

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

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BILL: CS/SB 1548

INTRODUCER: Children, Families, and Elder Affairs Committee; and Senators Perry and Hutson

SUBJECT: Child Welfare

DATE: February 17, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<b>Fav/CS</b>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1548 makes a number of changes to current law applicable to children in out-of-home care.

Specifically, the bill:

- Requires the Florida Court Educational Council to establish certain standards, consistent with the purposes of ch. 39, F.S., for instruction of circuit court judges in dependency cases.
- Eliminates the requirement for the Department of Children and Families (DCF or department) to submit annual reports to the Governor and legislature on false reports of abuse allegations made to the Florida Abuse Hotline, and the Road-to-Independence Program.
- Authorizes the DCF to appoint all qualified evaluators who conduct suitability assessments for children in out-of-home care.
- Authorizes the DCF to adopt rules relating to qualified evaluators and implement Medicaid behavioral health utilization management programs for statewide in-patient psychiatric (SIPP) facilities with a contracted vendor.
- Creates an emergency modification of placement process that uses a probable cause standard to ensure child safety when a child is either abandoned by or must be immediately removed from a relative or nonrelative caregiver, or a licensed foster home.
- Resolves a conflict in ch. 39, F.S., concerning the timeframe for filing and serving a case plan.

- Clarifies the process for terminating court jurisdiction and department supervision in a dependency court action by relocating provisions concerning supervision and jurisdiction located throughout ch. 39, F.S., into a newly created s. 39.63, F.S.
- Creates s. 39.8025, F.S., to provide a lawful process to immediately protect children whose parents are deceased by committing them to the custody of the department and making them eligible for adoption.
- Clarifies that the department is not required to provide reasonable efforts to preserve and reunify the family if a court has found that the parent is registered as a sexual predator.
- Provides standing for an unsuccessful applicant to adopt a child who is permanently committed to the department to have the opportunity to prove that the department has unreasonably withheld its consent to the applicant. These amendments eliminate the need for an administrative appeal process for unsuccessful applicants and eliminates multiple competing adoption petitions by the approved and unsuccessful applicants.
- Requires a petition to adopt a child who is permanently committed to the department to demonstrate that the department has consented to the adoption or that the dependency court has entered an order waiving the department's consent.
- Provides that a dependent child's placement with a prospective adoptive parent after a dependency proceeding can only occur after a preliminary home study is completed that establishes the suitability of the home.

The bill is expected to have a positive fiscal impact on state government. See Section V.

The bill takes effect October 1, 2020.

## II. Present Situation:

### Judicial Education

The Florida Court Education Council was established in 1978 and charged with providing oversight of the development and maintenance of a comprehensive educational program for Florida judges and certain court support personnel. The Council's responsibilities include making budgetary, programmatic, and policy recommendations to the Supreme Court regarding continuing education for Florida judges and certain court professionals.

All judges new to the bench are required to complete the Florida Judicial College program during their first year of judicial service following selection to the bench. Taught by faculty consisting of experienced trial and appellate court judges, the College's curriculum includes:

- A comprehensive orientation program including an in-depth trial skills workshop, a mock trial experience, and other classes;
- Intensive substantive law courses incorporating education for new trial judges and those who are switching divisions;
- A separate program designed especially for new appellate judges;
- A mentor program providing new trial court judges one-to-one guidance from experienced judges.<sup>1</sup>

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<sup>1</sup> The Florida Courts, *Information for New Judges*, available at: <https://www.flcourts.org/Resources-Services/Judiciary-Education/Information-for-New-Judges> (Last visited December 26, 2019).

All Florida county, circuit, appellate, and supreme court justices are required to comply with the following judicial education requirements:

- Each judge and justice shall complete a minimum of 30 credit hours of approved judicial education programs every three years.
- Each judge or justice must complete four hours of training in judicial ethics. Approved courses in fairness and diversity also can be used to fulfill this requirement.
- Every judge new to a level of trial court must complete the Florida Judicial College program in that judge's first year of judicial service following selection to that level of court.
- Every new appellate court judge or justice must, within two years following selection to that level of court, complete an approved appellate judge program. Every new appellate judge who has never been a trial judge or has never attended Phase I of the Florida Judicial College as a magistrate must attend Phase I of the Florida Judicial College within a year of the judge's appointment.<sup>2</sup>

To help judges satisfy this educational requirement, Florida Judiciary Education currently presents a variety of educational programs for new judges, experienced judges, and some court staff. About 900 hours of instruction are offered each year through live presentations and distance learning formats. This education helps judges and staff to enhance their legal knowledge, administrative skills, and ethical standards.

In addition, extensive information is available to judges handling dependency cases in the Dependency Benchbook. The benchbook is a compilation of promising and science-informed practices as well as a legal resource guide. It is a comprehensive tool for judges, providing information regarding legal and non-legal considerations in dependency cases. Topics covered include the importance of a secure attachment with a primary caregiver, the advantages of stable placements, and the effects of trauma on child development.<sup>3</sup>

### **Case Closure**

Current law does not have a case closure statute that addresses when a court can terminate the department's supervision or the court's jurisdiction. Instead, the only section in ch. 39, F.S., that describes when these events can occur is s. 39.521, F.S., which addresses disposition. Section 39.521(1)(c)3., F.S., provides that protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, relative, or legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction at the court's discretion, and is a permanency option for the child. The order terminating the DCF's supervision must describe the powers of the child custodian and include the powers ordinarily granted to a guardian of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency of the child is established.

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<sup>2</sup> Fla. R. Jud. Admin. 2.320 As amended through August 29, 2019, available at: <https://casetext.com/rule/florida-court-rules/florida-rules-of-judicial-administration/part-iii-judicial-officers/rule-2320-continuing-judicial-education> (Last visited December 26, 2019).

<sup>3</sup> The Florida Courts, *Dependency Benchbook*, available at <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Dependency/Dependency-Benchbook> (Last visited December 27, 2019).

## **Permanent Commitment of Orphaned Children**

Presently, the department can adjudicate a child dependent if both parents are deceased, but there is no legal mechanism to permanently commit the child to the department for subsequent adoption.

The court in *F.L.M. v. Department of Children and Families*, 912 So. 2d 1264 (Fla. 4th DCA 2005), held that when the parents or guardians have died, they have not abandoned the child because the definition of abandonment contemplates the failure to provide a minor child with support and supervision while being able and the parents who died are no longer able to do so. Instead, the court held that an orphaned child without a legal custodian can be properly adjudicated dependent based upon s. 39.01(14)(e), F.S.,<sup>4</sup> in that the child has no parent or legal custodian capable of providing supervision and care. As such, the department relies upon s. 39.01, F.S., to adjudicate orphaned children dependent.

Section 39.811(2), F.S., allows a court to commit a child to the custody of the department for the purpose of adoption if the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence. Section 39.806(1), F.S., outlines the available grounds for termination of parental rights. Those grounds include a written surrender voluntarily executed by the parent, abandonment, failure by the parent to substantially comply with a case plan, and egregious conduct on the part of the parent, among other grounds. All of the grounds available under s. 39.806(1), F.S., require that the parent engage in some kind of behavior that puts a child at risk. Because a deceased parent can no longer engage in any behavior, the department cannot seek the termination of a deceased parent's rights. Moreover, even if there was a legal ground to seek the termination of a deceased parent's rights, there may be benefits that the child is receiving such as social security benefits or an inheritance as a result of the parent's death that the department would not want to halt by seeking a termination of the deceased parent's rights. Because the department cannot seek termination of parental rights when both parents are deceased, courts are permanently committing children to the department's custody without meeting the requirements of s. 39.811(2), F.S. The dependency system is in need of a statute that permits an orphaned child to be permanently committed to the department for subsequent adoption without terminating the deceased parent's rights so as to allow the child to continue to receive death benefits.

## **Reasonable Efforts for Registered Sexual Predators**

Currently, s. 39.806(1)(n), F.S., provides that grounds for termination of parental rights may be established when the parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21, F.S.

Section 39.806(2), F.S., provides that the DCF is not required to provide reasonable efforts to preserve and reunify families if the court has determined that any of the events described in s. 39.806(1), F.S., have occurred. These are referred to as the "expedited termination of parental rights" grounds because the department does not need to obtain an adjudication of dependency

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<sup>4</sup> This section is currently numbered as s. 39.01(15)(e), F.S.

and offer the parents a case plan for reunification before seeking termination of the parents' rights. These grounds include where the parent has committed egregious conduct, aggravated child abuse, and aggravated sexual battery. Because s. 39.806(1)(n), F.S., is not listed in s. 39.806(2), F.S., the department must provide a parent who is a convicted and registered sexual predator a case plan for reunification prior to seeking termination of that parent's rights pursuant to this particular ground for termination.

### **Department's Selection of Adoptive Placement**

Currently, the department's ability to place a child in its custody for adoption and the court's review of the placement is provided for in s. 39.812, F.S. The statute provides the department may place a child in a home and the department's consent alone shall be sufficient. The dependency court retains jurisdiction over any child placed in the custody of the department until the child is adopted pursuant to ss. 39.811(9), 39.812(4), and 39.813, F.S. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, s. 39.811(9), F.S., provides that for good cause shown by the Guardian ad Litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Where a child is available for adoption, the DCF through its contractors will receive applications to adopt the child. Some applicants are not selected because their adoption home study is denied. When there are two or more families with approved home studies, the department's rules route these conflicting applications through the adoption applicant review committee (AARC) for resolution. The decision of the AARC is then reviewed and the department issues its consent to one applicant while communicating its denial to the other applicants through certified letter. These letters are considered final agency action. Unsuccessful applicants have a "point of entry" to seek review of department action through the administrative hearing process under ch. 120, F.S. These hearings are heard by designated hearing officers within the department. The assignment of adoption disputes to the ch. 120, F.S., process did not originate with nor was it inspired by legislative directive. Instead, this process arose due to the opinion in *Department of Children & Family Services v. I.B. and D.B.*, 891 So. 2d 1168 (Fla. 1st DCA 2005). However, this process is inconsistent with legislative intent of permanency and resolution of all disputes through the ch. 39, F.S., process.

Florida law also permits individuals who the department has not approved to adopt a child, to initiate a ch. 63, F.S., legal action by filing a petition for adoption. Upon filing the petition, the petitioner must demonstrate pursuant to s. 63.062(7), F.S., that the department unreasonably withheld its consent to be permitted to adopt the child. Because ch. 63, F.S., permits anyone who meets the requirements of s. 63.042(2), F.S., to adopt and any petitioner may argue the department's consent to the adoption should be waived because it was unreasonably withheld, multiple parties may file a petition to adopt the same child. Indeed, there can be at least three legal proceedings simultaneously addressing the adoption of the child:

- Ch. 39, F.S., dependency proceedings.
- Ch. 63, F.S., adoption proceeding filed by the family who has the department's consent.
- Ch. 63, F.S., adoption proceeding filed by the applicant who asserts the department unreasonably withheld its consent.

Multiple competing adoption petitions require additional court hearings to resolve the conflict and leads to a delay of the child's adoption. These court proceedings often occur concurrently with the administrative hearing process, which can lead to disparate results.

### **Relative Home Studies in ch. 63, F.S., Intervention Proceedings**

For children in the custody of the department, s. 63.082(6)(a), F.S., provides that if a parent executes a consent for placement of a minor with an adoption entity or qualified adoptive parents, but parental rights have not yet been terminated, the adoption consent is valid, binding, and enforceable by the court. After the parent executes the consent, s. 63.082(6)(b), F.S., permits the adoption entity to intervene in the dependency case as a party in interest and requires the adoption entity to provide the court with a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. Section 63.082(6)(b), F.S., further provides that the home study provided by the adoption entity shall be sufficient unless the court has concerns regarding the qualifications of the home study provider or concerns that the home study may not be adequate to determine the best interests of the child.

Although s. 63.082(6), F.S., provides no exception for the completion of a preliminary home study before the court may transfer custody of the child to the prospective adoptive parents, parties have been able to intervene and accomplish a modification of placement without presenting the court with a home study by relying upon s. 63.092(3), F.S. This section provides that a preliminary home study in a nondependency proceeding is not required when the petitioner for adoption is a stepparent or a relative. Section 63.032(16), F.S., defines a "relative" to mean a person related by blood to the person being adopted within the third degree of consanguinity. As a result of this interpretation of the law, a relative who did not pass a department home study because of safety concerns in the home or disqualifying background offenses is permitted to intervene in a dependency action to obtain placement of the child. The department has no ability to ensure the safety of the child in these instances because the adoption entity upon the modification of placement takes over supervision of the child pursuant to s. 63.082(6)(f), F.S.

### **Licensing Requirements – Institutional Investigations**

There are situations where a person is named in some capacity in a report and that, after an investigation of institutional abuse, neglect, or abandonment is closed, the person is not identified as a caregiver responsible for the alleged abuse, neglect, or abandonment. Chapter 39, F.S., currently provides that the information contained in the report may not be used in any way to adversely affect the interests of that person. However, the chapter also provides that if a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

Section 39.302(7)(a), F.S., establishes the fact that a person named in some capacity in a report may not be used in any way to adversely affect the interests of that person after an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report. However, if a person is a licensee of the department and is named in any capacity in three or more reports

within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

### **Qualified Evaluator**

Currently, the Agency for Health Care Administration (AHCA) has statutory authority to adopt rules for the registration of qualified evaluators, to establish procedures for selecting the evaluators to conduct the reviews, and to establish a reasonable cost-efficient fee schedule for qualified evaluators. The AHCA is required to contract with a vendor (in this case the department) who would then be responsible for maintaining the Qualified Evaluator Network (QEN). In 2016, the Legislature moved the positions and funding to the DCF to exercise its responsibility of maintaining the QEN, but s. 39.407, F.S., still references the AHCA as having authority over the QEN.

### **Child Care**

To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child. To that end, the Child Care Regulation Program is responsible for regulating programs that provide services that meet the statutory definition of "child care." This is accomplished through the inspection of licensed child care programs to ensure the consistent statewide application of child care standards established in statute and rule, and the registration of child care providers not subject to inspection. The department regulates licensed child care facilities, licensed family day care homes, licensed large family child care homes, and licensed mildly ill facilities in 62 of the 67 counties in Florida.

"Child care" is defined as "the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care."<sup>5</sup> If a child care program meets this statutory definition of child care, it is subject to regulation by the department/local licensing agencies, unless specifically excluded or exempted from regulation by statute. Every program determined to be subject to licensing must meet the applicable licensing standards established by ss. 402.301-402.319, F. S., and rules.

- The current definition in s. 402.302, F.S., allows the family day care operation to occur in any occupied residence, thus allowing for operators to utilize additional residences to operate the family day care home.
- Current language in s. 402.305, F.S., allows for child care personnel to complete training in cardiopulmonary resuscitation. The term "training" in this statute has always been interpreted and implemented as certification. Certification ensures that child care personnel have actually demonstrated an ability to implement cardiopulmonary resuscitation training. This section of statute is the primary issue in a pending challenge on the rule development process.
- Currently, providers are not required to notify the department when they begin offering transportation services.

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<sup>5</sup> Section 402.302(1), F.S.

- Child care providers are required to provide parents with information at different times throughout the year as required in ss. 402.305, 402.313, and 403.3131, F.S. The dates for provision of different kinds of information is staggered.

### III. Effect of Proposed Changes:

**Section 1** amends s. 25.385, F.S., relating to standards for instruction of circuit and county court judges in handling domestic violence cases, to require the Florida Court Educational Council to establish standards for instruction of circuit court judges who have responsibility for dependency cases. The standards for instruction must be consistent with and reinforce the purposes of ch. 39, F.S., particularly the purpose of ensuring that a permanent placement is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year. The instruction must be provided on a periodic and timely basis and by specified entities.

**Section 2** amends s. 39.205, F.S., relating to penalties for false reporting of child abuse, abandonment and neglect, to remove the requirement of an annual report to the Legislature on the number of reports referred.

**Section 3** amends s. 39.302, F.S., relating to protective investigations of institutional investigations, to require the department to review any and all reports within a 5-year period, if a person is a licensee of the department and is named in any capacity within the report.

**Section 4** amends s. 39.407, F.S., relating to medical, psychiatric, and psychological examinations, to make a technical change to agree with the law that was changed in 2016 to move responsibility for the appointment of Qualified Evaluators to the department from the AHCA.<sup>6</sup>

**Section 5** creates s. 39.5035, F.S., relating to deceased parents, to provide a process for the permanent commitment of a child to the DCF for the purpose of adoption when both parents are deceased. Specifically, this section:

- Provides that, where both parents of a child are deceased and the child does not have a legal custodian through a probate or guardianship proceeding, an attorney for the department, or any person who has knowledge of the facts alleged or is informed of them and believes that they are true, may initiate a proceeding seeking an adjudication of dependency and permanent commitment of the child to the custody of the department.
- Provides that, when a child has been placed in shelter status by order of the court and not yet adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition must be filed within a reasonable time after the date the child was referred to protective investigation or after the petitioner becomes aware of the facts supporting the petition.
- Provides that, when a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court shall set the case before the court

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<sup>6</sup> The statutes were changed in 2016 and AHCA was required to assign all rights, obligations, and other interest in and under contract pertaining to Qualified Evaluator Network services to DCF. However, s. 39.407(6)(b), F.S., was inadvertently omitted from the changes and still requires AHCA to appoint the qualified evaluators. AHCA continues to have statutory authority to adopt rules for the registration of qualified evaluators and to establish a cost efficient fee schedule for qualified evaluators.



for an adjudicatory hearing to be held as soon as possible, but no later than 30 days after the petition is filed.

- Provides notice of the date, time, and place of the adjudicatory hearing for the petition for adjudication and permanent commitment or the petition for permanent commitment and requires a copy of the petition be served upon specified individuals
- Provides that adjudicatory hearings must be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition for adjudication and permanent commitment or a petition for permanent commitment, the court must consider whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased, and that the child does not have a legal custodian through a probate or guardianship proceeding. The presentation of a certified copy of the death certificate for each parent constitutes evidence of the parents' deaths and no further evidence is required to establish that element.
- Provides when the adjudicatory hearing is on a petition for adjudication and permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court must enter a written order.
- Provides when the adjudicatory hearing is on a petition for permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court must enter a written order.

**Section 6** amends s. 39.521, F.S., relating to disposition hearings, to eliminate the description of how long protective supervision can continue and under what circumstances the court can terminate protective supervision. Instead, protective supervision will now be fully addressed in newly created s. 39.63, F.S.

**Section 7** amends s. 39.522, F.S., relating to postdisposition change of custody, to create an emergency modification of placement that will enable the department and the judiciary to take immediate action to protect children at risk of abuse, abandonment, or neglect who have already been subject to disposition. Specifically, the section:

- Clarifies that the statute applies to a modification of placement if a child must be removed from the parent's custody while the department is supervising the placement of the child after the child is returned to the parent.
- Provides that at any time, an authorized agent of the department or a law enforcement officer may remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if the circumstances meet the criteria of probable cause. It also provides requirements and sets timelines for motions and petitions to be filed, considerations for the court before issuing an order, requirements for a home study if a placement is changed, and cause for the court to conduct an evidentiary hearing. The standard for changing custody of the child will be whether a preponderance of the evidence establishes that a change is in the best interest of the child. When applying this standard, the court must consider the continuity of the child's placement in the same out-of-home residence as a factor.

**Section 8** amends s. 39.6011, F.S., relating to case plan development, to require the department to file the case plan with the court and serve a copy on the parties:

- Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care. All such case plans must be approved by the court.
- Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted, or if the court does not approve the case plan at the disposition hearing. The case plan acceptance hearing must occur within 30 days after the disposition hearing to review and approve the case plan.

**Section 9** creates s. 39.63, F.S., relating to case closure, to provide that unless the circumstances relating to young adults in extended foster care apply, the court must close the judicial case by terminating protective supervision and jurisdiction. This statute clarifies the requirements that must be met to ensure child safety before jurisdiction and supervision is terminated.

**Section 10** amends s. 39.806, F.S., relating to grounds for termination of parental rights, to provide that reasonable efforts to preserve and reunify families are not required if a court has determined that any of the events described in s. 39.806(1), F.S., have occurred. Consequently, the DCF will no longer need to make reasonable efforts if a parent has been convicted of an offense that requires the parent to register as a sexual predator.

**Section 11** amends s. 39.811, F.S., relating to disposition, to provide that the court will retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted after termination of parental rights or permanent commitment. It also provides that the department's decision to deny an application to adopt a specific child who is under the court's jurisdiction is reviewable only through the process established in s. 39.812(4), F.S., and is not subject to the provisions of ch. 120, F.S.

**Section 12** amends s. 38.812, F.S., relating to postdisposition relief and petition for adoption, to provide that the DCF may place a child who is in the department's custody with an agency as defined in s. 63.032, F.S., with a child-caring agency registered under s. 409.176, F.S., or in a family home for prospective subsequent adoption without the need for a court order unless as otherwise provided in this section. It also authorizes the department, without the need for a court order, to allow prospective adoptive parents to visit with the child to determine whether adoptive placement would be appropriate. Additionally, it provides procedures when the department has denied an individual's application to adopt a child.

**Section 13** amends s. 39.820, F.S., relating to definitions, to include the Statewide Guardian Ad Litem Office in the definition of the term "guardian ad litem."

**Section 14** amends s. 63.062, F.S., relating to persons required to consent to adoption, to provide that when a minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption, or the court order finding of consent must be attached to the petition to adopt.

**Section 15** amends s. 63.082, F.S., relating to execution of consent to adopt, to provide that a preliminary home study is required for all prospective parents regardless of whether that individual is a stepparent or a relative, and that the exemption in s. 63.092(3), F.S., does not

apply when a minor child is under department supervision or subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, a dependency petition, or a petition for termination of parental rights pursuant to ch. 39, F.S.

**Section 16** amends s. 402.302, relating to definitions, to specify that family day care home operations must occur in the operator's primary residence and that the capacity is limited to children present in the home during operations.

**Section 17** amends s. 402.305, F.S., relating to licensing standards, to clarify that at least one child care facility staff person must receive a certification for completion of a cardiopulmonary resuscitation course.

Sections 402.305(9)(b) and (c), F.S., are amended to align the dates for providers on when information is to be shared with parents or guardians.

Section 402.305(10), F.S., is amended to specify that, prior to providing transportation services, a child care facility, family day care home, or large family child care home is required to notify the DCF for approval to begin the service to ensure that all standards have been verified as compliant. Currently, providers are not required to notify the department when they begin offering transportation services. The amendment clarifies that family or large family child care homes are not responsible for children being transported by a parent or guardian.

**Section 18** amends s. 402.313, F.S., relating to family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

**Section 19** amends s. 402.3131, F.S., relating to large family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

**Section 20** amends s. 409.1451, F.S., relating to the Road-to-Independence Program, to eliminate the requirement to submit an annual report.

**Section 21** provides an effective date of October 1, 2020.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The DCF has reported that there is a potential cost savings of \$1.2 million due to the reduction in the projected number of administrative hearings that would need to be conducted for contested adoption selections.<sup>7</sup>

Additionally, Pinellas, Hillsborough, and Sarasota counties would be required to adopt standards that address the minimum standards in the changes to ch. 402, F.S. This is expected to have an insignificant fiscal impact on these counties.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 25.385, 39.205, 39.302, 39.407, 39.521, 39.522, 39.6011, 39.806, 39.811, 39.812, 39.820, 63.062, 63.082, 402.302, 402.305, 402.313, 402.3131, and 409.1451.

This bill creates the following sections of the Florida Statutes: 39.5035 and 39.63.

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<sup>7</sup> The Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1548, November 25, 2019.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on February 4, 2020:**

- Removes the following from the bill:
  - Changes to s. 39.01, F.S., relating to dependency definitions, revising the definition of the term “parent.”
  - Changes to s. 39.402, F.S., relating to placement in a shelter, providing requirements for the court when establishing paternity at a shelter hearing.
  - Changes to s. 39.503, F.S., relating to the identity or location of a parent, revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child and providing that a person does not have standing under certain circumstances.
  - Changes to s. 39.801, F.S., relating to procedures and jurisdiction related to termination of parental right procedures, clarifying that personal service of a termination of parental rights petition is required only on a prospective parent who has been both identified and located.
  - Changes to s. 39.803, F.S., relating to the identity or location of parent unknown after filing of termination of parental rights petition, revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child after the filing of a petition for termination of parental rights and providing that a person does not have standing under certain circumstances.
  - Creation of s. 742.0211, F.S., relating to proceedings applicable to dependent children, defining the term “dependent child,” providing requirements and procedures for the determination of paternity when a child is dependent, providing the burden of proof for certain paternity complaints, and providing applicability.
- Adds the following to the bill:
  - Changes to s. 39.820, F.S. relating to definitions, adding the Statewide Guardian Ad Litem Office to the definition of the term “guardian ad litem.”

**B. Amendments:**

None.