

**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: CS/SB 80

INTRODUCER: Children, Families, and Elder Affairs and Senator Brodeur

SUBJECT: Child Welfare

DATE: February 18, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Cox	CF	<b>Fav/CS</b>
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 80 amends and creates a number of sections of law related to the child welfare system, which make substantial changes to the process of, in part, provisions related to placement decisions and transitions of children in out-of-home care, including specific provisions addressing such complex decisions involving young children and sibling groups. Specifically the bill:

- Require the Department of Children and Families (the DCF) and community-based care lead agencies (lead agency) to develop a “FACE sheet”, which must include minimum information related to the child’s case to be kept in the dependency case file as a quick reference resource and require the FACE sheet to be updated at least once a month.
- Provide legislative findings and intent related to priority placements for children in out-of-home care.
- Expand and relocate the list of persons that should be considered as priority placements for these children and ensure this priority list applies to initial and for all subsequent removals.
- Relocate and expand existing multidisciplinary teams (MDT) to ensure better decisions for the child through engaging with families and other important individuals.
- Provide legislative intent for MDT, staffings, and assessments and provide a definition for the term “multidisciplinary team”.
- Enumerate circumstances when the MDT must be convened within specified timeframes, including to consider placement decisions, transitions and transition plans, and sibling placements.

- Specify the participants that must be invited and provide authority for the DCF or lead agency to invite other relevant participants and require the MDT staffing to be led by a facilitator who is a person otherwise required to attend the staffing.
- Require MDT staffing participants to gather and consider data and information on the child before formulating a decision.
- Require MDTs to conduct supplemental assessments for children under age 3, including specified additional data to collect and factors to consider when making decision relating to such children.
- Require that a consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision, provide procedures for when the MDT does not reach a consensus decision, and require the facilitator to file a report with the court providing specified information within a certain time frame.
- Require the lead agency to determine a suitable placement if the MDT cannot come to a consensus decision.
- Authorize specified parties to discuss confidential information during a team staffing in the presence of participating individuals and provide that information collected by any agency or entity that participates in a MDT staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in staffings.
- Provide legislative findings and intent related to changes in placement and define the terms “educational change”, “emergency situation”, “placement change”, and “school”.
- Require the DCF and lead agency to convene the MDT to develop transition plans for placement changes and education transitions that focus minimizing the impact on the child within specified time frames for emergency versus nonemergency circumstances.
- Require the lead agencies to provide services to a caregiver intended to try and prevent a placement disruption prior to convening the MDT to develop a transition plan.
- Ensuring clarity that a child may be removed from his or her home in an emergency without convening the MDT for transition plan development prior to removal.
- Ensure the transition plans address specialized concerns, including additional specified factors, which include consideration of additional specified factors for children that are younger than 3 years of age.
- Require the DCF and lead agency to consider certain factors when determining the best education placement for a child and provide additional considerations for transitions of early education or programs versus K-12 education schools.
- Require that prospective caregivers are prepared for accepting the child who is being transitioned to their home, including providing information on the child and the transition plan.
- Require the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative to be attached to the FACE sheet.
- Provide legislative findings related to siblings in out-of-home care and define the terms “multidisciplinary team”, “lead agency”, and “sibling”.
- Specify how the DCF and the lead agencies must handle changes in placement and educational settings and transitions of sibling groups throughout the dependency process.
- Require that the DCF must make reasonable efforts to place sibling groups together when they are removed at the same time from the same home and on an initial placement of a child who enters out-of-home care later than his or her siblings if it won’t disrupt the placement

and provide that the DCF and the court are not required to make an initial placement or change of placement to develop a sibling bond that does not exist.

- Require the DCF or lead agency to convene a MDT staffing to make a decision regarding placements of sibling groups and establish specified criteria for the DCF or lead agency to consider when determining initial placement and for the court to consider when a change of placement is sought for sibling groups that have certain existing relationships as well as additional factors for consideration when the siblings may not have an existing relationship.
- Provide specified factors to consider when determining placement of a child who is part of a sibling group and is younger than 3 years of age.
- Require the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols for the DCF and lead agency for use in making specified decisions about child placement;
- Provide for the contact and visitation between siblings who are not placed together in out-of-home care that will assist the siblings with continuing established relationships or possibly developing a relationship.
- Require subsequent reviews by the MDT for sibling groups when a child does not adjust to a placement with his or her siblings after certain services are offered or in the event a sibling group is not placed together.
- Create a rebuttable presumption that in specified cases the best interest of the child is to continue the current placement and require the court to conduct an evidentiary hearing to determine the best placement.
- Require the caregiver to, in response to receiving written notice of the DCF or lead agency's intent to change a placement, file written notice to the court and the DCF requesting the evidentiary hearing.
- Require the court to hold the initial status hearing and conduct the evidentiary hearing within specified timeframes and prohibit the DCF from moving the child until a court order states to do so.
- Require the court to appoint an attorney for the child and an expert in attachment and bonding and authorize the caregiver to retain counsel.

The DCF stated in the agency analysis dated February 2, 2021, that SB 80, as filed, will have a negative significant fiscal impact on state government and the private sector related to the child and family teams and transition plans. However, CS/SB 80 substantially amended the provisions that were attributed by the DCF to result in the significant fiscal impact, including, in part, to clarify that the MDTs provided for in CS/SB 80 are intended to operate in a substantially similar manner as is under current law. To the extent that these changes reduced the need for additional FTEs, the CS/SB 80 will likely have a positive indeterminate fiscal impact on state government and the private sector. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2021.

## **II. Present Situation:**

### **Dependency Case Process - Overview**

The Department of Children and Families (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,<sup>1</sup> abandonment,<sup>2</sup> or neglect.<sup>3, 4</sup> Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the hotline.<sup>5</sup> A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse, abandonment, or neglect.<sup>6</sup> A child protective investigator investigates the situation either immediately or within 24 hours after the report is received, depending on the nature of the allegation.<sup>7</sup>

If, after conducting an investigation in response to receiving a call to the hotline, the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. The proceeding, known as a shelter hearing, results in a court determining if probable cause exists to keep a child in shelter<sup>8</sup> status pending further investigation of the circumstances leading to the detention of a child.<sup>9</sup>

When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.<sup>10</sup> Within 28 days after a child has been

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<sup>1</sup> Section 39.01(2), F.S., defines “abuse” to mean any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child also includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

<sup>2</sup> See s. 39.01(1), F.S., which defines “abandonment”, in part, to mean a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. It further defines, “establish or maintain a substantial and positive relationship” to include, but not be limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. The definition specifically provides that marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.

<sup>3</sup> Section 39.01(50), F.S., defines “neglect” to mean when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. Circumstances are not to be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected. Further, a parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian, unless a court orders the following services to be provided, when the health of the child so requires: medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization. The definition further provides that neglect of a child includes acts or omissions.

<sup>4</sup> Section 39.201(5), F.S.

<sup>5</sup> Section 39.201(a), F.S.

<sup>6</sup> Section 39.201(2)(a), F.S.

<sup>7</sup> Section 39.201(5), F.S.

<sup>8</sup> Section 39.01(78), F.S., defines “shelter” means a placement with a relative or a nonrelative, or in a licensed home or facility, for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication.

<sup>9</sup> Section 39.01(79), F.S.

<sup>10</sup> See s. 39.01(15), F.S., for the definition of “child who is found to be dependent”.

sheltered, the court must hold an arraignment hearing on the petition for dependency.<sup>11</sup> If a parent or legal guardian denies an allegation in the petition, the court must hold an adjudicatory hearing within 30 days.<sup>12</sup>

Subsequent to a child being found dependent, a court must hold a disposition hearing to determine a course of treatment and services and placement of the child under protective supervision.<sup>13</sup> The court must first consider placement of the child with relatives.<sup>14</sup> If a child cannot remain safely in the original home and no adult relative is available for temporary, legal custody, the child may be placed with an adult willing to care for the child under the protective supervision of the DCF.<sup>15</sup> Placement of the child to the temporary, legal custody of the DCF invests the DCF with the rights and responsibilities of a legal custodian.<sup>16</sup>

The DCF must develop and refine a case plan<sup>17</sup> for each child receiving services throughout the dependency process with input from all parties to the child's dependency case. The case plan details are required to be tailored to address the abuse, abandonment, or neglect that gave rise to the abuse report, any other issues which would support family preservation if appropriate, and services to address the child's needs that are identified during the child protective investigation and throughout the case.<sup>18</sup> Case plan services must focus on clearly defined objectives with the intent of improving conditions in the home and facilitating the child's safe return to the home when reunification is an appropriate goal, ensuring proper care of the child, or advancing the child's permanent placement.<sup>19</sup>

Once the court approves a case plan, the dependency case continues with judicial review hearings,<sup>20</sup> custody or placement changes, and permanency planning. The goal is for the dependency court and all parties involved in the child's case to ensure the child remains safe.<sup>21</sup>

In determining the specific permanency goal for the child and whether requirements for its achievement have been met, or if other actions need to be taken to protect the child, the court considers information about the parent's behavior and other relevant details provided by parties to the case, such as through written reports submitted to the court and witness testimony at hearings. If an attorney for the DCF decides that a termination of parental rights is appropriate, the DCF must allege in a petition for a termination of parental rights that one of a specified

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<sup>11</sup> The purpose of an arraignment hearing is for a parent to admit, deny, or consent to findings of dependency that are alleged in the petition for dependency. If any party has requested a demand for early filing, the court must hold the arraignment hearing within 7 days after the date of filing of the petition. Section 39.506(1), F.S.

<sup>12</sup> Section 39.506(1), F.S.

<sup>13</sup> Section 39.521(1), F.S.

<sup>14</sup> Section 39.507(7)(c), F.S.

<sup>15</sup> Section 39.521(3)(c), F.S.

<sup>16</sup> Section 39.521(3)(d), F.S.

<sup>17</sup> Section 39.01(11), F.S., defines "case plan" to mean a document, as described in s. 39.6011, F.S., related to case plan development, prepared by the DCF with input from all parties. The case plan follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

<sup>18</sup> Sections 39.6011 and 39.6012, F.S. Case plans must be developed in a face-to-face conference with the child's parent, any court-appointed Guardian ad Litem, and the child's temporary custodian and, if appropriate, the child.

<sup>19</sup> Section 39.6012(1)(a), F.S.

<sup>20</sup> These hearings are in accordance with s. 39.701, F.S.

<sup>21</sup> Section 39.001(1)(a), F.S.

grounds is in support of the petition.<sup>22</sup> The DCF must file a petition to terminate parental rights within 60 days after any of the specified factors has occurred.<sup>23</sup>

The dependency court process is summarized in the table below.<sup>24</sup>

### The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arrestment Hearing and Shelter Review	An arrestment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arrestment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arrestment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.

<sup>22</sup> Section 39.806(1), F.S. A few examples in support of a termination of parental rights petition include that the parent or parents voluntarily executed a written surrender of the child to the DCF for adoption; the parent or parents have abandoned the child; or the parent or parents through their conduct demonstrate that continuing involvement threatens the child's life, safety, or well-being irrespective of the provision of services.

<sup>23</sup> Section 39.8055(1), F.S. Exceptions to the requirement to file a termination of parental rights include the following: the child is being cared for by a qualifying relative or that the DCF provides a compelling reason that filing such a petition is not in the best interests of the child. Compelling reasons include that: adoption is not the appropriate permanency goal for the child; no grounds to file a petition to terminate parental rights exist; the child is an unaccompanied refugee minor; international legal obligations or compelling foreign-policy reasons preclude terminating parental rights; or the DCF has not provided to the family, consistent with the time period in the case plan, services that the DCF deems necessary for the safe return of the child to the home. Section 39.8055(2), F.S.

<sup>24</sup> For example, a social study report is submitted prior to judicial review hearings and it includes information on the child's placement, the child's safety in the placement, efforts of the parents to comply with case plan tasks, services provided to the foster family or legal custodian to address the child's needs, information on the visitation between the parent and child, and other information related to the child and the parent.

Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

**Initial Removal and Placement in Out-of-Home Care**

***Detention or Shelter Determination of a Child***

A shelter hearing is a proceeding in which a court determines whether probable cause exists to keep a child in shelter status pending further investigation of the circumstances leading to the detention of a child.<sup>25</sup> The circumstances in which a child may be detained or taken into custody by the DCF are limited.

A hospital administrator or licensed health care professional may detain a child without parental consent if returning the child to the parent or caregiver presents an imminent danger to the child. If the child is detained, the medical provider must immediately notify the DCF. Upon receiving notification, the DCF must immediately notify the parents or legal custodians that their child is being detained and begin a child protective investigation.<sup>26</sup>

Additionally, a law enforcement officer may take a child into custody, if probable cause exists that:

- The child has been abused, neglected, or abandoned, or suffers from or is in imminent danger of illness or injury due to abuse, neglect, or abandonment;
- The parent or legal custodian of the child has materially violated a condition of placement ordered by the court; or
- The child has no parent, legal custodian, or responsible adult relative immediately known and able to provide care.<sup>27</sup>

If a child is taken into custody, the attorney representing the DCF must request a hearing within 24 hours after the removal of the child.<sup>28</sup> A child may not be held in a shelter for more than 24

<sup>25</sup> Section 39.01(79), F.S.

<sup>26</sup> Section 39.395, F.S.

<sup>27</sup> Section 39.401(1)(b), F.S.

<sup>28</sup> Section 39.401(3)(b), F.S.

hours unless a court orders the child to remain in the shelter after a shelter hearing.<sup>29</sup> Prior to the shelter hearing, the parents or legal custodians must be given written notice that:

- They will be given an opportunity to be heard and to present evidence at the shelter hearing; and
- They have the right to be represented by counsel, and, if indigent, have counsel appointed at the shelter hearing and at each subsequent hearing or proceeding.<sup>30</sup>

Further, the shelter hearing can be continued for specified period of time under certain circumstances and, if granted by the court, the child shall be continued in shelter care for the length of the continuance.<sup>31</sup>

A child may not be removed from the home or continued out of the home pending disposition if he or she could safely remain at home with the provision of appropriate and available early intervention or preventive services. However, if the child's safety and well-being are in danger, the child must be removed and continue to be removed until the danger has been eliminated. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the DCF will allow the child to remain safely at home, the court shall allow the child to remain in the home.<sup>32</sup>

### ***Placement in Out-of-Home Care***

In 2001 and 2002, the Florida Legislature expanded the ability of community-based care lead agencies to place children in residential group care until additional foster homes could be recruited.<sup>33</sup> The 2001 legislation made it easier to put children in group care by requiring that any child 11 years of age or older who has been in licensed family foster care for 6 months or longer and who is then moved more than once must be assessed for placement in licensed residential group care. It also created s. 409.1676, F.S., which allowed comprehensive residential services, including residential care, case management, and other services, to be provided to children in the child protection system who have extraordinary needs, such as serious behavioral problems or having been determined to be without the options of either reunification with family or adoption. The 2002 legislation moved the language in 39.521, F.S., enacted in 2001 to newly created s. 39.523, F.S., and also provided that children in the custody of the DCF may be placed without prior approval of the court in certain residential settings.

At the same time, national research was showing an association between frequent placement disruptions and outcomes that are adverse to the child.<sup>34</sup> Some of the adverse outcomes included are poor academic performance and social or emotional adjustment difficulties such as aggression, withdrawal, and poor social interaction with peers and teachers. Despite this

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<sup>29</sup> Section 39.402(8)(a), F.S.

<sup>30</sup> Section 39.402(5)(b), F.S. The appointment of counsel is made pursuant s. 39.013, F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Section 39.402(7), F.S.

<sup>33</sup> Chapter 2001-68, ss. 3, 5, and 6, L.O.F. (creating s. 39.521(5), 409.1676, and 409.1677, F.S.; effective July 1, 2001); and ch. 2002-219, ss. 1, 2, 3, and 5, L.O.F (repealing s.39.521(5), F.S., creating s. 39.523, F.S., and amending s. 39.407(5) and 409.1676, F.S.; effective July 1, 2002).

<sup>34</sup> See The Imprint, A Look Back at the Impact of Research on Child Welfare Policy, available at <https://imprintnews.org/analysis/look-back-impact-research-child-welfare-policy/28350> (last visited February 17, 2021).



evidence, child welfare systems made limited efforts to intervene and reduce placement instability as a mechanism for improving outcomes for children.<sup>35</sup> Mismatching placements to children's needs has been identified as a factor that negatively impacts placement stability. Identifying the right placement requires effective assessment.<sup>36</sup>

In response to trends in research, the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act) was enacted in 2008, which shifted policies to increase federal support to states so they can place more children permanently with relative guardians or adoptive parents, and enhance aid to foster youth.<sup>37</sup> The Fostering Connections Act, in part, increased kinship guardianship assistance payments and increased grants to specified entities who included kinship navigator programs. These reflected the changes that:

- A child must be placed in the least restrictive, most family-like setting available in close proximity to the home of his or her parents;
- The placement must meet the needs of the child; and
- A child must be placed in a permanent home in a timely manner.<sup>38</sup>

In 2017, the Florida Legislature recognized the above-mentioned shift in federal policy by amending s. 39.523, F.S., to require a comprehensive placement assessment process to be conducted when any child is removed from a home and placed into out-of-home care to determine the level of care needed by the child and match the child with the most appropriate placement.<sup>39</sup> Section 39.523(2), F.S., currently provides that when any child is removed from a home and placed into out-of-home care, a comprehensive placement assessment process must be completed to determine the level of care needed by the child, and match the child with the most appropriate placement.<sup>40</sup> The lead agency or subcontracted agency must coordinate a multidisciplinary team (MDT) staffing, described in detail below, with any individual who is available to attend the staffing and is currently involved with the child.<sup>41</sup> The participants for the MDT assessments include, but are not limited to:

- A representative from the DCF and the case manager for the child;
- A therapist;
- Attorney ad litem;
- Guardian ad litem;
- Teachers;
- Coaches;
- Children's Medical Services; and

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<sup>35</sup> Noonan, K. and Rubin, D., et al., The Children's Hospital of Philadelphia Research Institute, *Securing Child Safety, Well-being, and Permanency Through Placement Stability in Foster Care*, Fall 2009, p. 2, available at [https://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab\\_EtoA\\_CSAW\\_Fall\\_2009.pdf](https://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab_EtoA_CSAW_Fall_2009.pdf) (last visited February 17, 2021).

<sup>36</sup> Tejja Sudol, *Placement Stability Information Packet*, National Resource Center for Permanency and Family Connections, December 2009, available at [http://www.hunter.cuny.edu/socwork/nrcfcpp/info\\_services/Placement\\_Stability\\_Info\\_Pack.htm](http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/Placement_Stability_Info_Pack.htm) (last visited February 17, 2021).

<sup>37</sup> See Fostering Connections to Success and Increasing Adoptions Act; Pub. L. 110-351; See also the National Conference of State Legislatures, *Fostering Connections to Success and Increasing Adoptions Act of 2008*, available at <https://www.ncsl.org/documents/cyf/FosteringConnectionsSummary.pdf> (last visited February 17, 2021).

<sup>38</sup> See Adoption Assistance and Child Welfare Act of 1980; Pub.L. 96-272.

<sup>39</sup> Chapter 2017-151, L.O.F.

<sup>40</sup> Section 39.523(2), F.S.

<sup>41</sup> Section 39.523(2)(a), F.S.

- Other community providers of services to the child or stakeholders as applicable.
- Clergy, relatives, and fictive kin if appropriate.<sup>42</sup>

Further, team participants must gather and consider data and information on the child which is known at the time of the staffing including, but not limited, to:

- Mental, medical, behavioral health, and medication history.
- Community ties and school placement.
- Current placement decisions relating to any siblings.
- Alleged type of abuse or neglect including sexual abuse and trafficking history.
- The child's age, maturity, strengths, hobbies or activities, and the child's preference for placement.<sup>43</sup>

The most appropriate available out-of-home placement must be chosen after consideration by all members of the MDT of all of the information and data gathered, including the results and recommendations of any evaluations conducted.<sup>44</sup> Placement decisions for each child in out-of-home placement must be reviewed as often as necessary to ensure permanency for that child and to address special issues related to this population of children.<sup>45</sup> The DCF, a sheriff's office acting under s. 39.3065, F.S., a lead agency, or a case management organization must document all placement assessments and placement decisions in the Florida Safe Families Network (FSFN).<sup>46, 47</sup>

At each judicial review required under s. 39.701, F.S., the court is required to consider the results of the assessment, the placement decision made for the child, and services provided to the child.

### ***Special Considerations for Placement of Siblings***

An important consideration in the placement of children into out-of-home care involves the placement of sibling groups. Children may experience anxiety or pain when they are separated from their siblings. However, child welfare agencies experience a number of obstacles in trying to place siblings together when they enter out of home care including, in part:

- Children in sibling groups often have diverse and special needs some of whom may require one-on-one attention;

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.* The comprehensive placement assessment process may also include the use of an assessment instrument or tool that is best suited for the individual child.

<sup>44</sup> Section 39.523(2)(c), F.S.

<sup>45</sup> Section 39.523(2)(d), F.S. Further, s. 39.523(2)(f), F.S., provides that if it is determined during the comprehensive placement assessment process that residential treatment as defined in s. 39.407, F.S., would be suitable for the child, the procedures in that section must be followed.

<sup>46</sup> Section 39.523(2)(e), F.S.

<sup>47</sup> The FSFN system is Florida's implementation of the Statewide and Tribal Automated Child Welfare Information Systems (SACWIS/TACWIS), which is a federally funded data collection system. All states were required to collect and report particular information to the federal government. States had the option of creating a SACWIS model in order to comply with these federal reporting requirements or they may implement an alternative data collection model. This information was then compiled into the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS). Both systems are made publicly available on the Children's Bureau's Child Welfare Outcomes Report Data website. See the National Conference of State Legislatures, *Child Welfare Information Systems*, June 25, 2020, available at <https://www.ncsl.org/research/human-services/child-welfare-information-systems.aspx> (last visited February 17, 2021).

- Foster and adoptive parents are often unwilling to take in sibling groups;
- Resources to find and maintain placements for sibling groups are often challenged by agencies with excessive caseloads and limited resources; and
- Children may enter care through different agencies, possibly in different jurisdictions.<sup>48</sup>

There is limited research on the importance of the sibling bond which has only recently been accepted by research scientists and policymakers that has sparked a flurry of attention to research, policy making, litigation, and development of innovative programs.<sup>49</sup>

Child welfare laws have evolved in many states to address this issue. The Fostering Connections Act makes funding contingent on complying with the law, which requires:

- Reasonable efforts to place siblings together in out of home care unless the state documents that it would be contrary to their safety or well-being; and
- Frequent visitation if they are not placed together, unless the state documents that it would be contrary to the children's safety or well-being.<sup>50</sup>

In general, child protection agencies understand the importance of maintaining sibling connections and have embraced approaches that support sibling placements. Thirty-seven states and the District of Columbia have statutes requiring agencies to make reasonable efforts to place siblings together unless a joint placement would not be in the best interests of one of the siblings, such as when one sibling poses a risk to the other. Additionally, 35 states and Puerto Rico have statutes requiring agencies to make provisions for siblings who cannot be placed together, including opportunities for visits and/or other forms of contact or communication.<sup>51</sup>

A number of strategies can be encouraged to mitigate the barriers to joint placements for siblings, including:

- Prioritizing placement with kin.
- Establishing clear policies and training for caseworkers and foster or adoptive parents about the importance of preserving sibling connections, and ensure siblings are assigned to the same caseworker, regardless of when they enter care.
- Involving children in placement decisions for the sibling group.
- Utilizing targeted foster or adoptive parent recruitment and retention strategies that aim to recruit foster and adoptive homes specifically for sibling groups, and homes that are reflective of the racial and ethnic diversity of children in care.<sup>52</sup>

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<sup>48</sup> The National Center for Youth Law, *Keeping Siblings together: Past, Present, and Future*, available at <https://youthlaw.org/publication/keeping-siblings-together-past-present-and-future/> (last visited February 17, 2021).

<sup>49</sup> *Id.*

<sup>50</sup> The Children's Bureau, Child Welfare Information Gateway, *Sibling Issues in Foster Care and Adoption*, available at <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>; the U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Child and Family Services Reviews, available at <https://www.acf.hhs.gov/cb/monitoring/child-family-services-reviews> (all sites last visited February 17, 2021).

<sup>51</sup> The Casey Family Programs, *How are child protection agencies promoting and supporting joint sibling placements and adoptions?*, available at <https://www.casey.org/joint-sibling-placements/> (last visited February 17, 2021).

<sup>52</sup> *Id.*

Florida law currently addresses sibling placement and visitation in a number of sections of statute, but there is no single consolidated section specifically dealing with sibling related issues. For example:

- Section 409.996(19)(b), F.S., requires that the DCF and each lead agency to monitor and document any reasons that siblings are not placed together in out-of-home care and sibling placement information must be incorporated into the results-oriented accountability system and into the evaluation of the outcome and made available to the Florida Institute for Child Welfare for use in assessing the performance of child welfare services.
- Section 39.522(1)(a)8., F.S., requires the court, when determining whether a change of placement is in the best interests of the child, to consider the child’s previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.
- Section 39.6012(3)(b), F.S., requires that the case plan include a description of the parent’s visitation rights and obligations and the plan for sibling visitation if the child has siblings with whom he or she is separated.

### ***Postdisposition Change of Custody***

Currently, the court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing when a child is already under the jurisdiction of the court, without the necessity of another adjudicatory hearing.

At any time before a child is residing in the permanent placement approved at the permanency hearing, a motion alleging a need for a change in the conditions of protective supervision or the placement may be filed by the DCF or by any other interested person in the case of a child who has been placed in:

- The child’s own home under the protective supervision of an authorized agent of the DCF;
- The home of a relative;
- The home of a legal custodian; or
- Some other place.<sup>53</sup>

If the parents or other legal custodians deny the need for a change, the court must hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after the hearing, the court must enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered.<sup>54</sup>

The standard for changing custody of the child must be the best interests of the child.<sup>55</sup> In making a determination whether a change of legal custody or placement is in the best interests of the child, the court must consider:

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<sup>53</sup> Section 39.522(1)(a), F.S.

<sup>54</sup> *Id.*

<sup>55</sup> United Nations, Office of the High Commissioner for Human Rights, Convention on the Rights of the Child, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (last visited February 2, 2021). The term “best interests” or “best interests of the child” is a child rights principle, which derives from Article 3 of the UN Convention on the Rights of the Child, which says that all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. The Convention on the Rights of the Child is the most rapidly and widely ratified human rights treaty in history—with 196 countries as “states parties.” The United States is the only country that has not ratified the Convention.

- The child's age.
- The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.
- The stability and longevity of the child's current placement.
- The established bonded relationship between the child and the current or proposed caregiver.
- The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.
- The recommendation of the child's current caregiver.
- The recommendation of the child's guardian ad litem, if one has been appointed.
- The child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.
- The likelihood of the child attaining permanency in the current or proposed placement.
- Any other relevant factors.<sup>56</sup>

If the child is not placed in foster care, the new placement for the child must meet the home study criteria and court approval under ch. 39, F.S.<sup>57</sup>

When the court is determining reunification, the court is required to review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared. Alternatively, if the reunification is approved by the DCF, the court must determine that reunification will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.<sup>58</sup>

A court considering is whether a child who is placed in the custody of a non-offending parent should be reunited with the other parent, upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the DCF will not be detrimental to the child, must find that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.<sup>59</sup>

A court must consider additional factors when deciding whether to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan to determine whether to place the child in out-of-home care. The factors include, at a minimum:

- The circumstances that caused the child's dependency and other subsequently identified issues.
- The length of time the child has been placed in the home with an in-home safety plan.
- The parent's or caregiver's current level of protective capacities.

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<sup>56</sup> Section 39.522(1)(a), F.S.

<sup>57</sup> Section 39.522(1)(b), F.S.

<sup>58</sup> Section 39.522(2), F.S.

<sup>59</sup> Section 39.522(3), F.S.

- The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.<sup>60</sup>

In addition, the court is required to evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child. If the court changes the permanency goal, the case plan must be amended pursuant to s. 39.6013(5), F.S.<sup>61</sup>

## Transitions

### *Placement Transitions*

Transition planning and practice may be used for any move of any child from one caregiver to another caregiver, including to or from a biological parent. It is important to minimize the number of out-of-home care placements in every child's case. However, in some situations, a change in out-of-home care placement might be considered necessary.<sup>62</sup>

Once the child establishes a bond with a caregiver who becomes the psychological parent, transition planning from one caregiver's home to another must be as emotionally protective as possible.<sup>63</sup> Poorly executed or improperly timed transitions may adversely affect a child's healthy development and capacity to attach to others.<sup>64</sup>

Any change in primary caregiver may be very traumatic and this trauma can be minimized by implementing a caring transition plan. Visitation with a future caregiver does not establish the same bond that develops when a child bonds with a caregiver who provides day-to-day care. This includes visitation with a biological parent relative who has been visiting consistently and appropriately, which suggests there will inevitably be trauma when the child is moved to a different day-to-day caregiver when the child has formed an attachment to a current caregiver.<sup>65</sup>

Transition planning and visiting must be tailored to the individual child's circumstances and consideration must be given to certain factors such as the child's age and attachment to his or her current caregiver. Special consideration should be given to transitioning infants and toddlers who are removed from their placement during developmental phases that may be adverse to such change, given they may lack verbal skills or developmental ability and maturity to understand what is happening to them.<sup>66</sup>

The fundamental task in early childhood is the formation of attachment. Attachment is an emotional bond with another person. It is believed that the earliest bonds formed by children

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<sup>60</sup> Section 39.522(4), F.S.

<sup>61</sup> Section 39.522, F.S.

<sup>62</sup> Advokids, *Transition Planning*, available at <https://advokids.org/childhood-mental-health/transitions/> (last visited February 17, 2021).

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Advokids, *Transition Planning*, available at <https://advokids.org/childhood-mental-health/transitions/> (last visited February 17, 2021).

<sup>66</sup> Child Advocates, *Smooth Transitions for Young Children in Foster Care*, available at <https://www.childadvocates.net/smooth-transitions-young-children-foster-care/> (last visited February 17, 2021).

with their caregivers have a tremendous impact that continues throughout life. Typical attachment stages are:

- At 0-8 weeks of age, the stage for developing secure attachment is being set. During this pre-attachment period the mother will 'warm up' the emotional bond with her sensitive and consistent responses. The infant may distinguish between caregivers but in general displays little preference. Baby separation anxiety in relation to the mother has not kicked in yet.
- At 2-6 months, the child starts to distinguish more clearly between known and unknown figures. The child starts to get a sense of how his or her mother will react when they are anxious or distressed.
- At 6-11 months and stage of child development, the baby has developed a clear understanding as to who his or her primary caregiver is (typically the mother). This awareness often makes the mother the preferred caregiver.
- At 18-24 months, the child's attachment behavior is very clear. The child is very conscious of good strategies for reaching the desired proximity of his or her mother.<sup>67</sup>

Infants and toddlers who are removed from their home and placed in out-of-home care need special consideration and guidance through the grieving process, in their relationships, and through transitions from one caregiver to another. Because they may be non-verbal or lack the developmental ability and maturity to understand what is happening to them, let alone articulate it, their feelings are easily overlooked or misinterpreted. Young children in out-of-home care suffer the same grief and loss and doubts that older children do, without the ability to express what the child is feeling.<sup>68</sup>

Florida law addresses out-of-home care transitions and educational stability in a number of circumstances, including, but not limited to:

- Section 39.6035(1), F.S., requires, within 180 days after a child reaches 17 years old, the DCF and lead agency to collaborate with the caregiver and other individuals identified by the child to assist the child with developing a transition plan to prepare for when the child ages out of care.<sup>69</sup>
- Section 39.604(5), F.S., provides for transition plans when it is not in a child's best interest to remain in the child care or early education setting that he or she attended prior to being placed into out-of-home care and requires the caregiver to collaborate with specified individuals to determine the best setting for the child.
- Section 39.701(3)(d), F.S., which provides at the last review hearing before the child reaches 18 years of age, the court must:
  - Address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan includes a plan for meeting one or more of the criteria and a supervised living arrangement under s. 39.6251, F.S.;
  - Ensure the child has been informed of the:
    - Right to continued support and services from the DCF and the lead agency;

<sup>67</sup> Positive Parenting Ally, Psychology Attachment Behavior, available at <https://www.positive-parenting-ally.com/psychology-attachment.html> (last visited February 17, 2021).

<sup>68</sup> Child Advocates, *Smooth Transitions for Young Children in Foster Care*, available at: <https://www.childadvocates.net/smooth-transitions-young-children-foster-care/> (last visited February 17, 2021).

<sup>69</sup> Section 39.6035(1), F.S. The plan must address housing, health insurance, education, and workforce support and employment services.

- Right to request termination of dependency jurisdiction and be discharged from foster care;
- Opportunity to reenter foster care pursuant to s. 39.6251, F.S.;
- Ensure that the young adult, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:
  - Services or benefits for which the young adult may be eligible based on his or her former placement in foster care;
  - Services or benefits that may be lost through termination of dependency jurisdiction;
  - Other federal, state, local, or community-based services or supports available to him or her.

Florida rules require two weeks' notice prior to a change of placement except in emergency situation, and requires a transition plan to a new placement if the child's current placement is unable to be stabilized and is not in the child's best interest.<sup>70</sup> The DCF also has operating procedures for transition planning for youth to ensure that children develop necessary life skills and to prepare children to transition to adulthood.<sup>71</sup>

### ***Education Transitions***

State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

The Every Student Succeeds Act (ESSA)<sup>72</sup> was signed into law on December 10, 2015. ESSA reauthorized the Elementary and Secondary Education Act and includes new provisions that promote educational stability for children in foster care so they can continue their education without disruption, maintain important relationships, and have the opportunity to achieve college and career readiness. The law also emphasizes the importance of collaboration and joint decision-making between child welfare agencies and educational agencies.

Specific protections related to children in out-of-home care include:

- Being able to remain in the same school when in the child's best interest;
- Immediate enrollment in school and transfer of school records;
- School transportation when changing schools;
- Point of contact designated within state educational agency;
- Local educational agency point of contact;
- Required data collection and reporting. For the first time, state educational agencies will be required to report annually on student achievement and graduation rates for students in out-of-home care.<sup>73</sup>

<sup>70</sup> Rule 65C-28.005, F.A.C.

<sup>71</sup> The DCF, *CFOP 170-17 Transitioning Youth and Young Adult*, ch. 2, July 29, 2019, available at <https://myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-17%20Services%20for%20Transitioning%20Youth%20and%20Young%20Adults/CFOP%20170-17,%20%20Chapter%20002,%20Transition%20Planning%20for%20Youth.pdf> (last visited February 17, 2021).

<sup>72</sup> The Every Student Succeeds Act, Public Law 114-95.

<sup>73</sup> *Id.*



The Fostering Connections Act also places requirements on child welfare agencies to work with schools to support the education needs of children in foster care. Since its passage in 2008, the Fostering Connections Act has brought much-needed attention to the critical importance of education stability for children in out-of-home care.<sup>74</sup> The Act helps children and in out-of-home care, guardianship and adoption achieve their educational goals by requiring that states ensure that they attend school and, when placed in out-of-home care, they remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school. It also provides increased federal support to assist with school-related transportation costs.

Florida law provides for transition plans when it is not in a child's best interest to remain in the child care or early education setting that he or she attended prior to being placed into out-of-home care and requires the caregiver to collaborate with specified individuals to determine the best setting for the child.<sup>75</sup>

### **Multidisciplinary Teams**

The use of a MDT team in child welfare settings is a concept that has been an established practice for over the past 60 years through the use of hospital-based child protection teams<sup>76</sup> and, more recently, child advocacy centers.<sup>77</sup> Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, MDT teams are often used to enhance and improve investigations and responses necessary for children and families to recover and succeed. The MDT teams are becoming more widely used today to include a variety of individuals, both professional and non-professional, that interact and coordinate their efforts to plan for children and families receiving child welfare services. The MDT may also be referred to as an "interdisciplinary team," or a "case consultation team."<sup>78</sup>

Utilizing a MDT approach builds upon existing family-centered approaches to care. The use of a strengths-based, family-centered multidisciplinary process is key to engaging children, youth and families in the development and implementation of their individual case or treatment plans or other related services designed to meet their needs. By sharing decision-making and working together, it is more likely that positive and lasting outcomes will be achieved.<sup>79</sup>

The MDTs can help eliminate, or at least reduce, many barriers to effective action, including a lack of understanding by the members of one profession of the objectives, standards, conceptual bases, and ethics of the others; lack of effective communication; confusion over roles and responsibilities; interagency competition; mutual distrust; and institutional relationships which

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<sup>74</sup> See Fostering Connections to Success and Increasing Adoptions Act, Pub.L. 110-351.

<sup>75</sup> Section 39.604, F.S.

<sup>76</sup> The Kempe Foundation, *Child Protection Team Celebrates 60 Years*, available at <http://www.kempe.org/child-protection-team-celebrates-60-years/> (last visited February 17, 2021).

<sup>77</sup> The National Children's Alliance, *History of NCA*, available at <https://www.nationalchildrensalliance.org/history-of-nca/#:~:text=The%20history%20of%20National%20Children's,system%20to%20help%20abused%20children> (last visited February 17, 2021).

<sup>78</sup> The Child Welfare Information Gateway, *Multidisciplinary Teams*, available at <https://www.childwelfare.gov/topics/responding/ia/investigation/multidisciplinary/> (last visited February 17, 2021).

<sup>79</sup> The Kinship Center, *The Importance of the Child and Family Team*, available at <http://www.kinshipcenter.org/about-kinship-center/news-and-events/breaking-news/the-importance-of-the-child-and-family-team-cft.html> (last visited February 17, 2021).

limit interprofessional contact.<sup>80</sup> As a result, a number of states<sup>81</sup> are using a MDT team model, also known as a “Child and Family Team”, that is key to the well-being of children and families served by child welfare agencies and their partners. This model is premised on the notion that children and families have the capacity to resolve their problems if given sufficient support and resources to help them do so.<sup>82</sup>

In California, for example, the process begins when a child enters out-of-home, and a child welfare social worker engages with a child and his or her family, and then uses a variety of strategies to identify other team members and factors to develop a plan to help achieve positive outcomes for a child’s safety, permanency, and well-being.<sup>83</sup> This strengths-based approach to child welfare recognizes that families are experts in their own lives, and they can achieve success when they have an active role in creating and implementing solutions.<sup>84</sup>

Currently, Florida law provides for the use of MDTs in a number of circumstances, including, in part:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- MDT staffing’s under s. 39.523, F.S.; and
- MDT staffings under ss. 39.524 and 409.1754, F.S.

Additionally, the DCF reports that it or lead agencies currently coordinate MDT staffings for a number of purposes, including, in part:

- Adoption related staffings;
- Baker Act staffings;
- Case plan conferences;
- Case staffings;
- Case transfer staffings;
- Close the loop staffings;
- Comprehensive Medical Assessment Team staffings;
- Comprehensive Placement Assessment Team staffings;
- Human Trafficking staffings;
- The Department of Juvenile Justice staffings;
- High risk staffing or critical case staffings;

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<sup>80</sup> National Center on Child Abuse and Neglect, U.S. Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, *Multidisciplinary Teams In Child Abuse And Neglect Programs*, 1978, available at <https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf> (last visited February 17, 2021).

<sup>81</sup> See Clark County Department of Family Services, *Child and Family Team Meetings Nevada Case Planning and Assessment Policies*, available at [https://www.childwelfare.gov/pubPDFs/NV\\_CaseManagementTrainingFacilitator.pdf](https://www.childwelfare.gov/pubPDFs/NV_CaseManagementTrainingFacilitator.pdf); State of Tennessee Department of Children’s Services, *Administrative Policies and Procedures: 31.7*, available at <https://files.dcs.tn.gov/policies/chap31/31.7.pdf>; Indiana Department of Child Services, *Child Welfare Policy*, January 1, 2020, available at <https://www.in.gov/dcs/files/5.07%20Child%20and%20Family%20Team%20Meetings.pdf> (all sites last visited February 17, 2021).

<sup>82</sup> California Department of Social Services, *About Child and Family Teams*, available at <https://www.cdss.ca.gov/inforesources/foster-care/child-and-family-teams/about> (last visited February 17, 2021).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

- Independent living staffings;
- Institutional staffings;
- Legal, medical, or mental health staffings;
- New child staffings;
- Permanency staffing;
- Safety management staffing;
- Separated sibling staffings;
- Service staffings; and
- Transfer staffings.<sup>85</sup>

### **Case Record Face Sheet**

A case record face sheet is generally defined as any cover sheet to a multipage document that contains the relevant points covered in the document itself. They are commonly used in the medical or healthcare arenas and typically provides a patient's information at a quick glance. Face sheets can include contact details, a brief medical history and the patient's level of functioning, along with patient preferences and wishes.<sup>86</sup>

A number of states also use similar face sheets to record pertinent information about a child welfare case, including most notably Iowa and Illinois.<sup>87</sup>

Currently, Florida law does not require a face sheet to be included in the case file for child welfare cases.

### **Rebuttable Presumptions**

A rebuttable presumption is defined as meaning it is a legal assumption the court is required to make if certain facts are established and no contradictory evidence is produced. There are various rebuttable presumptions found in Florida law. Two examples found in ch. 39, F.S., include:

- Section 39.0139, F.S., relating to visitation and contact with children who have been sexually abused, provides for the creation of a rebuttable presumption of detriment to a child when specified conditions are met.
- Section 39.203, F.S., relating to immunity from liability in cases of child abuse, abandonment or neglect, provides a rebuttable presumption that specified actions are

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<sup>85</sup> The DCF, Electronic mail from John Paul Fiore, Legislative Specialist, *RE: Follow up on data request from last week*, February 12, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (noting several other meetings and conferences that are held for other purposes throughout dependency cases) (hereinafter cited as “The DCF Supplemental Information”).

<sup>86</sup> Caring.com, *What is a Face Sheet*, available at <https://www.caring.com/articles/what-is-a-face-sheet/>; the Medical Dictionary, available at <https://medical-dictionary.thefreedictionary.com/face+sheet> (all sites last visited February 17, 2021).

<sup>87</sup> Iowa Department of Human Services, *Child Welfare Services Referral Face Sheet*, available at <https://dhs.iowa.gov/sites/default/files/470-5150.pdf?102920201715>; State of Illinois, Department of Children and Family Service, *Help Unit Face Sheet*, available at [https://www2.illinois.gov/dcfs/aboutus/notices/Documents/cfs399\\_2.pdf#search=face%20sheet](https://www2.illinois.gov/dcfs/aboutus/notices/Documents/cfs399_2.pdf#search=face%20sheet) (all sites last visited February 17, 2021).

retaliatory if the specified actions are committed within a prescribed period of time against a person who reports child abuse, abandonment, or neglect under ch. 39, F.S.

### **III. Effect of Proposed Changes:**

The bill codifies, consolidates, and amends, in part, current law in new sections regarding priority placement under s. 39.4021, F.S., multidisciplinary team staffings to make placement, education and other important life decisions of the child under s. 39.4022, F.S., transition plans under s. 39.4023, F.S., and sibling placements under s. 39.4024, F.S. These new sections are created in Part V, titled Taking Children into Custody and Shelter Hearings, to ensure that these issues are addressed at the time a child is removed from his or her home due to abuse, abandonment, or neglect and applied throughout dependency proceedings as current law is silent on how to deal with placement issues between the time of shelter and the disposition hearing. Current law in other sections which relate to these placement or education issues have been amended to cross-reference the new sections.

The bill also amends ss. 39.522 and 39.523, F.S., relocating factors related to postdisposition changes and placement in out-of-home care into s. 39.4022, F.S., creating the new MDTs. Section 39.522, F.S., is also amended to create a rebuttable presumption in certain cases.

#### **Placement in Out-of-Home Care**

Section 39.4021, F.S., is created to set out the following list of priority placements of which the DCF must attempt to place a child when he or she is being placed in out-of-home care:

- Non-offending parent;
- Relative;
- Adoptive parent of a child's sibling;
- Fictive kin, with a close existing relationship to the child;
- Licensed foster care; and
- Group or congregate care.

This list slightly amends the list under current law in s. 39.401, F.S., by clarifying that the child may be released to a non-offending parent, fictive kin with a close existing relationship to the child, or group or congregate care, in the order of priority set out above.

Section 39.4021, F.S., also confirms the requirement under current law to place sibling groups together whenever possible unless it is not in the children's best interest when applying the criteria and factors as set out under s. 39.4022, F.S., and 39.4024, F.S. Placement decisions after shelter must be made in compliance with s. 39.4021, F.S., unless otherwise provide in ch. 39, F.S.

The bill also amends ss. 39.401 and 39.402, F.S., to cross-reference s. 39.4021, F.S., which codifies current law and clarifies the priority of placement which the DCF is required to apply when determining where to release a child who is removed due to abuse, abandonment, or neglect while awaiting a shelter hearing and to require the court to make written findings in shelter orders that the DCF has made reasonable efforts to place the child in order of priority unless it is not an option or in the best interest of the child, respectively.

## **Multidisciplinary Teams**

The DCF reports that MDTs are presently being convened for many purposes throughout a dependency case, and current law makes reference to requirements to convene these staffings, for instance in s. 39.523, F.S., in relation to postdisposition change of placement decisions. Section 39.4022, however, codifies the creation of these teams, defines them, provide for stated goals, an expanded list of mandatory reasons when staffings must be convened, and specified factors which must be considered when making decisions about what is in the child's best interest.

The bill provides legislative findings including that:

- There is an increasing body of evidence showing that services for children and families are most effective when delivered in the context of a single, integrated child and family team that includes the child, his or her family, natural and community supports, and professionals who join together to empower, motivate, and strengthen a family and collaboratively develop a plan of care and protection to achieve child safety, child permanency, and child and family well-being.
- Effective assessment through an integrated MDT is particularly important for children who are vulnerable due to existing histories of trauma which led to the child's entrance into the child welfare system. This assessment is especially important for young children who are 3 years of age or younger, as a result of the enhanced need for such children to have healthy and stable attachments to assist with necessary brain development. Stable and nurturing relationships in the first years of life, as well as the quality of such relationships, are integral to healthy brain development, providing a foundation for lifelong mental health and determining well-being as an adult.

The bill provides definitions for the following terms:

- "Change in physical custody", which is defined to mean a change by the DCF or the lead agency to the child's physical residential address, even when such change does not require a court order changing the legal custody of the child.
- "Multidisciplinary team", which is defined to mean an integrated group of individuals which meets to collaboratively develop and attempt to reach a consensus decision on the most suitable out-of-home placement, educational placement, or other specified important life decision that is in the best interest of the child.

The bill sets out MDT goals which are child and family focused with an emphasis of having them involved in important life changing decisions, securing a child's safety, minimizing any potential trauma, and monitoring their strengths and needs throughout the case. The MDTs are required to adhere to the following goals:

- Secure a child's safety in the least restrictive and intrusive placement that can meet his or her needs;
- Minimize the trauma associated with separation from the child's family and help the child to maintain meaningful connections with family members and others who are important to him or her;

- Provide input into the placement decision made by the community-based care lead agency and the services to be provided in order to support the child;
- Provide input into the decision to preserve or maintain the placement, including necessary placement preservation strategies;
- Contribute to an ongoing assessment of the child and the family's strengths and needs;
- Ensure that plans are monitored for progress and that such plans are revised or updated as the child's or family's circumstances change; and
- Ensure that the child and family always remain the primary focus of each MDT staffing.

The bill provides for collaboration among diverse, qualified individuals who are part of the child's network to make the most informed decisions possible for a child. The MDT participants necessary to achieve an appropriately diverse team for a child may vary by child, but must consist of the following members:

- The child, unless he or she is not of an age or capacity not participate in the team;
- The child's family members and other individuals identified by the family as being important;
- The current caregiver;
- A representative from the DCF; and
- The case manager for the child.

The DCF or lead agency may invite additional participants depending on the stated purpose of the staffing, including, but not limited to:

- A representative from Children's Medical Services;
- A guardian ad litem, if one is appointed;
- A school personnel representative who has direct contact with the child;
- A therapist or other behavioral health professional, if applicable.
- A mental health professional with expertise in sibling bonding, if applicable; or
- Other community providers of services to the child or stakeholders, when applicable.

The bill provides that each MDT staffing must be led by a facilitator who is a trained professional who is otherwise required to attend the staffing in his or her official capacity and whose main responsibility is to help team participants use the strengths within the family to develop a safe plan for the child. The facilitator does not need to be the same person for each staffing convened in a child's case or in the service area of the designated lead agency handling a child's case.

The bill provides that the MDT staffings must be held as soon as possible before all of the following events occur or within 72 hours after an emergency situation arises defined in s. 39.4023(2), F.S., and in accordance with s. 39.4023, F.S.:

- Initial out-of-home placement decisions;
- Changes in physical custody and appropriate mandatory transition plans in accordance with s. 39.4023, F.S.;
- Changes in a child's educational placement and mandatory transition plans in accordance with s. 39.4023, F.S.;
- Placement decisions for a child which involve sibling groups in accordance with s. 39.4024, F.S.; and

- Any other important decisions in the child’s life which are so complex that the DCF or appropriate lead agency determines that it must be addressed by convening a MDT staffing to ensure the best interest of the child is maintained.

The bill codifies current law which provides that an assessment conducted by the MDT may also use an evidence-based assessment instrument or tool that is best suited for the child and clarifies that the instrument or tool used should be that which is best suited for determining the specific decision of the staffing and the needs of that individual child and family. The bill requires that MDT staffing participants must, before formulating a decision, gather and consider data and information on the child which is known at the time, including, but not limited to:

- The child’s age, maturity, and strengths;
- Mental, medical, behavioral health, and medication history;
- Community ties and school placement;
- The stability and longevity of the child’s current placement;
- The established bonded relationship between the child and the current or proposed caregiver;
- The child’s previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024, F.S.;
- The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement;
- The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference;
- The recommendation of the child’s current caregiver, if applicable;
- The recommendation of the child’s guardian ad litem, if one has been appointed;
- The likelihood of the child attaining permanency in the current or proposed placement;
- The likelihood that the child will have to change schools or day care placement, the impact of such a change, and the parties’ recommendations as to the timing of the change including an education transition plan required under s. 39.4023, F.S.;
- The disruption of continuity of care with medical, mental health, behavioral health, dental, or other treatment services the child is receiving at the time of the change of custody decision;
- The allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect;
- The impact on activities that are important to the child, including the ability of the child to continue in such activities;
- The impact on the child’s future access to education, Medicaid, and independent living benefits; and
- Any other relevant factors.<sup>88</sup>

These factors are a consolidation of factors that are set out in current law under ss. 39.522(1)(a) and 39.523(2)(a), F.S., with one new factor and amendments to two current factors as follows:

- The factor relating to the child’s previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, is amended to

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<sup>88</sup> Further, the bill requires that MDT staffings may not be delayed to accommodate pending behavioral health screenings or assessments or pending referrals for services.

require that any issues regarding siblings must be evaluated in accordance with s. 39.4024, F.S.;

- A new factor is added which states the team must consider the likelihood that the child will have to change schools or day care placement, the impact of such a change, and the parties' recommendations as to the timing of the change including an education transition plan required under s. 39.4023, F.S.; and
- The factor relating to allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care is amended to include consideration of any history of additional allegations of abuse, abandonment, or neglect.

The bill lists specified information that must be gathered and considered by the MDTs for a decision related to a child 3 years of age or younger, and reviewed as often as necessary to ensure permanency, including:

- Identified kin and relatives who express interest in caring for the child, including strategies to overcome potential delays in placing the child with such persons if they are suitable.
- The likelihood that the child can remain with the prospective caregiver past the point of initial removal and placement with, or subsequent transition to, the caregiver and the willingness of the caregiver to provide care for any duration deemed necessary if placement is made.
- The prospective caregiver's ability and willingness to:
  - Accept supports related to early childhood development and services addressing any possible developmental delays;
  - Address the emotional needs of the child and accept infant mental health supports, if needed;
  - Help nurture the child during the transition into out-of-home care;
  - Work with the parent to build or maintain the attachment relationship between parent and child;
  - Effectively co-parent with the parent; and
  - Ensure frequent family visits and sibling visits.

The bill provides that if the staffing participants reach a consensus decision, it becomes the official position of the lead agency regarding the decision for which the MDT convened and binds all DCF and lead agency participants, who are obligated to support it. If the participants cannot reach a consensus decision, the trained professional acting as the facilitator is required to attempt to bring at least the lead agency's staff to a decision that all participants can support.

However, if there is disagreement even among lead agency staff, the MDT may request a review of the decision from a designated, high level administrator within the lead agency and that decision becomes the official position for the decision for which the team was convened. If the MDT cannot agree on the placement, the lead agency must determine the most appropriate placement for the child in order to achieve the goals of child safety, permanency, and well-being.

The bill provides that if a MDT staffing fails to reach a consensus decision, the facilitator must prepare and submit a written report to the court within 5 business days after the conclusion of the staffing which details the decision made and the positions of the MDT's participants.



The bill permits the DCF to discuss confidential information during MDT staffings in the presence of those participating. The bill requires any individuals who participate in MDT staffings to maintain the confidentiality of all information shared during the staffing.

The bill also provides that these provisions may not be construed to mean that MDT staffings coordinated by the DCF or the appropriate lead agency for purposes other than those specifically enumerated in the bill before October 1, 2021, are no longer required to be conducted or are required to be conducted in accordance with the above-mentioned criteria. The bill also requires the DCF to adopt rules.

### **Transitions**

The bill creates s. 39.4023, F.S., establishing specific provisions for transitioning a child who is in the dependency system and specifically addressing placement transitions and education transitions. The bill provides legislative findings and intent, including, specifically:

- The Legislature finds that many children in out-of-home care have experienced multiple changes in placement, and those transitions often result in trauma not only for the child, but also for caregivers, families, siblings, and all professionals involved.
- The Legislature further finds that poorly planned and executed or improperly timed transitions may adversely impact a child's healthy development as well as the child's continuing capacity to trust, attach to others, and build relationships in the future.
- The Legislature finds that the best child welfare practices recognize the need to prioritize the minimization of the number of placements for every child in out-of-home care. Further, the Legislature finds that efforts must be made to support caregivers in order to promote stability. When placement changes are necessary, they must be thoughtfully planned.
- The Legislature finds that transition plans are critical when moving all children, including infants, toddlers, school-age children, adolescents, and young adults.
- It is the intent of the Legislature that a placement change or an educational change for a child in out-of-home care be achieved ideally through a period of transition that is unique to each child, provides support for all individuals affected by the change, and has flexible planning to allow for changes necessary to meet the needs of the child.

The bill also provides definitions for the following terms:

- "Educational change", which is defined to mean any time a child is moved between schools which is not the result of the natural transition from elementary school to middle school or middle school to high school. The term also includes changes in child care or early education programs for infants and toddlers.
- "Emergency situation", which is defined to mean that there is an imminent risk to the health or safety of the child, other children, or others in the home or facility if the child remains in the placement.
- "Placement change", which is defined to mean any time a child is moved from one caregiver to another, including moves to a foster home, a group home, relatives, prospective guardians, prospective adoptive parents, and reunification with parents. The term also includes moves between rooms and buildings operated by a group home provider.
- "School", which is defined to mean any child care, early education, elementary, secondary, or postsecondary educational setting.

### ***Placement Transitions***

The bill requires the DCF or lead agency to create and implement an individualized transition plan for each child before each placement change. In order to minimize changes in placement, once a caregiver accepts responsibility of caring for a child, the child may be removed from the home of the caregiver only if:

- The caregiver is unwilling or unable to safely or legally care for the child;
- The child is reunified with the parent or legal guardian;
- The child is being placed in a legally permanent home in accordance with a case plan or court order; or
- The removal is demonstrably in the best interests of the child.

The bill requires the lead agency to provide a caregiver and a child with any necessary supportive services to stabilize the child's current out-of-home placement if there is in danger of it needing modification. If the child is required to be removed notwithstanding the preventative services provided, the DCF or the lead agency must convene a MDT staffing before the child's placement is changed or within 72 hours of moving the child in an emergency situation to develop an appropriate transition plan.

The bill requires the DCF or lead agency to provide notice at least 14 days before moving a child from one out-of-home placement to another, which must include the reason a placement change is necessary. It must be filed with the court, and a copy be provided to the:

- Child, unless he or she, due to age or capacity, is unable to comprehend the written notice, which will necessitate the DCF or lead agency to provide notice in an age- and capacity-appropriate alternative manner;
- Child's parents, unless prohibited by court order;
- Child's out-of-home caregivers;
- Guardian ad litem, if appointed to the child; and
- Attorney for the DCF.

The bill also provides that the transition plan must be developed by the individuals required to receive notice of intent to move a child, and any relevant information must be shared and considered to ensure that the transition plan does all of the following:

- Respects the child's developmental stage and psychological needs;
- Ensures the child has all of his or her belongings and is allowed to help pack those belongings when appropriate;
- Allows for a gradual transition from the current caregiver's home with substantial overlap between the two caregivers and provides time for the child to have a final visitation with everyone important to him or her;
- Allows, when possible, for continued contact with the previous caregiver and others in the home; and
- Prohibits a change in placement that occurs between 7 p.m. and 8 a.m.

The bill requires the DCF or the lead agency to file the transition plan with the court within 48 hours after the creation of the plan and provide a copy of the plan to the specified persons who receive notice of intent to move the child.

The bill provides for additional considerations for transitions of infants and children under school age. Placement decisions for infants and children under 5 years of age in out-of-home care must focus on promoting security and continuity. Transition plans for infants and young children must describe the facts that were considered when each of the following were discussed and specify what decision was made as to how each of the following applies to the child:

- The age of the child and the child's current ability to accomplish developmental tasks, with consideration made for whether the child is:
  - Six months of age or younger; or
  - One year to 2 years of age.
- The length of time the child has lived with the current caregiver, the strength of attachment to the current caregiver, and the harm of disrupting a healthy attachment compared to the possible advantage of a change in placement.
- The relationship, if any, the child has with the new caregiver and whether a reciprocal agreement exists between the current caregiver and the prospective caregiver to maintain the relationship with both caregivers.
- The pace of the transition and whether flexibility exists to accelerate or slow down the transition based on the needs and reactions of the child.

The bill requires the lead agency to fully inform prospective caregivers of the child's needs and circumstances and ensure that he or she is willing and able to accept responsibility for providing high-quality care for such needs and circumstances before the child is placed. The bill requires the lead agency to review the caregivers' roles and responsibilities according to the parenting partnerships plan for children in out-of-home care pursuant to s. 409.1415, F.S., the case manager must sign a copy of it, and obtain the signature of the prospective caregiver acknowledging explanation of the requirements before placement of the child.

### *Education Transitions*

In addition to placement changes, the bill also establishes a number of provisions related to education transitions, which often occur in conjunction with a placement change, but may also be considered independently. The bill provides legislative findings, including that:

- Children in out-of-home care frequently changing child care, early education programs, and schools. These changes can occur when the child first enters out-of-home care, when the child must move from one caregiver to another, or when the child returns home upon reunification. Research shows that children who change schools frequently make less academic progress than their peers and fall further behind with each school change. Additionally, educational instability at any level makes it difficult for children to develop supportive relationships with teachers or peers. State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

The bill requires that the DCF and lead agency must make every effort to keep a child in his or her school of origin and that any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary. The DCF and lead agency must consult with the child, parents, caregiver, child welfare professional, guardian ad litem, and other

specified individual, including but not limited to, certain school staff, to determine which school is in the child's best interest to attend. The bill requires the DCF or the lead agency to create and implement an individualized education transition plan each time a child experiences a school change.

If it is not in the child's best interest to remain in the school or program of origin, the specified individuals must consider the following relevant factors when determining the school the child will attend, including, but not limited to:

- The child's desire to remain in the school or program of origin;
- The child's parents or legal guardians' school preference.
- The child's relationship with other students or mentors the school or program of origin;
- The child's cultural and community connections in the school or program of origin;
- Whether the child is suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or s. 504 of the Rehabilitation Act of 1973, or has begun receiving interventions under this state's multi-tiered system of supports;
- Whether the child has an evaluation pending for special education and related services under IDEA or s. 504 of the Rehabilitation Act of 1973;
- Whether the child is a student with a disability under IDEA who is receiving special education and related services or a student with a disability under s. 504 of the Rehabilitation Act of 1973 who is receiving accommodations and services and, if so, whether those required services are available in a school or program other than the school or program of origin;
- Whether the child is an English Language Learner student and is receiving language services, and, if so, whether those required services are available in the proposed new school or program;
- The impact a change to the school or program of origin would have on academic credits and progress toward promotion;
- The availability of extracurricular activities important to the child;
- The child's known individualized educational plan or other medical and behavioral health needs and whether such plan or needs are able to be met at the proposed new school or program;
- The child's permanency goal and timeframe for achieving permanency;
- The child's history of school transfers and how such transfers have impacted the child academically, emotionally, and behaviorally;
- The length of the commute to the school or program and how it would impact the child; and
- The length of time the child has attended the school or program of origin.

The bill specifically provides that the cost of transportation cannot be a factor in making the best interest determination.

***Transitions between child care and early education programs.***

The child must, if possible, remain with the familiar child care provider or early education program when their placement changes unless there is an opportunity to transition to a higher quality program. When this is not possible, however, the child's education transition plan must be made with the participation of the child's current and future school or program, and the plan

must give the child an opportunity to say goodbye to important figures in the educational environment.

### ***Transitions between K-12 schools.***

The bill requires that a transition plan for a school change between K-12 schools must include all of the following:

- The decision and any related details of all factors considered to change the child's school in accordance with reasons allowed for removal;
- Evidence that the DCF or lead agency has coordinated with local educational agencies to provide immediate and appropriate enrollment in a new school, including transfer of educational records, record of a school entry health examination, and arrangements for transportation to the new school;
- Discussion of the timing of the proposed school change which addresses the potential impact on the child's education and extracurricular activities;<sup>89</sup> and
- Information regarding transportation of the child to school.

### ***Transition Plan Documentation***

The bill requires the DCF, in collaboration with the Quality Parenting Initiative, to develop a form to be completed and updated each time a child experiences a change of placement covered under s. 39.4023, F.S. The updated form must be attached to the case record face sheet required to be included in the case file pursuant to s. 39.00146. (b), F.S. The form must be used statewide and, at a minimum, must include all of the following information:

- The membership of the MDT convened to develop a transition plan for the change in placement and the dates the team met;
- The identity of the MDT professional facilitator;
- The topics considered by the MDT; and
- The MDT's recommendations and the name of each individual or entity responsible for carrying out each recommendation.

The bill requires the DCF or the lead agency to document all MDT staffings and placement transition decisions in the FSFN. This information must be included in the social study report for judicial review.<sup>90</sup> The bill also provides the DCF with rulemaking authority to implement the provisions of the bill related to placement and education transitions.

### ***Placement of Siblings***

The bill creates s. 39.4024, F.S., relating to the placement of siblings and providing clarity to provisions that address placement decision of sibling groups. These provisions expand current law to highlight the importance provide clear guidance for these children that enter out-of-home care. The bill provides legislative findings related to sibling relationships including that:

- Sibling relationships can provide a significant source of continuity throughout a child's life, are likely to be the longest relationships that individuals experience, and that healthy

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<sup>89</sup> The bill provides that education plans for this level must include, at a minimum, grading periods, exam schedules, credit acquisitions, sports eligibility, and extracurricular participation.

<sup>90</sup> The judicial review referenced is as required under s. 39.701, F.S.

connections with siblings can serve as a protective factor for children who have been placed in out-of-home care.

- It is beneficial for a child who is placed in out-of-home care to be able to continue existing relationships with his or her siblings, regardless of age, so that they may share their strengths and association in their everyday and often common experiences.
- Healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care. The Legislature finds that child protective investigators and caseworkers should be aware of the variety of demographic and external situational factors that may present challenges to placement in order to identify such factors relevant to a particular group of siblings and ensure that these factors are not the sole reasons that siblings are not placed together.
- It is the responsibility of all entities and adults involved in a child's life to seek opportunities to foster existing sibling relationships to promote continuity and help to sustain family connections, including, but not limited to, the DCF, lead agencies, parents, foster parents, guardians ad litem, next of kin, and other persons important to the child.
- While there is a presumption in law and policy that it is in the best interest of a child going into foster care to be placed with any siblings the Legislature finds that overall well-being of the child and family improves when the person or team responsible for placement decisions evaluates the child's sibling and family bonds and prioritizes the bonds that are unique drivers of the child's ability to maintain and develop healthy relationships. The person or team with an understanding of the need to balance all attachment bonds of a child and the potential need to prioritize existing and healthy sibling relationships differently than a potential or unhealthy sibling relationship over a healthy existing bond with a caregiver will result in more stable and healthier placements for all children in out-of-home care

The bill provides the following definitions that apply to the provision related to the placement of siblings:

- "Lead agency" means a community-based care lead agency under contract with the DCF to provide care to children in foster care under chapter 409, F.S.
- "Multidisciplinary team" has the same meaning as provided in s. 39.4022, F.S.
- "Sibling", which is defined to mean:
  - A child who shares a birth parent or legal parent with one or more other children;
  - A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

### ***Placement Decisions***

The bill provides that the DCF is required to make reasonable efforts to place siblings who have been removed from their home and have an existing relationship in the same foster, kinship, adoptive, or guardianship home, when it is in the best interest of each sibling and when an appropriate, capable, and willing joint placement for the sibling group is available. Further, the bill provides that if a child is removed from his or her home after his or her sibling, the DCF or lead agency and the MDT must make reasonable efforts to initially place the child who has entered out-of-home care with his or her siblings in the sibling's existing placement, provided it would not jeopardize the stability of such placement and it is in the best interest for each child.

When determining whether to move a child from a current placement to a new placement when such change is instigated by a sibling relationship, all relevant factors must be considered by the MDT to ensure that the child is best served by the decision.

The bill clarifies that the DCF and the court are not required to make an initial placement or change in placement to develop a relationship between siblings which did not exist at the time a child is placed in out-of-home care.

The bill provides a number of considerations when determining how to place a child who is a part of a sibling group. To ensure that the placement decision is appropriate as early as possible, the bill provides that the DCF or lead agency must convene a MDT staffing in accordance with s. 39.4022, F.S., at the time a child who is a part of a sibling group is removed from the home to determine and assess the sibling relationships from the perspective of each child to ensure the best placement of each child in the sibling group. The MDT must consider all relevant factors included in ss. 39.4022 and 39.4024, F.S., including, but not limited to, the existing emotional ties between and among the siblings, the degree of harm each child is likely to experience as a result of separation, and the standard protocols established by the Quality Parenting Initiative.

The bill provides provisions that detail how the DCF or lead agency must place a child in a sibling group that has an existing relationship, including:

- Requiring that if the DCF or the appropriate lead agency is able to locate a caregiver that will accept the sibling group and the MDT determines that the placement is suitable for each child, the sibling group must be placed together.
- Requiring the DCF or lead agency to make all reasonable efforts to ensure contact and visitation between siblings placed in separate out-of-home care placements and provide reviews of the placements when the DCF or appropriate lead agency is not able to locate a caregiver or placement option that allows the sibling group to be placed together in an initial placement.

Further, if all the siblings are unable to be placed in an existing placement and the siblings do not have an existing relationship, when determining whether to move any child who is part of the sibling group from his or her current placement to a new placement that will unite the sibling group, the DCF or lead agency must consider all of the following additional factors:

- The presence and quality of current attachment relationships, including:
  - The quality and length of the attachment of the child to both the current and prospective caregiver
  - The age of the child at placement with the current caregiver and the child's current age as well as the ages of any siblings;
  - The ease with which the child formed an attachment to the current family;
  - Any indications of attachment difficulty in the child's history; and
  - The number of moves and number of caregivers the child has experienced.
- The potential of the new caregiver to be a primary attachment figure to the sibling group by ensuring care for each child's physical needs and the willingness and availability to meet the each child's emotional needs.
- The quality of existing sibling relationships and the potential quality of sibling relationships that can be formed between the children.

- The consideration of any costs and benefits of disrupting existing emotional attachments to a primary caregiver to place children in a new placement with siblings, including:
  - The length and quality of the established and current primary attachment relationships between the siblings and between the siblings and their current caregivers; and
  - Relationships between any other siblings and whether such relationships appear adequate and not stressful or harmful.
- The ability to establish and maintain sibling visitation and contact pursuant to this section in a manner and schedule that makes sense for an infant or young child if it is determined that the infant or young child is to remain with his or her primary caregivers rather than be placed with his or her siblings.
- The ability to establish and maintain contact with the sibling and new caregiver as part of a transition plan developed in accordance with s. 39.4023, F.S., before changing the child's placement to allow the child, his or her siblings, and new caregiver to adjust and form bonds.

The bill requires that if, after considering the required provisions and factors described above, the determination is that the child would benefit from being placed with his or her siblings, the transition of the child to the new home must be carried out gradually in accordance with s. 39.4023, F.S.

The bill requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols that incorporate the required provisions and factors and any other factors deemed relevant for use in making decisions about when placing siblings together would be contrary to a child's well-being or safety or decisions providing for frequent visitation and contact. These protocols will be used by the DCF and lead agency.

The Legislature finds that regular contact among a sibling group that cannot be placed together, especially among siblings with existing attachments to each other, is critical for the siblings to maintain their existing bonds and relationships or to develop such bonds and attachments, if appropriate. The bill requires the following practices to be considered in helping to maintain or strengthen the relationships of separated siblings:

- Respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, must be provided by the caregiver, and he or she must assist the child in maintaining allowable visitation and other forms of communication. The DCF and lead agency must provide a caregiver with the information, guidance, training, and support necessary for fulfilling this responsibility.
- Provide adequate support to address any caregiver concerns and to enhance the caregiver's ability to facilitate contact between siblings who are not in the same out-of-home placement and promote the benefits of sibling contact.
- Prioritize placements with kinship caregivers who have an established personal relationship with each child so that even when siblings cannot be placed together in the same home, kinship caregivers are more likely to facilitate contact.
- Prioritize placement of siblings geographically near each other, such as in the same neighborhood or school district, to make it easier for the siblings to see each other regularly.
- Encourage frequent and regular visitation, if the siblings choose to do so, to allow the children to be actively involved in each other's lives and to participate in celebrations,



including, but not limited to, birthdays, graduations, holidays, school and extracurricular activities, cultural customs, and other milestones.

- Provide other forms of contact when regular in-person meetings are not possible or are not sufficient to meet the needs or desires of the siblings, such as maintaining frequent contact through letters, e-mail, social media, cards, or telephone calls.
- Coordinate, when possible, joint outings or summer or weekend camp experiences to facilitate time together, including, but not limited to, activities or camps specifically designed for siblings in out-of-home care.
- Encourage joint respite care to assist the caregivers who are caring for separated siblings to have needed breaks while also facilitating contact among the siblings, including, but not limited to, providing babysitting or respite care for each other.
- Prohibit the withholding communication or visitation among the siblings as a form of punishment.

The bill authorizes the court to limit or restrict communication or visitation upon a finding by clear and convincing evidence that the communication or visitation is harmful to the child. If the court makes such a finding, it must direct the DCF or lead agency to immediately provide services to ameliorate the harm so that communication and visitation may be restored as soon as possible.

The bill requires the DCF and the lead agency to periodically, but at least once every 6 months, reassess sibling placement, visitation, and other sibling contact decisions in cases where siblings are separated, not visiting, or not maintaining contact to determine if a change in placement is warranted unless the decision to not place a child with his or her sibling group was made due to such placement being inappropriate, unhealthy, or unsafe for the child.

Further, the bill requires the lead agency to provide services to the caregiver and sibling group in accordance with s. 39.4023(3), F.S., to try to prevent the disruption of a placement if a child in a sibling group who has been placed in an out-of-home care placement with his or her siblings does not adjust to the placement. However, if after reasonable efforts are made under s. 39.4023(3), F.S., the child still has not adjusted to the out-of-home placement, a MDT staffing must be convened to determine what is best for all of the children. The MDT is required to review the current placement of the sibling group and choose a plan that will be least detrimental to each child. The MDT must develop a transition plan in accordance with ss. 39.4022 and 39.4023, F.S., if the decision is to move the child to ensure the opportunity for the siblings to maintain contact.

The DCF or lead agency must convene a MDT staffing within a reasonable amount of time after the discovery of such sibling to decide if the current placement or permanency plan requires modification if it becomes known that a child in out-of-home care has a sibling of whom the child, DCF, or lead agency was previously unaware.

The bill provides a number of other provisions related to a child and his or her siblings including:

- Requiring the DCF to promptly provide a child with the location of and contact information for his or her siblings and must make reasonable efforts to ascertain such information if the existence or location of or contact information for a child's siblings is not known.

- Providing that a child has a right to continued communication with his or her sibling if the child's sibling is also in out-of-home care and such sibling leaves out-of-home care for any reason, including, but not limited to, emancipation, adoption, or reunification with his or her parent or guardian.
- Requiring the DCF or the lead agency to document in writing any decision to separate siblings in the case file as required in s. 39.00146, F.S., and document the decision in the FSFN, including any efforts made to keep the siblings together, an assessment of the short-term and long-term effects of separation on each child and the sibling group as a whole, and a description of the plan for communication or contact between the children if separation is approved.

The bill requires the DCF to adopt rules to implement this section of the bill.

### **Postdisposition Change of Custody**

A MDT staffing must be convened to try to reach a consensus on a postdisposition change of placement under s. 39.522, F.S. If any party or the caregiver denies the change of physical custody, the court must have an evidentiary hearing and consider the factors listed in s. 39.4022, F.S.;<sup>91</sup> the report filed by the MDT team, if applicable; and the priority of placements established under s. 39.4021, F.S., discussed above.

The bill creates a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current physical placement if:

- The child has been in the same safe and stable placement for 9 consecutive months or more;
- Reunification is not a permanency option for the child;
- The caregiver is able, willing, and eligible for consideration as an adoptive parent or permanent custodian for the child;
- The caregiver is not requesting the change in physical placement; and
- The change in physical placement being sought is not to reunify the child with his or her parent or sibling or transition the child from a safe and stable nonrelative caregiver to a safe and stable relative caregiver.

The bill defines "change of physical custody" to mean a change by the DCF or lead agency to the child's physical residential address even when such change does not require a court order to change the legal custody of the child.

The court must consider competent and substantial evidence and testimony at an evidentiary hearing, related to the factors enumerated in s. 39.4022, F.S., expert evidence in the science and research of child-parent bonding and attachment, and any other evidence deemed relevant to a determination of placement. The presumption may not be rebutted solely by the expressed wishes of a biological parent, a biological relative, or a caregiver of a sibling of the child.

The bill also provides that a current caregiver who has had physical custody of a child for at least 9 consecutive months and who meets all the required criteria in the section is required to be notified by the DCF or lead agency of an intent to change the physical custody of the child at

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<sup>91</sup> This is an expanded list of factors that includes, in part, those currently listed in s. 39.523, F.S.

least 21 days before the desired date for transitioning the child to the new physical custody placement. A caregiver may notify the court and the DCF or lead agency of any objection to the change in physical custody and the intent to request an evidentiary hearing in writing as soon as possible after receiving notice from the DCF or the lead agency, but no later than 5 days before the desired date for transitioning the child to the new physical custody placement.

The child's placement must not be changed without a court order once the DCF or the lead agency receives written notice of the caregiver's objection.

The court must conduct an initial case status hearing within 7 days after receiving written notice from the caregiver, at which time the court must:

- Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months;
- Appoint a lawyer for the child who is the subject of the permanent custody proceeding;
- Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and
- Appoint a court-selected neutral and independent expert in the science and research of child-parent bonding and attachment.

The bill requires, no later than 90 days from the date the caregiver provides written notice of objection to the court, it must conduct an evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child. A copy of the order must be provided to all parties and the current caregiver and prospective caregiver. If the court decides that the child's placement will be modified from his or her current caregiver after an evidentiary hearing, the DCF or lead agency must provide an appropriate transition plan in accordance with s. 39.4023, F.S.

As noted above, the bill amends s. 39.523, F.S., removing the list of factors that the MDT must gather and consider at staffings to assess postdisposition change of placement, and cross-references s. 39.4022, F.S., which is one of the new sections which consolidated these factors with other factors in s. 39.522, F.S., to create one comprehensive list to consider when determining what is in a child's best interest.

### **Case Record Face Sheet**

The bill creates s. 39.00146, F.S., implementing the use of a case record sheet with all child welfare cases in Florida. To achieve this goal, the bill provides definitions for the following terms "Multidisciplinary team", "Placement change", "School", and "Sibling", and all have the same meanings as discussed above.

The bill requires that the case record of every child under the supervision or in the custody of the DCF, the DCF's agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, must include a face sheet containing relevant information about the child and his or her case, including at least all of the following:

- General case information, including, but not limited to:
  - The child's name and date of birth;
  - The current county of residence and the county of residence at the time of the referral;

- The reason for the referral and any family safety concerns;
- The personal identifying information of the parents or legal custodians who had custody of the child at the time of the referral, including name, date of birth, and county of residence;
- The date of removal from the home; and
- The name and contact information of the attorney or attorneys assigned to the case in all capacities, including the attorney or attorneys that represent the DCF and the parents, and the guardian ad litem, if appointed to the child.
- The name and contact information for any employees of the DCF, the DCF's authorized agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, who have worked with the child, including the child's current and previous case managers, and the supervisor information for such employees.
- The personal information of relevant family members and other fictive kin, including, but not limited to, the name and contact information of:
  - The child's parents;
  - The child's siblings, , including the location of the current out-of-home placement, if applicable;
  - The child's current caregivers and any previous out-of-home placements;
  - Any other caretaking adults; and
  - All children in the out-of-home placement, if applicable.
- A description of any threats of danger placing the child at imminent risk of removal.
- A description of individual parent or caregiver concerns for the child.
- Any concerns that exist regarding the parent or the current caregiver's ability to:
  - Engage or bond with the child if the child is an infant;
  - Structure daily activities that stimulate the child;
  - Manage the child's behavior;
  - Maintain a safe home; or
  - Make good health decisions for the child.
- Any transitions in placement the child has experienced since the child's initial placement and a description of how such transitions were accomplished in accordance with s. 39.4023
- If the child has any siblings and they are not placed in the same out-of-home placement, the reasons the children are not in joint placement and the reasonable efforts that the DCF or appropriate lead agency will make to provide frequent visitation or other ongoing interaction between the siblings, unless the court determines that the interaction would be contrary to a sibling's safety or well-being in accordance s. 39.4024, F.S.
- Information pertaining to recent and upcoming court hearings, including, but not limited to, the date, subject matter, and county of court jurisdiction of the most recent and next scheduled court hearing.
- Any other relevant information.

The bill requires the DCF, the DCF's authorized agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, to ensure that the face sheet for each case is updated at least once per month. The DCF must obtain updated information from any case service providers working on the case.

The bill provides the DCF with rulemaking authority to implement provisions relating to case record face sheets.

The bill is effective October 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:

The bill requires the DCF or lead agency to develop a transition plan for each placement change that occurs. The DCF states that this requirement will impact the lead agencies. The DCF states that, according to the Florida Safe Families Network (FSFN) data, there were 22,705 placement changes in FY 2019-2020 where a child moved from one caregiver to another, including moves to a relative, nonrelative, foster home, group home, and reunification with a parent. The data currently collected in FSFN does not include moves between rooms or buildings operated by group homes for which the DCF would also be required to develop a transition plan. The DCF states that it typically requires a case manager on average 8 hours to develop a transition plan that includes the components and consultation with the interested persons outlined in the bill. The DCF further provides that this provision will require at least 98 new case management

positions, with a total need for salary, expenses, and travel anticipated to be \$8,093,428 (\$7,657,524 in recurring and \$435,904 in nonrecurring).<sup>92</sup>

C. Government Sector Impact:

The DCF states in the agency analysis dated February 2, 2021, that SB 80, as filed, will have a negative significant fiscal impact on state government and the private sector related to the child and family teams and transition plans. Specifically, the DCF states that to fulfill the requirements of the teams it needs at least 174 FTEs for the statewide facilitators referenced to lead a meeting each time there is a placement change and on an annual basis in conjunction with the child's permanency hearing. The total need for the anticipated FTEs cited in that analysis is \$14,313,442 (\$13,539,490 in recurring and \$773,952 in nonrecurring).<sup>93</sup> Further, the DCF stated that the fiscal impact of the requirement that a mental health professional with expertise in sibling bonding would result in additional expenditures to the DCF of additional \$1,653,000 for staffings and court testimony.<sup>94</sup>

However, CS/SB 80 substantially amended the provisions that were attributed by the DCF to result in this significant fiscal impact, including, in part, to clarify that the MDTs provided for in CS/SB 80 are intended to operate in a substantially similar manner as is under current law. To the extent that these changes reduced the need for additional FTEs, the CS/SB 80 will likely have a positive indeterminate fiscal impact on state government and the private sector.

Further, it should be noted that the DCF has provided supplemental information to Senate professional staff that there are a number of MDT staffings currently being conducted by the DCF or lead agency that involve very similar structure for the participant members as well as purpose. As a result, in light of this supplemental information and the provisions found in CS/SB 80, additional information will need to be gathered from the DCF to understand the expenditure and FTE needs of the bill.<sup>95</sup>

Lastly, the DCF provides that the bill is expected to require significant changes to the FSFN system to support data currently not in FSFN and the development of web services to provide the data required for the case record face sheet to an external system. In addition to the FSFN changes and web services, the DCF states that will be a cost estimate to license an external provider solution that already has a Face Sheet, which will be a recurring annual cost that covers licensing and support. The DCF provides that the total estimate for the FSFN changes, web services, and an external provider solution will range between \$1,430,500 to \$2,284,000, depending on a number of factors.<sup>96</sup>

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<sup>92</sup> The DCF, *Agency Analysis for SB 80*, p. 17-18, February 2, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs)(hereinafter cited as "The DCF SB 80 Analysis").

<sup>93</sup> The DCF Analysis, p. 16.

<sup>94</sup> *Id.*

<sup>95</sup> See The DCF Supplemental Information.

<sup>96</sup> The DCF SB 80 Analysis, p. 18-20.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends ss. 39.401, 39.402, 39.522, 39.523 and 39.806 of the Florida Statutes.

This bill creates ss. 39.00146, 39.4021, 39.4022, 39.4023, and 39.4024, 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 16, 2021:**

The committee substitute:

- Requires the DCF and lead agencies to develop a “FACE sheet”, which must include minimum information related to the child’s case to be kept in the dependency case file as a quick reference resource.
- Requires the DCF and the lead agencies to update the FACE sheet at least once a month.
- Provides legislative findings and intent related to priority placements for children in out-of-home care.
- Expands and relocates the list of persons that should be considered as priority placements for these children and ensure this priority list applies to initial and for all subsequent removals.
- Relocates and expands existing MDT teams to ensure better decisions for the child through engaging with families and other important individuals.
- Provides legislative intent for MDT, staffings, and assessments and provide a definition for the term “multidisciplinary team”.
- Enumerates circumstances when the MDT must be convened within specified timeframes, including to consider placement decisions, transitions and transition plans, and sibling placements.
- Specifies the participants that must be invited and provide authority for the DCF or lead agency to invite other relevant participants and requires the MDT staffing to be led by a facilitator who is a person otherwise required to attend the staffing.
- Requires MDT staffing participants to gather and consider data and information on the child before formulating a decision.
- Requires MDTs to conduct supplemental assessments for children under age 3, including specified additional data to collect and factors to consider when making decision relating to such children.

- Requires that a consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision, provides procedures for when the MDT does not reach a consensus decision, and requires the facilitator to file a report with the court providing specified information within a certain time frame.
- Requires the lead agency to determine a suitable placement if the MDT cannot come to a consensus decision.
- Authorizes specified parties to discuss confidential information during a team staffing in the presence of participating individuals and provides that information collected by any agency or entity that participates in a MDT staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in staffings.
- Provides legislative findings and intent related to changes in placement and defines the terms “educational change”, “emergency situation”, “placement change”, and “school”.
- Requires the DCF and lead agency to convene the MDT to develop transition plans for placement changes and education transitions that focus minimizing the impact on the child within specified time frames for emergency versus nonemergency circumstances.
- Requires the lead agencies to provide services to a caregiver intended to try and prevents a placement disruption prior to convening the MDT to develop a transition plan.
- Clarifies that a child may be removed from his or her home in an emergency without convening the MDT for transition plan development prior to removal.
- Provides that the transition plans address specialized concerns, including additional specified factors, which include consideration of additional specified factors for children that are younger than 3 years of age.
- Requires the DCF and lead agency to consider certain factors when determining the best education placement for a child and provides additional considerations for transitions of early education or programs versus K-12 education schools.
- Requires that prospective caregivers are prepared for accepting the child who is being transitioned to their home, including providing information on the child and the transition plan.
- Requires the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative to be attached to the FACE sheet.
- Provides legislative findings related to siblings in out-of-home care and define the terms “multidisciplinary team”, “lead agency”, and “sibling”.
- Specifies how the DCF and the lead agencies must handle changes in placement and educational settings and transitions of sibling groups throughout the dependency process.
- Requires that the DCF must make reasonable efforts to place sibling groups together when they are removed at the same time from the same home and on an initial placement of a child who enters out-of-home care later than his or her siblings if it won’t disrupt the placement and provides that the DCF and the court are not required to make an initial placement or change of placement to develop a sibling bond that does not exist.



- Requires the DCF or lead agency to convene a MDT staffing to make a decision regarding placements of sibling groups and establishes specified criteria for the DCF or lead agency to consider when determining initial placement and for the court to consider when a change of placement is sought for sibling groups that have certain existing relationships as well as additional factors for consideration when the siblings may not have an existing relationship.
- Provides specified factors to consider when determining placement of a child who is part of a sibling group and is younger than 3 years of age.
- Requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols for the DCF and lead agency for use in making specified decisions about child placement.
- Provides for the contact and visitation between siblings who are not placed together in out-of-home care that will assist the siblings with continuing established relationships or possibly developing a relationship.
- Requires subsequent reviews by the MDT for sibling groups when a child does not adjust to a placement with his or her siblings after certain services are offered or in the event a sibling group is not placed together.
- Creates a rebuttable presumption that in specified cases the best interest of the child is to continue the current placement and require the court to conduct an evidentiary hearing to determine the best placement.
- Requires the caregiver, in response to receiving written notice of the DCF or lead agency's intent to change a placement, to file written notice to the court and the DCF requesting the evidentiary hearing.
- Requires the court to hold the initial status hearing and conduct the evidentiary hearing within specified timeframes and prohibits the DCF from moving the child until a court order states to do so.
- Requires the court to appoint an attorney for the child and an expert in attachment and bonding and authorizes the caregiver to retain counsel.

B. Amendments:

None.