the best interest of the youth. The supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment or another housing arrangement if approved by the CBC and is acceptable to the young adult. Further, when a youth is in EFC, the court shall include in each judicial review order that the department has placement and care responsibility for the youth. When a youth is in EFC, the court shall enter an order a minimum of every 12 months that includes a finding of whether the department has made reasonable efforts to finalize the permanency plan currently in effect. These changes align Florida Statutes with federal requirements.

The bill amends s. 409.1451, F.S., to add that financial assistance through independent living services offered by DCF, including EFC and Aftercare Services, may be disregarded by DCF for purposes of determining eligibility for, or the amount of, any other federal or federally supported assistance. This will ensure that young adults have access to all assistance programs, if they meet other eligibility criteria, regardless of their participation in independent living services.

### **Foster Home Licensure**

The bill makes numerous changes to s. 409.175, F.S., to either meet federal requirements or allow for the streamlining of requirements for Level I licensing.

#### Licensure

The bill amends s. 409.175(2)(e), F.S., to state that a family foster home is a home licensed by the department. This is a federal requirement; to receive Title IV-E reimbursement for foster care board rate, the foster home must be licensed.

The bill amends ss. 409.175(14)(b) and (d), F.S., to remove the specified number of preservice and inservice training hours for licensure, and instead, allows the department to streamline the licensing requirements for training and establish the hours by rule.

#### Background Screening Requirements

The bill amends s. 409.175(2)(j), F.S., to exclude a family foster home from the definition of "personnel." Additionally, the bill amends s. 409.175(2)(m), F.S., to include Level II through Level V family foster homes in the definition of "screening". These changes will keep current Level II background screening standards in place for Level II-V homes and allow the department to simplify the screening standards for a Level I licensee, using standards currently in place for placements with relatives.

Further, the bill amends s. 409.175(5)(b)5., F.S., to add family foster homes in the screening requirements for good moral character. By removing family foster homes from the definition of "personnel," it removed them from screening for good moral character. Therefore, the family foster homes must specifically be added to this section to maintain that level of screening.

The bill amends s. 409.175(12)(b), F.S., to add family foster homes and household members to the list of those entities prohibited from willfully or intentionally failing to comply with the requirements for background screening. This change conforms to other changes made in this section.

#### Renewal and Extension of a License

The bill amends s. 409.175(6)(c), F.S., to include the screening of household members in the renewal process for licensure if they have worked or resided on a continuous basis in the home since fingerprints were submitted to the department. This is a federal requirement that must be added to this section since a Level I foster parent licensee may be required to renew his or her license before being approved for GAP, and new household members will have to pass background screening before the Level I license can be renewed.

The bill amends s. 409.175(7), F.S., to add the ability to extend a license up to, but no more than, 30 days. Federal requirements allow a one-time extension of a license, so this change will bring the department into compliance with federal requirements.

#### Provisional License

The bill amends ss. 409.175(a)-(c), F.S., to remove the department's ability to provide a provisional license. Federal requirements do not allow for a provisional license. Removal of the department's ability to provide provisional licenses will bring Florida Statutes into compliance with federal requirements.

#### Denying, Suspending, or Revoking a License

The bill amends s. 409.175(9)(b), F.S., to make a conforming change to maintain the department's current ability to deny, suspend, or revoke a family foster home's license under certain conditions.

### B. SECTION DIRECTORY:

**Section 1:** Amending s. 39. 4015, F.S., relating to family finding.

**Section 2:** Amending s. 39. 402, F.S., relating to placement in a shelter.

**Section 3:** Amending s. 39.407, F.S., relating to medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.

Section 4: Amending s. 39.5085, F.S., relating to the relative caregiver program.

**Section 5:** Amending s. 39.5086, F.S., relating to kinship navigator programs.

**Section 6:** Amending s. 39.6225, F.S., relating to the guardianship assistance program.

**Section 7:** Amending s. 39. 6251, F.S., relating to continuing care for young adults.

**Section 8:** Amending s. 39.701, F.S., relating to judicial review.

**Section 9:** Amending s. 409.1451, F.S., relating to the road-to-independence program.

**Section 10:** Amending s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.

**Section 11:** Amending s. 409.903, F.S., relating to mandatory payments for eligible persons.

**Section 12:** Amending 409.991, F.S., relating to allocation of funds for community-based care lead agencies.

**Section 13:** Amending s. 414.045, F.S., relating to the cash assistance program.

**Section 14:** Amending s. 1009.25, F.S., relating to fee exemptions.

**Section 15:** Provides an effective date of July 1, 2019.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

To the extent this bill makes statutory changes that align with federal requirements for the receipt of Title IV-E funding, the department can expect to receive federal revenue for programs that mitigate the loss of the Title IV-E Waiver.

The House proposed General Appropriations Act for Fiscal Year 2019-20 (GAA) includes funding for the Guardianship Assistance Program (GAP) in the amount of \$26,763,903, of which \$10,960,732 is from federal sources (this includes an annualization approved in the prior fiscal year).

The House proposed GAA includes \$3,842,836 of federal funding to continue Title IV-E Extended Foster Care and \$8,087,040 (\$4,400,655 is federal) to CBCs for safety management services. Both issues contribute to maximizing the department's ability to claim Title IV-E funding. Despite these efforts, the House proposed GAA includes a General Revenue appropriation of \$24,018,196 to fill the remaining deficit in the child welfare budget. This appropriation of general revenue funds may be insufficient should Florida Statutes not align with federal requirements.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

The bill only allows caregivers who are ineligible for Level I licensure to apply for the Relative Caregiver Program. Being a licensed foster home is a federal requirement for receipt of GAP funding. Under current law, when GAP begins providing payments July 1, 2019, caregivers will be able to choose between participation in GAP and the Relative Caregiver Program, even if they are eligible for Level I licensure.

### 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 bill grants authority to DCF for rulemaking to administer the Extended Foster Care program and the Guardianship Assistance Program.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 20, 2019, the Children, Families, and Seniors Subcommittee adopted an amendment that requires the court to conduct a hearing no later than 60 days after a child's admission to a residential treatment center. The bill was reported favorably as amended. The analysis is drafted to the amended bill as passed by the Children, Families, and Seniors Subcommittee.