

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.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1582

INTRODUCER: Senator Rouson

SUBJECT: Task Force on the Monitoring of Children in Out-of-Home Care

DATE: March 15, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|------------------|
| 1. | <u>Preston</u> | <u>Cox</u> | <u>CF</u> | Favorable |
| 2. | _____ | _____ | <u>AHS</u> | _____ |
| 3. | _____ | _____ | <u>AP</u> | _____ |

I. Summary:

SB 1582 creates the Task Force on the Monitoring of Children in Out-of-Home Care for the purpose of developing a statewide system for collecting information on, and monitoring the whereabouts and safety of, children in out-of-home care. The task force is also required to explore ways to improve the use of technology, training, communication, and cooperation among all entities involved in the child welfare system in order to improve the quality of care of these children and identify children who are at risk for being lost.

The task force must also develop statewide uniform guidelines, standards, and protocols to effectively respond when a child in out-of-home care is reported missing.

The bill specifies the task force is to be established within the Department of Children and Families (DCF or department) and authorizes the task force to conduct meetings through teleconferences as often as necessary.

The task force is to be composed of 15 members. Five members shall be appointed by the Governor, five members shall be appointed by the President of the Senate, and five members shall be appointed by the Speaker of the House of Representatives. The task force shall be composed of representatives from the department, the Department of Law Enforcement (FDLE), the Guardian Ad Litem Program (GAL), Safe Kids Florida within the Department of Health (DOH), community-based care lead agencies (CBCs), and Child Protection Teams (CPT).

The bill requires monthly reports to the secretary of the department and requires the task force to annually submit certain recommendations to the Governor and the President of the Senate and the Speaker of the House of Representatives.

The bill will have no fiscal impact on state government.

The bill has an effective date of July 1, 2021.

II. Present Situation:

Out-of-home care

Out-of-home care, also known as foster care, is a court-monitored process that includes the placements and services provided to children and families when children are removed from their home due to abuse, abandonment, or neglect. Before a decision is made to remove a child, child welfare staff must make reasonable efforts to safely maintain children with their families by providing a variety of services and supports tailored to each family's needs. If reasonable efforts have been made and safety concerns remain, then the court may order that a child be removed from his or her home and placed into out-of-home care. Once removed, the shelter and daily care for the child are provided by foster or kinship families or group home staff. These caregivers undergo an assessment and licensing or certification process to ensure their suitability as caregivers. While in out-of-home care, services are provided to the child and his or her parents to help improve the problems that led to the removal so that reunification or other permanency options may be reached as quickly as possible.¹

Task forces, councils, commissions

Section 20.03, F.S., provides definitions related to organizational structure including, but not limited to:

- “Council” or “advisory council” means an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.²
- “Committee” or “task force” means an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.³
- “Coordinating council” means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.⁴
- “Commission,” unless otherwise required by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.⁵

Florida has had a number of tasks forces established in the past related to child welfare. These have typically been created by either the Governor or the secretary of the department in response

¹ Child Welfare Information Gateway, *Out-of-Home Care Overview*, available at <https://www.childwelfare.gov/topics/outofhome/overview/#:~:text=Out%2Dof%2Dhome%20care%20is,to%20abuse%20and%20for%20neglect>. (last visited March 13, 2021).

² Section 20.03(7), F.S.

³ Section 20.30(8), F.S.

⁴ Section 20.03(9), F.S.

⁵ Section 20.03(10), F.S.

to a tragic incident involving a child that has garnered publicity. Examples of these include, in part:

- The Nubia Barahona Report - The Investigative Panel's Findings and Recommendations, March 10, 2011.
- DCF Family Safety Quality Assurance Review of Courtney Alisa Clark - Initial Findings, 2007.
- Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse, May 14, 2010.
- Governor's Blue Ribbon Panel on Child Protection, Nov. 7, 2003 (Rilya Wilson).
- The Governor's Panel and Child Protection Issues: A Review of the Lucas Chambrone Case Final Report, 1995.
- Task Force on Child Protection, October 2007- September 2008.

There is currently no task force that monitors children in out-of-home care.

Missing Children

Florida has had protocols in place since 2008 to effectively address the purpose specified in the bill related to children missing from out-of-home care.⁶ A Florida Senate interim project report noted that the disappearance of Rilya Wilson in 2002 raised national awareness of the problem of children who become missing while under the care of the child welfare agencies charged with protecting them. Since then, Florida and many other states studied the issue and enacted legislation and implemented policies intended to improve tracking of children in state care.⁷ The report also made a number of recommendations related to changes in Florida law, including:

- The DCF should be given rule-making authority specific to missing children. The department should be directed to promulgate rules that will provide comprehensive, explicit and consistent guidelines to be followed by its employees and contracted providers.
- In addition, the Legislature should consider amending Chapter 39 to require the department and its contracted providers to report a child as missing to the appropriate law enforcement agency, after making reasonable but unsuccessful efforts to locate the child and determining that it is necessary to report the child as missing.
- Section 937.021(1), F.S., should be amended to make it clear that a law enforcement agency must take reports of missing children not only from parents and guardians, but also from the department or its contracted providers.
- Section 787.04(3), F.S., related to removing a child during an investigation or while under protective supervision, should be amended to require that a defendant act knowingly and willfully, rather than with criminal intent, after receiving constructive or actual notice of the pending matter.

All of these recommendations were enacted during the 2008 legislative session.⁸

⁶ Sections 39.0141 and 943.021(4), F.S.

⁷ The Florida Senate, The Committee on Children, Families, and Elder Affairs, *Missing Children*, Interim Project Report 2008-106, October 2007, available at <https://www.flsenate.gov/UserContent/Committees/Publications/InterimWorkProgram/2008/pdf/2008-106cf.pdf> (last visited March 12, 2021).

⁸ Chapter 2008-245, L.O.F.

The Florida Department of Law Enforcement (FDLE) reports that the FDLE's Missing Endangered Persons Information Clearinghouse (MEPIC)⁹ led a multi-agency, statewide effort, titled "Operation Safe Kids." Part of this operation's work was implementation of the now standard procedure, opening missing persons cases for every child discovered missing while under the DCF custody. The DCF, as the custodian of the missing child, makes the initial missing report to the appropriate local law enforcement agency who then enters the case into the Florida Crime Information System (FCIC). This entry ensures all law enforcement and criminal justice professionals nationwide making inquiry regarding a possible missing child similar to the subject of the case are notified of the Florida missing child. Additionally, the DCF creates a record in the Florida Safe Families Network (FSFN), their internal database, concerning the missing episode.¹⁰

A DCF liaison, co-located within MEPIC, quality controls the information in FSFN using internal DCF information and the missing child's FCIC entry. This information is electronically transferred from the DCF liaison to members of MEPIC who facilitate its entry into MEPIC's Missing Persons Database (MPDB). In addition to populating a variety of Florida systems and access points to the information, MPDB also electronically transfers the information regarding the child to the National Center for Missing and Exploited Children (NCMEC). When fully implemented as an electronic network in February of 2008, this relay process became the first of its kind in the nation, rapidly transferring the missing record of a child in state care, to both state and federal missing persons clearinghouses to help optimize the safe recovery of the child in minimal time.¹¹

The co-location and partnership with DCF personnel within MEPIC facilitates the ongoing effectiveness and continued success of this system as well as the facilitation of near immediate agency-to-agency communication and information sharing between state and local partners on all DCF missing child cases. This benefit is particularly valuable with those cases involving the most serious danger for the children and urgency required to insure a safe recovery.¹²

Collection of Information Related to Children in Out-of-home Care

Federal legislation enacted in 1993 supports states in planning, designing, developing, and implementing a Statewide Automated Child Welfare Information System (SACWIS) system. SACWIS is a comprehensive, automated case management system that helps social workers manage foster care and adoption cases. All states and the District of Columbia collect data on

⁹ The Missing Endangered Persons Information Clearinghouse (MEPIC) is the central repository of information regarding missing endangered persons in Florida. MEPIC assists law enforcement agencies and Florida's citizens in finding missing persons by providing analytical services and engaging the public in the search. As part of these services, MEPIC has worked with partner agencies to develop the Florida AMBER Plan and Florida Silver Alert Plan. Under these plans, MEPIC is responsible for issuing all AMBER Alerts, Missing Child Alerts and State Silver Alerts in Florida, available at: <https://www.fdle.state.fl.us/mcicsearch/>, (last visited March 13, 2021).

¹⁰ Florida Department of Law Enforcement, *2021 FDLE Legislative Bill Analysis SB 1582*, p. 4, March 10, 2021 (on file with the Senate Committee on Children, Families and Elder Affairs).

¹¹ *Id.*

¹² *Id.*

their child welfare cases and activities for entry into a statewide automated system that provides reports for a variety of uses.¹³

The Children's Bureau requires states to include 66 data elements, including demographic information on the child's race, age, gender, and date of entry into care. The SACWIS includes case-related information, such as the reason identified for removing the child and placing him or her into foster care, service goals, number of placements, and availability for adoption. States may include other data elements to meet their needs, including elements that help caseworkers manage their caseloads within the structure of the State child welfare system. States use their SACWIS data to create management and outcome reports.¹⁴

The DCF's Florida Safe Families Network (FSFN) is the state's SACWIS.¹⁵ FSFN serves as the statewide electronic case record for all child abuse investigations and case management activities in Florida. The amount of data entered into FSFN is extensive and if fully utilized can provide infinite details on the whereabouts and safety of children in out-of-home care.¹⁶

III. Effect of Proposed Changes:

There is currently no task force on the monitoring of children in out-of-home care. The task force created by this bill has two purposes:

- To develop a statewide system for collecting information on, and monitoring the whereabouts and safety of, children in out-of-home care.
- To develop statewide uniform guidelines, standards, and protocols to effectively respond when a child in out-of-home care is missing.¹⁷

The bill creates s. 39.4092, F.S., establishing a Task Force on the Monitoring of Children in Out-of-Home care within the DCF. The task force is to be composed of 15 members. Five members shall be appointed by the Governor, five members shall be appointed by the President of the Senate, and five members shall be appointed by the Speaker of the House of Representatives. The task force shall be composed of representatives from the Department of Children and Families, the Department of Law Enforcement, the Guardian Ad Litem Program, Safe Kids Florida within the Department of Health, community-based care lead agencies, and Child Protection Teams.

The bill provides that a vacancy on the task force will be filled in the same manner as the original appointment. The task force is required to annually elect a chair from among its members. The task force must meet as is necessary in order to complete its task and the task force may conduct its meetings through teleconferences or other similar electronic means.

¹³ Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment and Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Introduction to Cross-System Data Sources in Child Welfare, Alcohol and Other Drug Services, and Courts, HHS Publication No. SMA-11-4630, 2011, available at https://ncsacw.samhsa.gov/files/DataPrimer_508.pdf (last visited March 12, 2021).

¹⁴ *Id.*

¹⁵ 65C-38.001, F.A.C.

¹⁶ See, for example, A Data Study of Foster Children who Refused Placement in Hillsborough County, R. Latham. University of Miami School of Law, Children and Youth Law Clinic, available at <https://miami.app.box.com/s/tyjphh6uhvutn4wbu5klo2hkvv9dodi5> (last visited March 12, 2021).

¹⁷ As described above, some of these purposes are covered with existing provisions of current law.

Members of the task force are not entitled to receive reimbursement for per diem or travel expenses.

The task force is tasked with developing a statewide system for collecting information and monitoring the whereabouts and safety of, children in out-of-home care, and shall explore ways to improve technology, training, communication and cooperation among the child welfare system to improve the care of such children and to identify children who are at risk for being lost. The task force must also develop statewide uniform guidelines, standards and protocols to effectively respond when a child in out-of-home care is reported missing.

The task force is required to submit monthly reports on the number of children who have gone missing and the reason why, if known, from out-of-home care. Beginning in 2022, the task force is required to submit yearly its recommendations for developing a statewide monitoring system and uniform guidelines as required to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill is effective July 1, 2021.

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 does not specify how the administrative functions of the task force will be handles but if that responsibility lies with the department, it will likely result in a workload issue for the agency.

VI. Technical Deficiencies:

Lines 23-32 of the bill provide:

The task force shall be composed of 15 members. Five members shall be appointed by the Governor, five members shall be appointed by the President of the Senate, and five members shall be appointed by the Speaker of the House of Representatives. The task force shall be composed of representatives from the Department of Children and Families, the Department of Law Enforcement, the Guardian Ad Litem Program, Safe Kids Florida within the Department of Health, community-based care lead agencies, and Child Protection Teams.

This implies that the total membership of the task force is 15 members. Those 15 members are filled by the appointments made by the Governor, the President of the Senate and the Speaker of the House of Representatives. The additional representatives from agencies and entities would increase the membership to more than 15.

VII. Related Issues:

The term “task force” means an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.¹⁸

Due to the fact that the bill requires the task force to submit recommendations every year after January 1, 2022, it is unclear whether this task force meets the definition of such. It might more appropriately meet the definition of the term “council” or “advisory council.”¹⁹

VIII. Statutes Affected:

The bill creates s. 39.4092 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.

¹⁸ Section 20.03(8), F.S.

¹⁹ Section 20.03(7), F.S.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
