

**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 1748

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

SUBJECT: Child Welfare

DATE: February 17, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</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 1748 makes changes to the child welfare statutes to conform to the federal Family First Prevention Services Act (FFPSA). The bill addresses prevention services, residential group care, and Florida claims funding under Title IV-E of the Social Security Act. The bill clarifies policies regarding the rates paid to certain foster parents and requires written agreements among the Department of Children and Families (department), community-based care lead agencies and the foster parent when negotiating rates that exceed the suggested monthly foster care rate.

The bill clarifies the requirements of the extended foster care program where children can remain in foster care to the age of 21, to align eligibility with the federal law regarding supervised independent living settings. The bill prohibits young adults from participating in extended foster care when they are in involuntary placements such as juvenile detention. The bill modifies the child support guidelines used in establishing child support payment amounts for parents of children in foster care. The bill reduces the time the department will monitor the placement of a child with a successor guardian from six months to three months prior to closing the case to permanent guardianship. The bill updates language regarding the state's Title IV-E plan and data reporting for children in all placement settings.

The bill may have a positive fiscal impact on state government.

The bill takes effect July 1, 2020.

## II. Present Situation:

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on February 9, 2018. Included in the act was the Family First Prevention Services Act (FFPSA), which has the potential to dramatically change child welfare systems across the country.<sup>1</sup> One of the major areas the FFPSA changed is the way Social Security Act Title IV-E<sup>2</sup> funds can be spent by states for child welfare services.

Title IV-E funds previously could be used only to help with the costs of foster care maintenance for eligible children; administrative expenses to manage the foster care program; training for staff, foster parents, and certain private agency staff; adoption assistance; and kinship guardianship assistance. Under the FFPSA, states with an approved Title IV-E plan have the option to use these funds for preventive services<sup>3</sup> that would allow “candidates for foster care” to stay with their parents or relatives. States will be reimbursed for prevention services for up to 12 months. A written, trauma-informed prevention plan must be created, and services will need to be evidence-based.<sup>4</sup>

The FFPSA also seeks to curtail the use of congregate or residential group care for children and instead places a new emphasis on family foster homes. With limited exceptions, the federal government will not reimburse states for children placed in residential group care settings for more than two weeks. Approved settings, known as qualified residential treatment programs, must use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff. The act requires children to be formally assessed within 30 days of placement to determine if his or her needs can be met by family members, in a family foster home, or another approved setting. The act provides that certain institutions are exempt from the two-week limitation, but are generally limited to 12-month placements. To be eligible for federal reimbursement, the law generally limits the number of children allowed in a foster home to six.<sup>5</sup>

## III. Effect of Proposed Changes:

**Section 1** amends s. 39.01, F.S., providing definitions. The bill amends the definition of “case plan” to conform the definition to the federal language requiring documentation of “preventive” services.<sup>6</sup> The definition of “preventive services” is revised so that such services may be voluntary or court ordered.

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<sup>1</sup> National Conference of State Legislatures, Family First Prevention Services Act Update. Available at: <https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx>. Last visited Jan. 24, 2020.

<sup>2</sup> Children and Family Services Reviews, Title IV-E: Federal Payments for Foster Care and Adoption Assistance. Available at: <https://training.cfsrportal.acf.hhs.gov/section-2-understanding-child-welfare-system/2994>. Last visited Feb. 10, 2020.

<sup>3</sup> Section 39.01(67), F.S., defines preventative services as social services and other supportive or rehabilitative services provided to the parent or legal custodian of the child and to the child for the purpose of averting the child’s removal from the home or disruption of a family which may result in the placement of the child in foster care.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Family First Prevention Services Act of 2017, section 111. See <https://www.congress.gov/bill/115th-congress/house-bill/253/text?q=%7B%22search%22%3A%5B%22family+first+prevention+services+act%22%5D%7D&r=1>. Last visited Jan. 23, 2020.

**Section 2** amends s. 39.0135, F.S., requiring the Department of Children and Families (department) to deposit all child support payments made to the department into the Federal Grants Trust Fund for children who are determined Title IV-E eligible and the Operations and Maintenance Trust Fund for children who do not meet Title IV-E eligibility requirements. The department is federally required to report and treat child support payments for Title IV-E eligible children differently than Title IV-E ineligible children.<sup>7</sup>

**Section 3** amends s. 39.202, F.S., relating to the confidentiality of reports of child abuse. The bill permits the Agency for Health Care Administration to receive reports of abuse and neglect as the agency is responsible for licensing hospitals under ch. 395, F.S., that provide mental health services. This is a new federal requirement.<sup>8</sup>

**Section 4** amends s. 39.6011, F.S., relating to case plan development for dependent children. The bill requires the child's case plan to include documentation supporting a placement in a qualified residential treatment program.

**Section 5** amends s. 39.6221, F.S., relating to permanent guardianship of a dependent child. The court can place a child with a relative or other adult approved by the court under a permanent guardianship when the court determines that reunification or adoption is not in the best interest of the child. The bill revises the criteria used by the court to grant permanent guardianship to include children who have been placed with a guardian for the preceding three months.

**Section 6** amends s. 39.6251, F.S., providing for continuing care for young adults. Florida extended foster care to the age of 21. Young adults in extended foster care can reside in supervised independent living environments. The bill excludes those residing in juvenile detention centers, forestry camps, training schools, or any other detention facility programs operated primarily for the detention of delinquent youth as supervised independent living environments.

**Section 7** amends s. 61.30, F.S., providing child support guidelines. The bill provides guidelines for establishing child support amounts for dependency cases. Specifically, the bill states that if the child is in an out-of-home placement, the amount of child support would be 10 percent of the parent's income.

**Section 8** amends s. 409.145, F.S., relating to the care of dependent children and quality parenting. The bill requires that all residential group home employees meet level 2 background screening requirements pursuant to s. 39.0138 and ch. 435, F.S. This requirement for background screening is required under the federal Family First Prevention Services Act (FFPSA).<sup>9</sup>

Current law allows the department and the community-based care lead agency (CBC) to increase the foster care room and board rate when necessary. The bill excludes level I foster care room and board payments from this allowance. Level I foster care is when relatives care for the abused

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<sup>7</sup> Florida Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1748, Jan. 16, 2020. On file with the Committee on Children, Families, and Elder Affairs.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

child and such relatives are provided an established rate of \$333 per month.<sup>10</sup> The bill also requires written documentation between the region and the CBC when an enhanced foster care room and board payment is agreed upon.

**Section 9** amends s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs. The bill makes changes to comply with new federal requirements for the use of Title IV E funds.<sup>11</sup> Definitions are provided for a “qualifying assessment” as a department approved functional assessment conducted by a qualified individual to determine if a child needs placement in a qualified residential treatment program. The term “qualified individual” means a trained professional with experience with children and who does not have a conflict of interest with any placement setting. The term “qualified residential treatment program” has the same meaning of 42 U.S.C. s. 672. The federal code defines these programs as ones with a trauma-informed treatment model that is designed to address the needs, including any clinical needs, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment. These programs could have registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state law; are on-site according to the treatment model; and are available 24 hours a day and seven days a week. Such programs must be licensed by the department and be accredited by an independent organization.

The bill requires the CBC to ensure that each child placed in a qualified residential treatment program be assessed within 30 days of placement, maintain documentation, and limit placements to no more than 12 consecutive months or 18 nonconsecutive months. For children under the age of 13, placement is limited to 6 months. Stays longer than 6 months for these children must be approved by the department.

**Section 10** amends s. 409.1678, F.S., relating to specialized placements of children who are victims of commercial sexual exploitation (human trafficking). The bill allows for safe houses and safe foster homes to serve victims of, or at risk of, human trafficking in the same setting with children of any population.

**Section 11** repeals s. 409.1679, F.S., relating to reimbursement for comprehensive residential group care services to children who have extraordinary needs. This type of program is not used and is repealed by the bill.

**Section 12** amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption. The bill adds qualified residential treatment programs, human trafficking safe houses, and at-risk homes to the definition of a residential child-caring agency. This will ensure that the state can seek federal Title IV-E funding for such placements.<sup>12</sup>

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<sup>10</sup> Section 409.145, F.S.

<sup>11</sup> *Supra* note 7.

<sup>12</sup> *Id.*

**Section 13** amends s. 39.301, F.S., relating to the initiation of child abuse investigations to conform to changes made in the bill regarding preventive services.

**Section 14** amends s. 39.302, F.S., relating to child abuse investigations for children residing in institutions to correct a cross reference.

**Section 15** amends s. 39.402, F.S., relating to placement of children in temporary shelters to conform to changes made in the bill regarding preventive services.

**Section 16** amends s. 39.501, F.S., relating to petitions for dependency to conform to changes made in the bill regarding preventive services.

**Section 17** amends s. 39.6013, F.S., relating to case plan amendments to correct a cross reference.

**Section 18** provides an effective date of July 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:**

CS/SB 1748 revises the criteria the court uses to grant permanent guardianship to include children who have been placed with a guardian for the preceding 3 months rather than the current requirement of 6 months for those cases where the caregiver has been named as the successor guardian. The reduction by three months will result in a cost avoidance for the department and the CBCs for case management services, and for the courts that provide judicial case supervision. The total amount of the cost avoidance for state government is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.0135, 39.202, 39.301, 39.302, 39.402, 39.501, 39.6011, 39.6013, 39.6221, 39.6251, 61.30, 409.145, 409.1676, 409.1678, and 409.175.

This bill repeals section 409.1679 of the Florida Statutes.

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

- The CS amends s. 39.407, F.S., to require an assessment of dependent children placed in a qualified residential treatment program.
- The CS retains and amends s. 409.1676, F.S., on residential care to set requirements for qualified residential treatment programs.

**B. Amendments:**

None.