

**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 Committee on Children, Families, and Elder Affairs

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BILL: SB 1748

INTRODUCER: Senators Hutson and Perry

SUBJECT: Child Welfare

DATE: January 27, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	<b>Pre-meeting</b>
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

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**I. Summary:**

SB 1748 makes changes to the child welfare statutes to conform to the new federal Family First Prevention Services Act. The bill addresses preventive services, residential group care, and how 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 state’s suggested monthly foster care rate.

The bill clarifies the extended foster care program where children can remain in care up 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 to establish child support payments for parents of children in foster care. The length of time the department must monitor the placement of a child with a successor guardian is reduced 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 to the state and has an effective date of July 1, 2020.

**II. Present Situation:**

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on Feb. 9, 2018. This budget deal included the Family First Prevention Services Act, which has the potential to dramatically change child welfare systems across the country.<sup>1</sup> One of the major areas this legislation seeks to

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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.

change is the way Social Security Act, Title IV-E funds can be spent by states. 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 program; and training for staff, foster parents, and certain private agency staff; adoption assistance; and kinship guardianship assistance.

With the Family First Prevention Services Act, states with an approved Title IV-E plan have the option to use these funds for prevention services 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>2</sup>

The Family First Prevention Services Act also seeks to curtail the use of congregate or group care for children and instead places a new emphasis on family foster homes.<sup>3</sup> With limited exceptions, the federal government will not reimburse states for children placed in 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.

### 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 with the federal language requiring documentation of “preventive” services.<sup>4</sup> The definition of “preventive services” is revised so that such services may be voluntary or court ordered.

**Section 2** amends s. 39.0135, F.S., establishing the Operations and Maintenance Trust Fund within the department. The bill requires the department to deposit the child support payment, equaling the child’s cost of care, into the Federal Grants Trust Fund for children who are determined Title IV-E eligible. 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>5</sup>

**Section 3** amends s. 39.202, F.S., relating to confidentiality of reports of child abuse. The bill permits the Agency for Health Care Administration to receive reports of abuse and neglect as the

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<sup>2</sup> *Id.*

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

<sup>4</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.

<sup>5</sup> Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.

agency is responsible for licensing hospitals under 395 that provide mental health services. This is a new federal requirement.<sup>6</sup>

**Section 4** amends s. 39.407, F.S., relating to medical, psychiatric, and psychological assessment and treatment of children. The bill requires such assessments for children placed in a “qualified residential treatment program.” Section 11 of the bill creates this new type of group care to comply with the federal Family First Prevention Services Act.<sup>7</sup> This is needed because the new federal law limits the use of federal Title IV-E funding for group care unless it is a specialized to meet specific needs of the child. The bill defines a “qualifying assessment” as an assessment of children who need placement in a qualified residential treatment program. This assessment must be completed within 30 days of placement. The court must approve or reject such placements within 60 days of placement. The department may adopt rules to implement this section.

**Section 5** 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 6** amends s. 39.6221, F.S., relating to permanent guardianship of a dependent child. The court can place a child with a relative 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 3 months.

**Section 7** 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 residing in juvenile detention centers or other detention programs as supervised independent living environments.

**Section 8** amends s. 61.30, F.S., providing child support guidelines and child support. The bill provides a guideline for establishing the child support amount 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% of the parent’s income.

**Section 9** 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 ss. 39.0138 and 435.04, F.S. This requirement for background screening is required under the federal Family First Prevention Services Act.<sup>8</sup>

Current law allows the department and community based care lead agency 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 child and such relatives are provided an established rate of \$333 per month.<sup>9</sup> The bill also requires written

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

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

<sup>9</sup> Section 409.145, F.S.

documentation between the region and CBC when an enhanced foster care room and board payment is agreed upon.

**Section 10** repeals s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs. The department does not currently use this setting for placement of children. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S., to comply with new federal requirements for the use of Title IV E funds.<sup>10</sup>

**Section 11** creates s. 409.16765, F.S., to create the qualified residential treatment program. This will align Florida Statutes with federal Family First Prevention Services Act and provide for the placement of children who have emotional disturbance or mental illness.<sup>11</sup> The new program must provide a safe and therapeutic environment, use strength-based and trauma-informed treatment, be licensed and accredited, have licensed nursing or clinical staff 24 hours a day, and provide after care services to support children who are discharged from the program.

The bill requires the community based care lead agency 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. The bill authorizes the department of adopt rules to implement this section.

**Section 12** 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 victim of or at risk of human trafficking in the same setting with children of any population.

**Section 13** 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. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S.

**Section 14** amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemptions. The bill adds qualified residential treatment programs and human trafficking safe houses to the definition of a residential child-caring agency. This will ensure that the state can seek Title IV-E funding for such placements.<sup>12</sup>

**Section 15** amends s. 39.301, F.S., relating to the initiation of a child abuse investigation. The bill conforms to changes made regarding preventive services.

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<sup>10</sup> Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.

<sup>11</sup> *Id.*

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

**Section 16** amends s. 39.302, F.S., relating to child abuse investigations for children residing in an institution to correct a cross reference.

**Section 17** amends s. 39.402, F.S., relating to placement of children in a shelter. The bill conforms to changes made regarding preventive services.

**Section 18** amends s. 39.501, F.S., relating to petitions for dependency to conform to changes made in the bill regarding preventive services.

**Section 19** amends s. 39.6013, F.S., relating to case plan amendments to correct a cross reference.

**Section 20** 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:**

The bill 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 reduce costs to the department for supervision and legal services. The amount of savings is unknown.

**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, 39.407, 39.6011, 39.6221, 39.6251, 61.30, 409.145, 409.1678, 409.175, 39.301, 39.302, 39.402, 39.501, and 39.6013.

This bill creates section 409.16765 of the Florida Statutes.

This bill repeals ss. 409.1676, and 409.1679 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.