

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: CS/HB 7099 PCB CFS 19-01 Child Welfare
SPONSOR(S): Health & Human Services Committee and Children, Families & Seniors Subcommittee, Stevenson and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/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	16 Y, 0 N, As CS	Christy	Calamas
FINAL HOUSE FLOOR ACTION: 114 Y's 0 N's		GOVERNOR'S ACTION: Approved	

SUMMARY ANALYSIS

CS/HB 7099 passed the House on April 25, 2019. The bill was amended in the Senate on April 30, 2019, and returned to the House. The House concurred in the Senate amendments and subsequently passed the bill as amended on May 1, 2019. CS/HB 7099 brings Florida Statutes into full compliance with federal requirements for earning additional federal Title IV-E revenue and enhances new and existing child welfare programs.

The bill amends eligibility for the Guardianship Assistance Program (GAP), requiring termination of GAP payments when a guardian no longer provides support to a child and requiring information in a child's case plan if the guardian is pursuing GAP payments. It allows GAP-funded children to be categorically eligible for Medicaid and exempts GAP funding from core services funds allocated to lead agencies. It also provides a tuition and fee exemption to youth served by GAP and allows some GAP benefits to be funded with Temporary Assistance for Needy Families funding.

The bill also amends family foster home licensure procedures by aligning background screening requirements with those for the initial placement with relatives and removing the specific training hours required for foster parents and the ability of the Department of Children and Families (DCF) to issue provisional foster home licensure. It also expands the bases for denying, suspending, or revoking a family foster home license.

The bill addresses the methods for entry into extended foster care, providing all options available under federal law.

The bill authorizes psychiatric nurses to obtain consent for and prescribe psychotropic medication to dependent minors and advise the court and DCF on any continued need for psychotropic medications and other services.

The bill requires DCF to create a direct-support organization for the Florida Children and Youth Cabinet and revises the appointee to the Cabinet from the Governor's Office of Adoption and Child Protection.

The bill also addresses dependency process standards when a court is determining whether it is safe to return a child from out-of-home care to align with standards at other points in the process.

Finally, the bill requires the central abuse hotline to accept out-of-state child abuse or neglect reports if the child is being evaluated in a Florida medical facility and requires DCF to refer these children to Child Protection Teams for assessment. It also requires a child protective investigation if the hotline report is by an emergency room physician.

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

The bill was approved by the Governor on June 25, 2019, chapter 2019-142, Laws of Florida. The effective date of this bill is July 1, 2019.

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

STORAGE NAME: h7099z1.CFS.DOCX

DATE: 6/26/2019

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect. Florida's child welfare system is administered by the Department of Children and Families (DCF), which works in partnership with local communities and the courts to ensure the safety, timely permanency and well-being of Florida's children.¹

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.² 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.³

The federal government pays 50-80 percent of these costs, depending on the nature of the expenditure, and additionally, for foster care maintenance payments, the state's per capita income.⁴

Title IV-E funds generally cannot be used for an array of services, such as family support services, intensive in-home services, and mental health and substance abuse services. While Title IV-E is an

¹ S. 39.001, F.S.

² 42 U.S.C. § Ch. 7, Subch. IV, Pt. E.

³ 42 U.S.C. § 674.

⁴ Id.

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.⁵

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 states flexibility in using federal funds for services promoting safety, well-being, and permanency for children in the child welfare system.⁶ HHS could waive compliance with standard Title IV-E requirements and instead allow states to establish projects that let them serve children and provide services that are not typically eligible. To do so, states had to enter into an agreement with the federal government outlining the terms and conditions to which the state would adhere in using the federal funds. The states also agreed to evaluate the projects.⁷ Currently, 26 states have approved projects, including Florida.

Florida's Title IV-E Waiver

Florida's original Title IV-E waiver was effective October 1, 2006, and has been extended several times. The waiver allows the state flexibility to spend Title IV-E funds on a broader array of services for children who do not meet Title IV-E eligibility criteria.⁸ Under the waiver, a capped allocation of federal funds, similar to a block grant, is distributed to lead agencies, also known as community-based care organizations (CBCs), for service provision. The capped allocation increases by 3 percent per year over the amount of federal foster care funds received in the federal fiscal year that ended in September 2005. For state Fiscal Year 2018-2019, Florida is expecting to receive \$190 million in Title IV-E funding. Funding allocated under the waiver gives the state more money to spend on child welfare services than funding allocated under traditional Title IV-E, which is instead earned based on the number of eligible children in care and the cost of certain services provided to them.⁹

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 eliminates federal support for certain non-Title IV-E eligible children and current services. This creates a significant funding deficit for the state if it wishes to maintain a similar service level. Currently, Florida spends 42 percent of its Title IV-E funds on non-traditional services; therefore, expiration of the waiver will lead to an operating deficit of roughly \$70-90 million per year over the next five fiscal years.¹⁰

⁵ 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 (last visited Mar. 10, 2019).

⁶ 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).

⁷ 42 U.S.C. § 1320a-9(f).

⁸ *Supra* note 6.

⁹ Under traditional Title IV-E, states receive federal funding only for children who are in out-of-home placements, have been removed from a home with a very low income, have entered care through a judicial determination or voluntary placement, and are in licensed foster care.

¹⁰ Department of Children and Families, *Florida's Path Forward: Family First Prevention Services Act (FFPSA) Implications for Residential Care Providers*, <http://centervideo.forest.usf.edu/video/center/ffpsa/Jaacks%20&%20Odum%20Presentation.pdf> (last visited Jun. 7, 2019).

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. 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 the 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 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. These programs assist caregivers and fictive kin learn about and access the range of support services available to them and children in their care provided by public and private agencies.¹¹

Because Florida already provides these types of preventive 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 new and enhanced federal funds available under the FFPSA. 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 (an average of \$12.5 million per year, nationwide).¹² The FFPSA may 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 Child Welfare System

Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. DCF and community-based care lead agencies work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

Florida Central Abuse Hotline

DCF operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, seven days a week of known or suspected child abuse, abandonment, or neglect.¹³ A child protective investigation begins with a report by any person to the hotline. Statute mandates any person who

¹¹ 42 U.S.C. § 627.

¹² 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).

¹³ S. 39.201(5), F.S.

knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, shall report such knowledge or suspicion to the hotline.¹⁴

Once the hotline obtains information from a reporter, the allegations of the report must meet the statutory definition required to trigger a child protective investigation by DCF or the sheriff's office, if the report is for a child in one of the seven counties where the sheriff's office conducts child protective investigations.¹⁵ For the report to be accepted for an investigation, there must be reasonable cause to believe that the child was harmed by abuse, abandonment, or neglect, or the child is at risk of harm.¹⁶

Under s. 39.201(2)(d), F.S., the hotline is prohibited from accepting reports when the alleged abuse, abandonment, or neglect occurred out-of-state and both the alleged perpetrator and child victim live out-of-state. However, the hotline will accept a report if the child is physically in Florida and the severity of alleged abuse or neglect reported creates a condition of threatened harm for the child while temporarily located in Florida.¹⁷ "Threatened harm" means a behavior that is not accidental and which is likely to result in harm to the child.¹⁸ If the threatened harm within Florida is not present, the caller will be transferred to the appropriate state or county authorities where the family has residency.¹⁹

Child Protective Investigations

DCF must conduct a child protective investigation if a hotline report meets the statutory definition of child abuse, abandonment, or neglect. An investigation must be commenced immediately or within 24 hours after the report is received, depending on the nature of the allegation.²⁰ The child protective investigator assesses the safety and perceived needs of the child and family and whether the child should receive in-home or out-of-home services.

Institutional Child Abuse or Neglect

Section 39.202, F.S., specifies how allegations of institutional child abuse or neglect are to be investigated. "Institutional child abuse or neglect" is a situation of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care as defined in s. 39.01(54), F.S. An investigation of institutional child abuse or neglect must be commenced immediately unless the institution is not open and the child cannot be located. Additionally, the investigator must notify the state attorney, law enforcement agency, and licensing agency of the institution to conduct a joint investigation, if feasible.

Currently, the definition of "institutional child abuse or neglect" in s. 39.01(37), F.S., does not specifically list public school employees as possible perpetrators for cases of alleged institutional child abuse or neglect, but such employees are captured in the definition of an "other person responsible for a child's welfare," in s. 39.01(54), F.S., which is referenced regarding possible perpetrators in the definition of "institutional child abuse or neglect". Thus public school employees can be perpetrators of institutional child abuse and neglect even though the plain text of s. 39.01(37), F.S., does not specifically list them but only lists private school employees. If misinterpretation leads to the inaccurate

¹⁴ S. 39.201(1)(a), F.S.

¹⁵ S. 39.201(2)(a), F.S.

¹⁶ S. 39.201(2), F.S.

¹⁷ Department of Children and Families, 2019 Agency Legislative Bill Analysis for HB 179.

¹⁸ R. 65C-30.001(121), F.A.C.

¹⁹ *Supra* note 15.

²⁰ S. 39.201(2)(a), F.S.

conclusion that a public school employee cannot legally be a perpetrator of institutional child abuse or neglect, then children may be at risk from abusive or neglectful public school employees who would not be subject to investigations of institutional child abuse or neglect.

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of DCF and local sheriffs' offices in cases of child abuse and neglect.²¹ CPTs are independent community-based programs contracted by the Department of Health Children's Medical Services (CMS) program that provide expertise in evaluating alleged child abuse

and neglect, assess risk and protective factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.²²

CPTs across the state are divided into 15 districts and provide services to all 67 counties by utilizing satellite offices and telemedicine sites.²³ Each of the 15 districts served by CPTs are supervised by one or multiple child protection team medical directors, depending on the size and subdivision of the particular district.²⁴

Certain reports of child abuse, abandonment, and neglect to the hotline must be referred to CPTs, including:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age;
- Bruises anywhere on a child five years of age or younger;
- Any report alleging sexual abuse of a child;
- Any sexually transmitted disease in a prepubescent child;
- Reported malnutrition or failure of a child to thrive;
- Reported medical neglect of a child;
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment, or neglect; and
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment or neglect is suspected.²⁵

When a CPT accepts a referral from DCF or law enforcement, it may provide one or more of the following services:

- Medical diagnosis and evaluation;
- Child forensic interviews;
- Child and family assessments;
- Multidisciplinary staffings;
- Psychological and psychiatric evaluations;
- Community awareness campaigns; and
- Expert court testimony.²⁶

²¹ Florida Department of Health, Children's Medical Services, *Child Protection Teams*, http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited Feb. 5, 2019).

²² *Id.*

²³ Florida Department of Health, *Children's Medical Services Child Protection Teams*, (Mar. 30, 2018), <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last visited Feb. 21, 2019).

²⁴ *Id.*

²⁵ S. 39.303(4), F.S.

²⁶ S. 39.303(3), F.S.

CPT staff also provide training services to child protective investigators, community providers of child welfare services, and emergency room staff and other medical providers in the community.²⁷

Community-Based Care Organizations and Services

If a child protective investigation results in verified findings of abuse or neglect, the child will receive a case plan and services are provided to the family to address the problems that are endangering the child. DCF contracts for case management, out-of-home care, 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.²⁸

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.²⁹ The CBC must give priority to services that are evidence-based and trauma informed.³⁰ 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.³¹

DCF funds CBCs based on an equity allocation model pursuant to s. 409.991, F.S. 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
- Funds for special projects for a designated CBC.³²

Dependency Case Process

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

To be reimbursed for expenses related to a child in out-of-home care under traditional Title IV-E, federal guidelines require that DCF has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of court hearings.³³ Currently, Florida Statutes do not specify that DCF has placement and care responsibility in these situations.

Reunification

²⁷ S. 39.303(3)(h), F.S.

²⁸ Department of Children and Families, *Community-Based Care*, <http://www.dcf.state.fl.us/service-programs/community-based-care/> (last visited Feb. 27, 2019).

²⁹ *Id.*

³⁰ S. 409.988, F.S.

³¹ Department of Children and Families, *Community Based Care Lead Agency Map*, <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last visited Feb. 12, 2019).

³² S. 409.991(1)(a), F.S.

³³ 42 U.S.C. §§ 671(9) and 672(2)(B).

In 2013, DCF began using a new child welfare practice model (practice model) that standardized the approach to making safety decisions and risk assessments for children.³⁴ To further implement this model, in 2014 the Legislature amended statute to require child protective investigators to implement in-home safety plans to ensure the child's safety while the child remains in the home or is placed back in the home after an out-of-home placement.³⁵ Throughout the dependency court process, if a child is placed in out-of-home care, the court reviews the child's case to determine when reunification is safe.

The court determines reunification primarily at two points in the dependency process, either at postdisposition or at a judicial review hearing. However, the standards used by the court are different at each point.

Postdisposition

The court decides whether a child should receive services in-home or out-of-home at a disposition hearing.³⁶ If a child is placed out-of-home at disposition, the court can return the child home postdisposition upon the motion of any party if it determines the circumstances that caused the out-of-home placement have been remedied to the extent that returning the child home with an in-home safety plan will not be detrimental to the child.³⁷

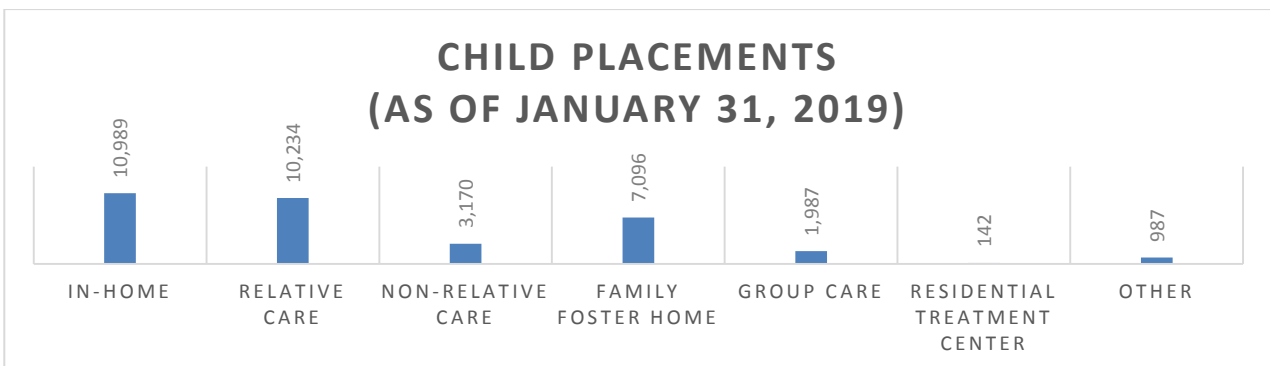
Judicial Review

After the child has been placed and until the child reaches permanency, the court regularly reviews the placement decision and the child's status at judicial review hearings. If the child remains in out-of-home care after disposition, the court returns the child home after a judicial review hearing any time it determines a parent has substantially complied with case plan tasks.³⁸

Therefore, the standard for reunification is different at these two points in the dependency process. The standard for returning the child home at postdisposition reflects DCF's practice model, while the standard for returning the child home at judicial review does not.

Placement of Children in the Child Welfare System

DCF places children under DCF supervision in a variety of settings, and a recent accounting of those placements is reflected below.



³⁴ Department of Children and Families, *2013 Year in Review*, <http://www.dcf.state.fl.us/admin/publications/year-in-review/2013/page19.shtml> (last visited Mar. 12, 2019).

³⁵ S. 39.301(9)(a)6.a., F.S.

³⁶ S. 39.01(25), F.S.

³⁷ S. 39.522(2), F.S.

³⁸ S. 39.701(2)(d), F.S.

Current law requires DCF to administer a system of care that endeavors to keep children with their families.³⁹ 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 in-home services.⁴⁰

When a child protective investigator determines that a 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, residential child-caring agencies, and permanent adoptive placements with a family previously unknown to the child.⁴¹ 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.⁴² Legislative intent is to place children in a family-like environment when they are removed from their homes.⁴³ 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 place children in family foster homes licensed by DCF or another appropriate setting.

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.⁴⁴

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.⁴⁵ 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.⁴⁶ 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.

³⁹ S. 409.175, F.S.

⁴⁰ 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).

⁴¹ S. 409.175, F.S.

⁴² 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).

⁴³ S. 39.001(1), F.S.

⁴⁴ 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).

⁴⁵ S. 39.4015(1)(a), F.S.

⁴⁶ Ss. 39.01(29) and 39.4015, F.S.

Florida Statutes currently have two slightly different definitions for “fictive kin”. Having two different definitions could lead to confusion and misinterpretation.

Family Foster Homes

A family foster home is 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.⁴⁷ Such homes also include specialized foster homes for children with special needs.⁴⁸

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 levels 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.

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.⁴⁹ Foster parents with a Level II through Level V license must complete eight hours of inservice training for licensure renewal.⁵⁰

Additionally, upon application for a license, DCF conducts a licensing study to confirm compliance with its licensing rules and to ensure the home is safe by doing a home study and interviewing the applicant.⁵¹ DCF may authorize a child-placing agency to conduct the licensing study of a family foster home if the child-placing agency seeks to exclusively use the family foster home.⁵² The child-placing agency must verify to DCF that the family foster home meets DCF’s licensing requirements.⁵³

Level I is 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.

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.⁵⁴ The provisional license cannot be issued for a period longer than one year and cannot be renewed. Although Florida Statutes allow for provisional licenses, current federal regulations do not.⁵⁵

⁴⁷ Department of Children and Families, *Fostering Definitions*, <http://www.myflfamilies.com/service-programs/foster-care/definitions> (last visited Mar. 16, 2019).

⁴⁸ S. 409.175, F.S.

⁴⁹ S. 409.175(14), F.S.

⁵⁰ S. 409.175(14), F.S.

⁵¹ S. 409.175(6), F.S.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Ss. 409.175(7)(a) and (b), F.S.

Section 409.175(9), F.S., authorizes DCF 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.

Currently, Florida Statutes do not address whether DCF can extend the expiration date of a foster home license. However, federal law allows states to give foster parents a one-time extension of a license.⁵⁶

Residential Group Care

DCF licenses Residential Group Care (RGC) placements as residential child-caring agencies⁵⁷ 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.⁵⁸ These include maternity homes, runaway shelters, group homes, and emergency shelters.⁵⁹ 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.⁶⁰

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.⁶¹

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.⁶² 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 placement for the child.

⁵⁵ 42 U.S.C. § 672(c).

⁵⁶ 42 U.S.C. § 671(a)(10).

⁵⁷ S. 409.175, F.S.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ S. 39.523(1), F.S.

⁶² Id.

Residential Treatment Centers

Residential Treatment Centers (RTC) 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.

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 current state law.

Relative and Nonrelative Caregiver Programs

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 DCF.⁶³

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 (relatives);
- Relative Caregiver Program (nonrelatives);
- Temporary Assistance for Needy Families (TANF) child-only funding; or,
- Placement or permanent guardianship without funding.

Relative Caregiver Program

Florida created the Relative Caregiver Program (RCP) in 1998⁶⁴ 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.⁶⁵ These 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.⁶⁶

⁶³ Ss. 39.5085(1)(b) and (c), F.S.

⁶⁴ S. 39.5085, F.S.

⁶⁵ Id.

⁶⁶ S. 409.988(3), F.S.

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 TANF program and state revenues (particularly for nonrelatives, who do not qualify for TANF funding).⁶⁷ 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; and
- Age 13 through age 18 - \$298 per month.⁶⁸

Relative and nonrelative caregivers are eligible for these subsidies without having to meet foster care licensure standards.⁶⁹

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,⁷⁰ or
- The child still resides with his or her custodial parent, but that parent is not eligible to receive TCA.⁷¹

Financial support from the TANF child-only program is limited to relatives and provides a lower monthly subsidy than the RCP.⁷²

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.⁷³ 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.⁷⁴

⁶⁷ 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).

⁶⁸ R. 65C-28.008(2)(g), F.A.C.

⁶⁹ S. 39.5085(2)(c), F.S.

⁷⁰ Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirements or the TANF time limit.

⁷¹ 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.

⁷² Ss. 409.175(7)(a) and (b), F.S.

⁷³ S. 39.6221(1), F.S.

⁷⁴ The chart does not contain information regarding Florida's Guardianship Assistance Program because it will not become effective until July 1, 2019.

	Relative Caregiver Program		TANF Child-Only	Unsubsidized Guardianship
	Relatives	Nonrelatives		
Statute	S. 39.5085, F.S. 45 CFR Part 233	S. 39.5085, F.S.	S. 414.045, F.S. 45 CFR Part 233	S. 39.6221, F.S.
Relationship to Child	Relative “within the fifth degree by blood or marriage”	Nonrelative	Relative	Relative or nonrelative
Fund Source	State and Federal	State Only	State and Federal	NA
Benefit Amount (monthly)	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. 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 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, consistent with federal requirements, allows the state to receive additional 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 compared to existing state programs.

Section 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.;
- 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;
- Be the eligible child’s relative or close fictive kin;
- Have undergone fingerprint-based criminal record, and child abuse and neglect registry, checks;
- 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.

DCF provides GAP participants assistance payments of \$4,000 annually, or another amount specified in a written agreement, paid on a monthly basis.⁷⁵ 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.

⁷⁵ S. 39.6225(5)(d), F.S.

For a child who has a permanency goal of permanent guardianship, federal law requires the child's case plan to include:

- How the child meets the program's eligibility requirements;
- How DCF determined reunification or adoption was not in the child's best interest;
- Efforts to discuss adoption of the child with the child's permanent guardian;
- Efforts to discuss guardianship assistance with the child's parent or the reason why those efforts were not made;
- Reasons why permanent placement with the guardian is in the child's best interest; and
- If the child is separated from his or her siblings, why such separation occurred during placement.⁷⁶

Florida Statutes require this information to be in the child's case plan after the guardian is receiving GAP payments pursuant to s. 39.6225(10), F.S. However, once a guardian is receiving GAP payments permanency has been achieved and the child's dependency case is closed. Therefore, requiring this information in the case plan after a guardian is receiving GAP payments and the child has achieved permanency can result in the information being excluded from the case plan because there is no longer court supervision. If the information is left out of the case plan, DCF is not able to seek federal reimbursement for GAP payments.

Additionally, federal requirements state that guardianship assistance benefits shall be terminated if the guardian is no longer providing support to the child.⁷⁷ Florida Statutes currently do not state that termination is based on whether the guardian is no longer supporting the child, but, instead, lists specific situations under which payments must be terminated. These situations include when:

- 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 placement⁷⁸ of the child and the guardian is no longer eligible to receive payments.⁷⁹

Florida's GAP will provide stipends to guardians who meet the required criteria regardless of whether they qualify for federal Title IV-E reimbursement, using TANF funding and state general revenue.

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 eligibility tests set forth in state and federal law. Currently, children who receive care through the RCP are categorically eligible to receive Medicaid coverage.⁸⁰ However, current law does not specify that children being served under the Title IV-E GAP program are categorically eligible. Excluding these children from being categorically eligible is not in compliance with federal requirements and would hinder DCF from receiving federal reimbursement.⁸¹

⁷⁶ 42 U.S.C. § 675(1)(F).

⁷⁷ 42 U.S.C. § 673(a)(4).

⁷⁸ Permanent guardianship is considered a permanent placement, but the court retains jurisdiction of the case until the child reaches 18 years of age. When permanent guardianship is established, the court discontinues regular review hearings and relieves DCF of the responsibility for supervising the placement of the child.

⁷⁹ S. 39.6225(6), F.S.

⁸⁰ S. 409.903, F.S.

⁸¹ 42 U.S.C. § 673(b)(3)(C).

Extended Foster Care

In 2013, the Legislature established a state funded extended foster care program (EFC), which applies to young adults age 18 to 21 who did not achieve permanency prior to their 18th birthday.⁸² The program builds on independent living assistance services that were previously available to young adults who “aged-out” of the foster care system.⁸³ In 2018, the Legislature modified EFC to meet Title IV-E requirements, allowing the state to receive Title IV-E revenue for EFC services. This mitigates the funding shortfall due to the waiver’s expiration.

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 18th 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.⁸⁴

Currently, Florida Statutes do not require a young adult to document whether he or she meets these requirements.

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

- 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 DCF 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, DCF must petition the court to reinstate jurisdiction over the young adult.⁸⁵

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 all federal options available for a young adult to enter into EFC through a voluntary placement agreement which would allow the state all options available to claim federal reimbursement for funds spent on children in EFC. Voluntary placement agreements serve as a contract between the young adult and DCF. The agreement allows the young adult to reenter EFC after voluntarily leaving without requiring DCF to petition the court to reinstate jurisdiction over the young adult.

⁸² S. 39.6251, F.S.

⁸³ 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>.

⁸⁴ S. 39.6251(2), F.S.

⁸⁵ S. 39.6251(6), F.S.

For children for whom DCF 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.⁸⁶ However, s. 39.701(4), F.S., does not address federal requirements regarding DCF 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 DCF has made reasonable efforts to finalize the permanency plan.⁸⁷

Financial Eligibility When Receiving Independent Living Assistance

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 the state to disregard financial assistance given to young adults engaging in independent living programs. Section 409.1451(2)(b), F.S., states that PESS financial assistance may be disregarded for purposes of determining eligibility for other federal or federally supported assistance. However, Florida Statutes do not address whether assistance given under EFC or Aftercare Services can be disregarded.

Psychotropic Medicine for Children in Care

Section 39.407, F.S., allows medical, psychiatric, and psychological examination and treatment of children in care. Under these provisions, only a prescribing physician may determine a child's use of a psychotropic medication. The physician must first attempt to obtain express and informed consent from the child's parent or legal guardian. When the court has terminated parental rights, a parent cannot be located or is unknown, or the parent declines to give consent, DCF may, after consultation with a prescribing physician, seek court authorization to provide psychotropic medications to the child.

Psychiatric Nurses

A psychiatric nurse is an advanced practice registered nurse licensed under s. 464.012, F.S., who has a master's or doctoral degree in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advanced practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.⁸⁸

Under s. 464.012(4)(e), F.S., if a psychiatric nurse meets the requirements of s. 394.455(35), F.S., the psychiatric nurse may prescribe psychotropic controlled substances to treat mental disorders.

However, s. 39.407, F.S., only authorizes a physician — not a psychiatric nurse — to prescribe psychotropic medication to or advise the court or DCF on the prescribing or continued use of psychotropic medication for minor children in care.

Florida Children and Youth Cabinet

The Florida Children and Youth Cabinet (Cabinet) was created in 2007.⁸⁹ The Florida Legislature found a need to collaborate with the Governor to improve child and family outcomes in the state.⁹⁰ The

⁸⁶ 42 U.S.C. § 671(a)(15).

⁸⁷ 42 U.S.C. §§ 671(a)(9), 671(a)(15), 672(a)(2)(A)(ii), and 672(2)(B).

⁸⁸ S. 394.455(35), F.S.

⁸⁹ S. 402.56, F.S.

⁹⁰ S. 402.56(2)(b), F.S.

Cabinet was created to enable state agencies and programs that serve children to coordinate policy development and program implementation so services provided to children and youth are planned, managed, and delivered in a holistic and integrated manner.⁹¹ The Cabinet must provide an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and to the public concerning its activities and progress towards making Florida the place where families want to raise their children.⁹² The report may also include recommendations for needed legislation or rulemaking authority.

The Cabinet is composed of the Governor and 15 other members, including the director of the Office of Adoption and Child Protection.⁹³ It is housed in the Executive Office of the Governor, which provides administrative support and services to the Cabinet.⁹⁴ The Cabinet meets no more than six times each year across different regions of the state in order to solicit input from the public.⁹⁵ Nongovernmental members of the Cabinet serve without compensation but receive per diem and travel expenses to attend Cabinet meetings.⁹⁶

Direct-Support Organization for the Children and Youth Cabinet

A direct-support organization (DSO) is a non-profit organization⁹⁷ statutorily authorized to carry out specific tasks in support of a public entity or public cause. The enacting statute prescribes the function and purpose of a specific DSO.

Prior to October 1, 2017, s. 39.0011, F.S., authorized the Office of Adoption and Child Protection in the Executive Office of the Governor to establish a DSO to assist it in carrying out its purpose and to support the Cabinet. However, this DSO never became operational. This DSO authority was subject to repeal unless saved from repeal by the Legislature.⁹⁸ The DSO authority was not saved from repeal and was repealed effective October 1, 2017. Thus there is currently no DSO that supports the Cabinet.

Effect of the Bill

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 Title IV-E programs.

The bill also makes changes to the dependency process, mental health treatment for dependent children, and the Children and Youth Cabinet.

Guardianship Assistance Program (GAP)

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 federal Children's Bureau within the Administration for Children and Families at the Department of Health and Human Services. Current statute lists specific situations requiring termination but does not include lack of ongoing support to the child.

⁹¹ S. 402.56(3)(a) and (7), F.S.

⁹² Id.

⁹³ S. 402.56(4), F.S.

⁹⁴ S. 402.56(3)(b), F.S.

⁹⁵ S. 402.56(3)(c), F.S.

⁹⁶ S. 402.56(4)(d), F.S.

⁹⁷ Ch. 617, F.S.

⁹⁸ S. 20.058(5), F.S.

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. Currently, the case is closed as soon as the guardian receives payments and the case plan cannot then 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 DCF 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 include families in GAP as “child-only” cases. This allows the state to use federal Temporary Assistance for Needy Families 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 a tuition and fee exemption to youth eligible for GAP. The change gives children who are permanently placed with a relative access to tuition and fee exemptions whether they are eligible for GAP or the Relative Caregiver Program (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). Young adults can either provide the documentation or execute a consent for release of records to DCF or a 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 18th birthday to have a permanency goal of transition to independence.

The bill amends s. 39.6251(10), F.S., to give DCF rulemaking authority to administer the continuing care for young adults in the EFC program. DCF 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 between the ages of 18 and 21, who has left care, to apply with the CBC for readmission by executing a voluntary placement agreement. This 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 DCF’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 execute a voluntary placement agreement with DCF to reenroll in EFC. When this occurs, the bill requires the court to enter an order finding that the prior removal episode has ended. Under the bill, the court would 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.

For youth entering EFC by executing a voluntary placement agreement, the bill requires the court to 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 acceptable to the young adult. Further, when a youth is in EFC, the court must include in each judicial review order a statement that DCF 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 DCF 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 DCF. 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 s. 409.175(6)(b), F.S., to require DCF to post on its website a list of child-placing agencies authorized to conduct licensing studies.⁹⁹

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 DCF 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 DCF 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. The bill's removal of family foster homes from the definition of "personnel," also 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.

⁹⁹ A licensing study is the process used to license a family foster home based on DCF's licensing requirements.

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 DCF. 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 DCF into compliance with federal requirements.

Provisional License

The bill amends ss. 409.175(a)-(c), F.S., to remove DCF's authority to issue a provisional license. Federal requirements do not allow for a provisional license. Removal of DCF'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 DCF's current ability to deny, suspend, or revoke a family foster home's license under certain conditions.

Placement of Children

The bill amends ss. 39.402(8)(h) and 39.701, F.S., to require the court order for placement of a child who is placed in out-of-home care at the conclusion of a shelter hearing or who will remain in out-of-home care at the conclusion of a judicial review to contain a statement that DCF has placement and care responsibility for the child. This change brings 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 FFPSA requirements. Judges will now have to review the child's placement in a residential treatment center within 60 days rather than 3 months.

Child Protective Investigations

The bill amends s. 39.201(2)(d), F.S., to require the hotline to accept reports of out-of-state child abuse or neglect when a child is being evaluated in a Florida medical facility and requires DCF to refer these children to Child Protection Teams for assessment. A child protective investigation will be required in situations where the child is temporarily in the state and is being evaluated in a Florida medical facility due to previous abuse or neglect.

The bill also requires DCF to initiate a child protective investigation when the hotline receives a report from an emergency room physician.

Dependency Court Process

The bill amends s. 39.701(2)(d)2., F.S., to require the court to return the child home if it determines the circumstances that caused the out-of-home placement and any issues subsequently identified have been remedied to the extent that the child's return home will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health. This new language reflects DCF's child welfare

practice model and aligns ss. 39.522(2) and s. 39.701(2)(d)2., F.S., relating to returning a child home from out-of-home care.

Prescribing of Psychotropic Medicine for Children in Care

The bill amends s. 39.407, F.S., to allow psychiatric nurses to prescribe psychotropic medication to dependent minors, obtain express and informed consent from parents for such prescribing, and advise the court and DCF on continued need for psychotropic medications and other services while a child is in DCF care. This change will address the conflict between ss. 39.407 and 464.012, F.S., and will allow children in care to receive timely and appropriate mental health care.

Florida Children and Youth Cabinet

The bill requires DCF to create a direct-support organization (DSO) for the Children and Youth Cabinet. The DSO will assist the Cabinet in carrying out its purposes and responsibilities in raising public awareness for children and youth issues. The DSO will consist of seven board members appointed by the Governor. Additionally, in accordance with current law, the DSO will be repealed on October 1, 2024, unless saved from repeal by the Legislature.

The bill also revises the appointee to the Cabinet from the Governor's Office of Adoption and Child Protection to be a representative of the office instead of the director.

Technical Changes

The bill makes a technical change by removing a duplicative definition of "fictive kin". The definition of "fictive kin" in s. 39.01(29), F.S., meets Title IV-E requirements for federal reimbursement, and would apply to all references of "fictive kin" in ch. 39, F.S.

The bill also makes a technical change to s. 39.01(37), F.S., to specifically include public school employees in the text of the definition of "institutional child abuse or neglect". The change will align the definitions of "institutional child abuse and neglect" and "other person responsible for a child's welfare" and avoid misinterpretations about whether public school employees can legally be perpetrators of institutional child abuse and neglect.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill's changes align with federal requirements for the receipt of Title IV-E funding and will generate federal revenue for programs that mitigate the loss of the Title IV-E Waiver funding. The changes will put the state in full compliance with federal requirements to allow the state to receive additional federal revenue to offset the projected \$90 million funding deficit.

The General Appropriations Act for Fiscal Year 2019-2020 (GAA) includes funding for the Guardianship Assistance Program 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 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 DCF's ability to claim Title IV-E funding and mitigate the loss Florida will experience with the expiration of its Title IV-E waiver.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.