

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 92

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Bean

SUBJECT: Department of Children and Families

DATE: April 21, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Fav/CS
3.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 92 makes a number of changes to various provisions related the Department of Children and Families (DCF) and entities under contract with the DCF, including community-based care lead agencies (lead agency) and managing entities (ME), who operate and provide services in the child welfare and behavioral health systems in accordance with chapters 394 and 409, F.S., respectively.

The bill makes the following changes:

- Requires, rather than authorizes, the DCF, contracted sheriffs' offices, and lead agencies to develop a formal family-finding program. The program must be implemented as soon as a child is taken into custody.
- Requires, rather than authorizes, each lead agency to establish a kinship navigator program.
- Removes the limitations for the family-finding and kinship navigator programs that tie the development of such programs to available resources.
- Requires the DCF to treat foster parents and other caregivers with dignity, respect, and trust while ensuring delivery of services is focused on the best interest of the child.
- Requires the DCF, rather than encourages, to provide information, training, and support to foster parents and caregivers except as otherwise provided by state or federal law.
- Amends the DCF's duties to collect and post information regarding the managing entities and lead agencies' compensation and findings of the multi-year review of their financial position.

- Removes requirement that the lead agencies post their current budgets on their websites and relocating it to the above-mentioned provision.
- Adds additional information that must be published by lead agencies on their websites to include the total number and percentage of case managers who have 25 or more cases on their caseloads.
- Requires lead agencies to fund the cost of increased care if subcontracted service providers must provide services that are beyond the contract limits due to increased client need or caseload.
- Requires through their contracts with the DCF that the lead agencies demonstrate the ability to adhere to best child welfare practices enumerated in chapters 39 and 409, Florida Statutes, and provide information on their adherence to such best practices.
- Requires board members or officers of a managing entity or lead agency to disclose specified activity that may reasonably be construed as a conflict of interest. The bill provides procedures to follow to address the potential conflict of interest.
- Requires the DCF to create a community alliance in each service area of the lead agency, rather than in each county, to align with the current service model in Florida.
- Modifies the membership of the community alliances by allowing the number of representative members to be increased from 20 to up to 30 members to provide for adequate representation of the diverse population within the service area.
- Directs the DCF to work in collaboration with the local community alliances to achieve community-focused delivery of child welfare services. Provides for an alternative plan that establishes an innovative consortium of partners in communities where conditions make it infeasible to competitively contract with a lead agency.
- Authorizes the DCF to review any decision by a department-recognized credentialing entity to impose a sanction against a child welfare professional upon request of an administrative hearing pursuant to ch. 120, F.S.
- Authorizes competency restoration treatment to be provided at any facility deemed appropriate by the DCF for a forensic client who is held in a jail awaiting admission to a facility and who is likely to regain competence to proceed in the foreseeable future.
- Creates a program that allows Florida to partner with national experts to implement a new child and family well-being system and requires the Florida Institute of Child Welfare to report to Governor and the Legislature annually on program compliance and outcomes.

The DCF estimates a fiscal impact on local government of \$513,189, state government of \$4,713,147, and the lead agencies of \$15,175,268 to implement the family-finding and kinship navigator programs required under the bill. Additionally, the bill is projected to cost state government \$360,000 annually for two years to contract with national experts on implementation of a new child and family well-being system. See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2021.

II. Present Situation:

The DCF was created to support and promote stable and safe families.¹ The DCF is required to work with local partners to provide services by contract through private providers to the extent

¹ See s. 20.19, F.S.

allowed by law and within specified appropriations.² The DCF is responsible for providing services relating, amongst other services, to:

- Child care regulation;
- Child welfare;
- Domestic violence;
- Economic self-sufficiency;
- Homelessness;
- Mental health and substance abuse;
- Refugee services; and
- Human trafficking.³

Some of these services, which are affected by the bill, are explained in more detail below.

Community-based Care Lead Agency

The DCF operates a community-based care child welfare system that outsources foster care and related services to agencies with an increased local community ownership to enhance accountability, resource development, and system performance.⁴ The DCF contracts with community-based care lead agencies (lead agency) to provide direct or indirect child welfare services.⁵

The DCF Duties

Notwithstanding that services are contracted with local lead agencies, the DCF remains responsible for providing child welfare and support services in accordance with federal and state law.⁶ The Legislature has articulated several duties with which DCF must comply, including, in part, all of the following:

- Ensuring the DCF's contracts with the lead agencies contain specified terms, including to:
 - Provide for the services which must be provided as required under s. 409.988, F.S., and provide relevant information to the DCF related to the quality assurance program and the child welfare results-oriented accountability system;
 - Provide for tiered interventions and graduated penalties for failure to comply with the contract or performance deficiencies;
 - Require the lead agencies to provide current and accurate information of its activities related to case records in the statewide automated child welfare information system; and
 - Specify the procedures to resolve differences in interpreting the contract or to resolve a disagreement amongst the parties regarding compliance with the contract.
- Developing and maintaining written policies and procedures for monitoring compliance with the services that must be provided by lead agencies under their contracts and posted on the DCF website.

² Section 20.19(1)(c), F.S.

³ Section 20.19(4), F.S.

⁴ The DCF, *Community-Based Care*, available at <https://www.myflfamilies.com/service-programs/community-based-care/overview.shtml> (last visited Feb. 16, 2021).

⁵ *Id.*

⁶ Section 409.996, F.S.

- Developing and implementing statewide and local interagency agreements to coordinate services that need to be provided to children and parents.
- Establishing a quality assurance program for contracted services to dependent children; and
- Evaluating lead agencies under contract at least once annually.⁷

Contracted Lead Agencies

A lead agency is a single entity with which the DCF has a contract for the provision of care in the child protection and welfare system.⁸ The DCF enters into 5-year contracts with lead agencies for the procurement of services.⁹ There are minimum requirements with which lead agencies must comply to be eligible to contract with the DCF, including, but not limited to:

- The lead agency must be organized as a Florida corporation or a governmental entity;¹⁰
- The board of directors or board committee must have the authority to approve the lead agency's budget and to hire the lead agency's executive director;¹¹ and
- The lead agency must also demonstrate financial responsibility by having a plan for regular fiscal audits and securing a performance bond.¹²

The lead agencies are obligated to perform several duties including, in part, to:

- Serve the children who are referred as a result of abuse, abandonment, or neglect reports;
- Provide accurate and timely information to the DCF, as specified in s. 409.997, F.S.;
- Follow financial guidelines developed by the DCF and provide for a regular independent audits;
- Post its current budget, including the salaries, bonuses and other compensation paid to the agency's chief executive officer, chief financial officer, and chief operating officer, or their equivalents, on the lead agency's website;
- Prepare and file all necessary court documents, and attend dependency court proceedings to give evidence;
- Ensure all individuals providing care to dependent children receive training and specified information and meet employment requirements;
- Maintain eligibility to receive all available federal child welfare funds;
- Maintain written agreements with Health Families Florida lead entities;
- Comply with federal and state statutory requirements and agency rules in the provision of contractual rules;
- Use authority to subcontract for the provision of services provided the lead agency contribute to services and meet specified criteria; and
- Post information regarding case management services on its website by a specified date.¹³

⁷ *Id.*

⁸ Section 409.986(3)(d), F.S.

⁹ Section 409.987(3), F.S.

¹⁰ Section 409.987(4)(a), F.S.

¹¹ Section 409.987(4)(b), F.S.

¹² Section 409.987(4)(c), F.S.

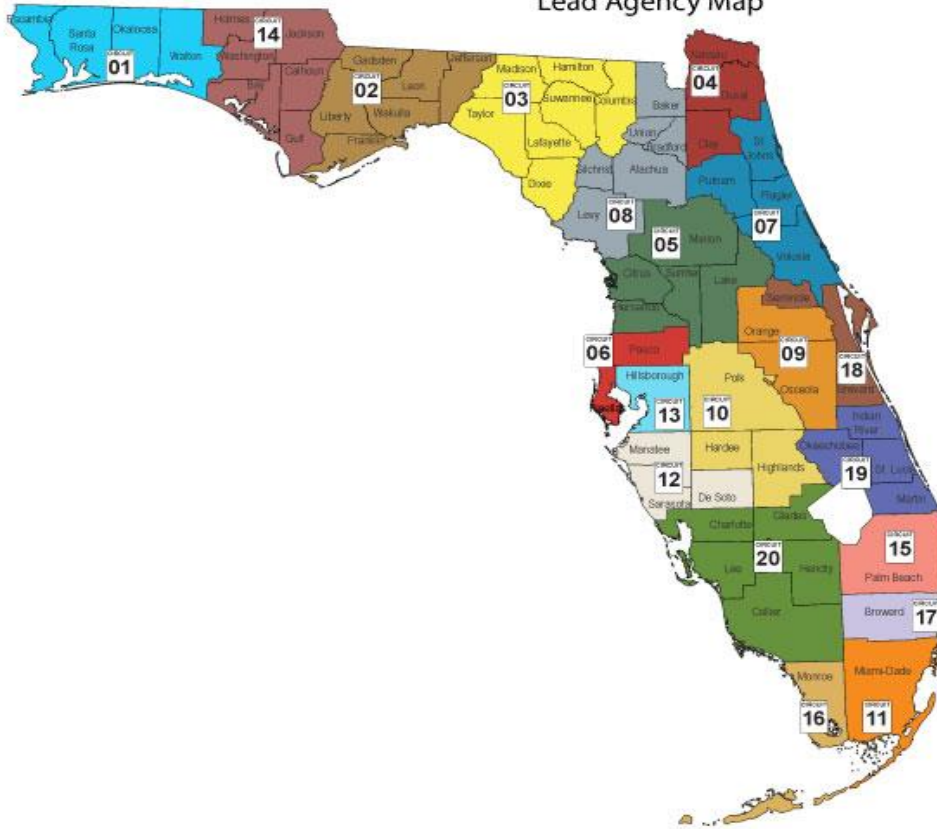
¹³ Section 409.988(1), F.S. Further, s. 409.988(1)(k), F.S., provides that lead agencies and subcontracted case management providers must disclose the average caseload of case managers for filled positions, the turnover rate for case managers and their supervisors for the previous 12 months, the percentage of required home visits completed, and performance on outcome measures required under s. 409.997, F.S., for the previous 12 months.

The DCF contracts with the following lead agencies as illustrated in the table and map below:¹⁴

Lead Agency	Circuit(s)
Lakeview Center, Families First Network	1
Big Bend Community Based Care, Inc.	2 & 14
Partnership for Strong Families	3 & 8
Family Support Services of North Florida, Inc.	4 (Duval and Nassau)
Kids First of Florida, Inc.	4 (Clay)
Kids Central, Inc.	5
Eckerd Community Alternatives	6 and 13
St Johns County Board of County Commissioners	7 (St Johns)
Community Partnership for Children, Inc.	7 (Flagler, Volusia, Putnam)
Embrace Families	9 and 18 (Seminole)
Heartland for Children	10
Citrus Family Care Network	11 and 16
Safe Children Coalition	12
ChildNet Inc.	15 and 17
Brevard Family Partnership	18 (Brevard)
Communities Connected for Kids	19
Children's Network of SW Florida	20

¹⁴ The DCF, *Lead Agency Map, Community-Based Care*, available at: <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited March 11, 2021).

Community-Based Care Lead Agency Map



Funding

Section 409.990, F.S., requires that a contract between the DCF and a lead agency be funded through General Revenue, or other applicable state or federal funding sources.¹⁵ Lead agencies must allocate their funding as provided under Florida law based on a proportion of child population, child abuse hotline workload, and children in care.¹⁶

Quality Assurance

The DCF shares responsibility with lead agencies and subcontractors to maintain a results-oriented accountability program that monitors and measures the use of resources, services provided, and outcomes achieved.¹⁷ Reports must be produced quarterly, at a minimum, and

¹⁵ Section 409.990, F.S.

¹⁶ Section 409.991(2), F.S., provides that core services funds are calculated based on the proportion of the (a) child population weighted as 5 percent of the total; (b) child abuse hotline workload weighted as 35 percent of the total; and (c) children in care weighted as 60 percent of the total. Section 409.991(3), F.S., provides that beginning in the 2015-2016 fiscal year, 100 percent of the recurring core services funding must be based on the prior year recurring base core services funds, and any new funding be allocated as: (a) seventy percent of new funding amongst all lead agencies and (b) thirty percent of new funding to lead agencies that are funded below their equitable share.

¹⁷ Section 409.997(2), F.S.

published on the DCF's website.¹⁸ The DCF reports the results in a quarterly scorecard which summarizes key issues, namely safety, permanency, and well-being metrics.¹⁹

Community Alliances

The DCF is required to establish community alliances²⁰ which shall be made up of local stakeholders and representatives in each county to encourage and maintain community participation, and governance of community based services.²¹ Each community alliance may encompass more than one county when such arrangement is determined to provide for more effective representation.²² Community alliances have a duty, amongst other obligations, to serve as a catalyst for community resource development and promote prevention and early intervention.²³

Community alliances are composed of a representative from the DCF, the county government, the school district, the county United Way, the county sheriff's office, the circuit court corresponding to the county, the county children's board, if one exists, and a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, and promote adoptions.²⁴ The community alliances must adopt bylaws and may increase the membership of the alliance if such increase is necessary to adequately represent the diversity of the population.²⁵ The additional members may include states attorneys, public defenders, their designees, or individuals from funding organizations, community leaders or individuals who have knowledge of community-based service issues.²⁶

Prior to 2014, s. 409.1671(1)(d), F.S., in part, provided that the DCF could develop an alternative plan to outsource services in an area if it was impossible or not feasible to competitively contract with a lead agency.²⁷ The DCF was required to develop a plan in collaboration with the local community alliance.²⁸ It was required to detail how the community would implement community-based care through local providers, and to ensure control over management and administration of services.²⁹ A plan developed under this former provision had to include best business practices, including some form of public and private partnerships.³⁰

¹⁸ Section 409.997(2)(g), F.S.

¹⁹ The DCF, *CBC Scorecard*, available at <https://www.myflfamilies.com/programs/childwelfare/dashboard/cbc-scorecard.shtml> (last visited March 11, 2021).

²⁰ Section 409.986(2)(c), FS., defines "community alliance" to mean the group of stakeholders, community leaders, client representatives, and funders of human services established pursuant to s. 20.19(5), F.S., to provide a focal point for community participation and oversight of community-based services.

²¹ Section 20.19(5)(a), F.S.

²² *Id.*

²³ Section 20.19(5)(b), F.S.

²⁴ Section 20.19(5)(d), F.S.

²⁵ Section 20.19 (5)(e), F.S.

²⁶ *Id.*

²⁷ Chapter 2014-224, s. 46, Laws of Fla.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Chapter 2014-224, s. 46 Laws of Fla.

Managing Entities (MEs)

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.³¹

In 2001, the Legislature authorized the DCF to implement behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.³² The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.³³ Full implementation of the statewide ME system occurred in 2013 and all geographic regions are now served by a managing entity.³⁴

The DCF Duties

The DCF must also comply with duties with respect to the MEs, including, in part, to:

- Contract and conduct readiness reviews;
- Specify data reporting requirements and use of shared data systems;
- Define the priority populations that will receive care coordination;
- Support the development and implementation of a coordinated system of care;
- Contract to support efficient and effective administration and ensure accountability for performance; and³⁵
- Periodically review contract and reporting requirements and reduce costly, duplicative, and unnecessary administrative requirements.³⁶

Contracted MEs

The MEs are required to comply with various statutory duties, including, in part, to:

- Maintain a governing board;
- Promote and support care coordination;³⁷
- Develop a comprehensive list of qualified providers;
- Monitor network providers' performances;
- Manage and allocate funds for services in accordance with federal and state laws, rules, regulations and grant requirements; and

³¹ See chs. 394 and 397, F.S.

³² Chapter 2001-191, Laws of Fla.

³³ Chapter 2008-243, Laws of Fla.

³⁴ Florida Tax Watch, *Analysis of Florida's Behavioral Health Managing Entity Models*, p. 4 (March 2015) available at <https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15758/Analysis-of-Floridas-Behavioral-Health-Managing-Entities-Model> (last visited March 11, 2021).

³⁵ Section 394.9082(7), F.S., details the performance measurements and accountability requirements of MEs.

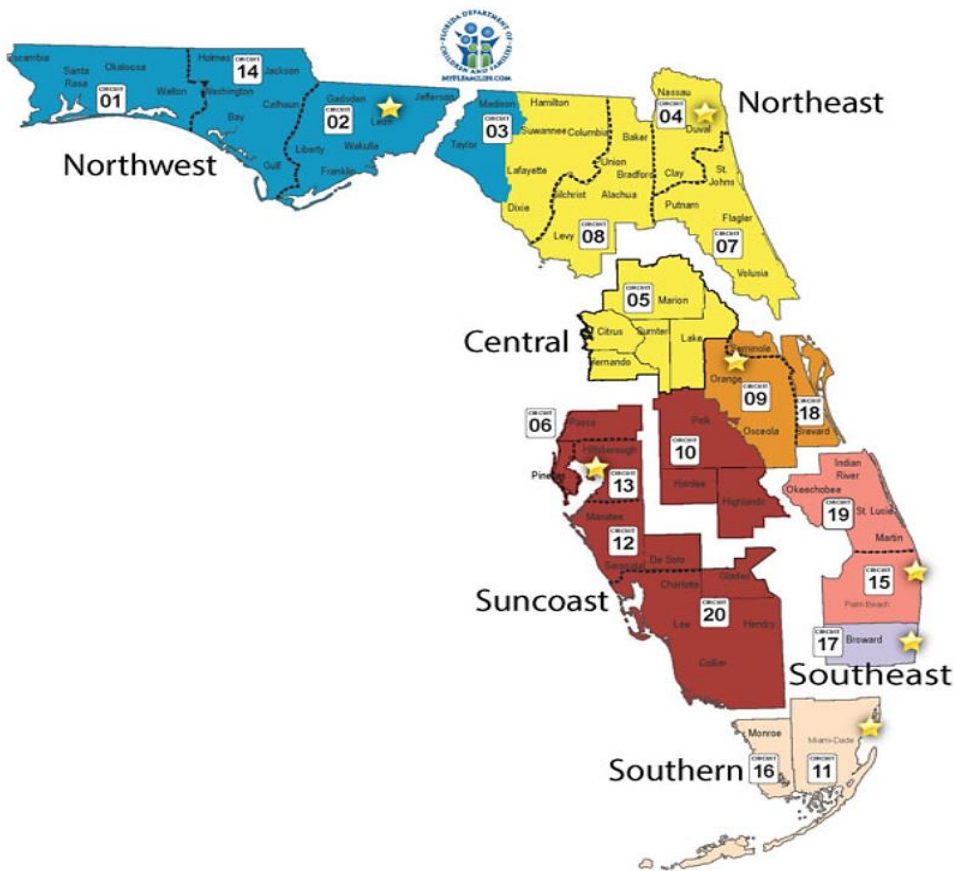
³⁶ Section 394.9082(3), F.S.

³⁷ Section 394.9082(6), F.S., sets out the network accreditation and systems coordination agreement requirements.

- Operate in a transparent manner, providing access to information, notice of meetings, and opportunities for public participation in ME decision making.³⁸

The DCF contracts with seven MEs as shown in the map below and summarized as follows:

- Big Bend Community Based Care (blue).
- Lutheran Services Florida (yellow).
- Central Florida Cares Health System (orange).
- Central Florida Behavioral Health Network, Inc. (red).
- Southeast Florida Behavioral Health (pink).
- Broward Behavioral Health Network, Inc. (purple).
- South Florida Behavioral Health Network, Inc. (beige).³⁹



³⁸ Section 394.9082(5), F.S.

³⁹ The DCF, *Managing Entities*, <https://www.myflfamilies.com/service-programs/samh/managing-entities/> (last visited March 11, 2021).

The MEs in turn contract with local service providers for the delivery of mental health and substance abuse services.⁴⁰ In Fiscal Year 2018-2019, the network service providers under contract with the MEs served 339,093 individuals.⁴¹

Coordinated System of Care

MEs are required to promote the development and implementation of a coordinated system of care.⁴² A coordinated system of care means a full array of behavioral and related services in a region or community offered by all service providers, participating either under contract with a ME or by another method of community partnership or mutual agreement.⁴³ A community or region provides a coordinated system of care for those suffering from mental illness or substance abuse disorder through a no-wrong-door model, to the extent allowed by available resources. If funding is provided by the Legislature, DCF may award system improvement grants to MEs.⁴⁴ MEs must submit detailed plans to enhance crisis services based on the no-wrong-door model or to meet specific needs identified in DCF's assessment of behavioral health services in this state.⁴⁵ The DCF must use performance-based contracts to award grants.⁴⁶ There are several essential elements that make up a coordinated system of care, including all of the following:

- Community interventions.
- Case management.
- Care coordination.
- Outpatient services.
- Residential services.
- Hospital inpatient care.
- Aftercare and post-discharge services.
- Medication assisted treatment and medication management.
- Recovery support.⁴⁷

A coordinated system of care must include, but is not limited to, the following array of services:

- Prevention services.
- Home-based services.
- School-based services.
- Family therapy.
- Family support.
- Respite services.
- Outpatient treatment.
- Crisis stabilization.

⁴⁰ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

⁴¹ The DCF, *Substance Abuse and Mental Health Triennial Plan Update for Fiscal Year*, (Dec. 6, 2019) available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/SAMH%20Services%20Plan%202018%20Update.pdf> (last visited Feb. 16, 2021).

⁴² Section 394.9082(5)(d), F.S.

⁴³ Section 394.4573(1)(c), F.S.

⁴⁴ Section 394.4573(3), F.S. The Legislature has not funded system improvement grants.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Section 394.4573(2), F.S.

- Therapeutic foster care.
- Residential treatment.
- Inpatient hospitalization.
- Case management.
- Services for victims of sex offenses.
- Transitional services.
- Trauma-informed services for children who have suffered sexual exploitation.⁴⁸

Current law requires the DCF to define the priority populations which would benefit from receiving care coordination, including considerations when defining such population.⁴⁹ Considerations include the number and duration of involuntary admissions, the degree of involvement with the criminal justice system, the risk to public safety posed by the individual, the utilization of a treatment facility by the individual, the degree of utilization of behavioral health services, and whether the individual is a parent or caregiver who is involved with the child welfare system.

Funding and Expenses

Contracts with MEs are funded with General Revenue, other qualifying state funds, or applicable federal funding.⁵⁰ The MEs are required to develop and implement standards for collecting and reporting data related to crisis stabilization and detoxification and addictions receiving services.⁵¹ The data is collected from entities who have received funds and operate under s. 394.875, F.S.⁵² MEs are required to reconcile the data on a monthly basis, and submit the data to the DCF on a monthly and annual basis. The DCF is required to post data on its website regarding each ME's utilization of funds.⁵³

Kinship Navigator Programs

Section 39.5086(2)(b), F.S., permits each lead agency to establish a kinship navigator program subject to available resources. A kinship navigator program is defined as a program designed to ensure that kinship caregivers are provided with the necessary resources for the preservation of the family.⁵⁴ The purpose of such program is to provide support and services to kinship caregivers, specifically to:

- Coordinate with other state and local agencies that promote service coordination or provide information and referral services;
- Plan and operate in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant governmental agencies, and relevant community-based or faith-based organizations;
- Provide toll-free telephone hotline services with information to link kinship caregivers, kinship support facilitators, and kinship service providers;

⁴⁸ Section 394.495(4), F.S.

⁴⁹ Section 394.9082(3)(c), F.S.

⁵⁰ Section 394.9082(9), F.S.

⁵¹ Section 394.9082(10), F.S.

⁵² *Id.*

⁵³ Section 394.9082(10)(e) and (f), F.S.

⁵⁴ Section 39.5086(1)(c), F.S.

- Provide outreach to kinship care families, including by establishing, distributing, and updating a kinship care website, or other relevant guides or outreach materials; and
- Promote partnerships between public and private agencies, including schools, community-based or faith-based organizations, and relevant governmental agencies, to increase their knowledge of the needs of kinship care families to promote better services for those families.⁵⁵

Several provisions of law provide for financial support to relative and non-relative caregivers of children who are in out-of-home care who meet specified criteria, including the:

- Guardianship Assistance Program;⁵⁶
- Level I family foster care homes licensure if qualifications are met;⁵⁷
- Relative Caregiver Program (RCP);⁵⁸ and
- Temporary Cash Assistance (TCA) Program.⁵⁹

The DCF operating procedures require case workers to provide information to relative caregivers about the kinship navigation program, including referrals, and guidelines about the program.⁶⁰ All lead agencies except for one offer kinship services,⁶¹ but the services provided do not meet the current statutory requirements for such a program.⁶² The DCF reports that approximately 39 percent of lead agencies offer more than 31 of 41 best practice services. Fifty percent of lead agencies offer more than 65 percent of services for kinship caregivers and offer 85 percent of services for programmatic support.⁶³

The Family First Prevention Act allows Title IV-E agencies to claim 50 percent of kinship navigator program costs if specified criteria are met.⁶⁴ The DCF has been working with the

⁵⁵ Section 39.5086(2)(b), F.S.

⁵⁶ Section 39.6225, F.S.

⁵⁷ Section 409.175, F.S.

⁵⁸ Section 39.5085, F.S.

⁵⁹ RCP and TCA are funded by Temporary Assistance for Needy Families. State funds are also available for children who were placed in foster care and change placement to a nonrelative in a permanent guardianship. See The DCF, *Temporary Cash Assistance (TCA)*, available at <https://www.myflfamilies.com/service-programs/access/temporary-cash-assistance.shtml> (last visited Feb. 16, 2021).

⁶⁰ The DCF, *CFOP 170-10*, Chapter 8, p. 2, available at <https://www.myflfamilies.com/admin/publications/policies.asp?path=CFOP%20170-xx%20Child%20Welfare/CFOP%20170-10%20%20Providing%20Services%20and%20Support%20for%20Children%20in%20Care%20and%20for%20Caregivers> (last visited Feb. 16, 2021) (hereinafter referred to as “CFOP 170-10”)

⁶¹ The DCF, *Senate Bill 92 Fiscal Analysis*, p. 5 (Feb. 10, 2021) (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The DCF Analysis”).

⁶² *Id.*

⁶³ The DCF Analysis, p. 12.

⁶⁴ *Id.* The DCF Analysis explains that lead agencies must use evidenced-based kinship navigation program to be eligible for funds. Also, under Title IV-E of the Social Security Act, states, territories, and tribes are entitled to claim partial federal reimbursement for the cost of providing foster care, adoption assistance, and kinship guardianship assistance to children who meet federal eligibility criteria. The Title IV-E program is administered by the Children’s Bureau, an agency within the U.S. Department of Health and Human Services. The DCF is Florida’s Title IV-E agency. See Congressional Research Service, *Child Welfare: A Detailed Overview of Program Eligibility and Funding for Foster Care, Adoption Assistance and Kinship Guardianship Assistance under Title IV-E of the Social Security Act*, available at <https://www.everycrsreport.com/reports/R42792.html>; the DCF, *CFOP 170-15*, available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170->

Children’s Home Network to contribute to the evidence of their program.⁶⁵ The DCF received a one year grant and has been given the opportunity to continue receiving the Kinship grant to begin working with a second provider.⁶⁶ One of the DCF’s objectives is to implement a plan with Kid’s, Inc. to have one or more of its own models meet the eligibility requirements for federal reimbursement.⁶⁷

Family-Finding Program

The DCF may establish a formal family-finding program, subject to available resources.⁶⁸ The family-finding program may begin as soon as the child is taken into custody and throughout the duration of the case, as necessary, locating and engaging as many family members as possible who may be candidates to assist with support and care of the child.⁶⁹ Florida law defines diligent search efforts to locate a parent or prospective parent,⁷⁰ but requires the DCF to make efforts beyond basic search tools by exploring alternative tools and methodology.⁷¹

The DCF has rule making authority to implement a family-finding program,⁷² and must coordinate with the lead agencies to document strategies used to locate and engage the family to, in part:

- Attend visitation with the child;
- Assist with transportation of the child;
- Provide respite or child care services; or
- Provide actual kinship care.⁷³

Between Fiscal Years 2001-02 and 2008-09, the DCF implemented or expanded family finding tools in all 67 counties to test the flexibility to use Title IV-E funding for expanded child welfare services and supports and to increase family connections in an effort to reduce the number of children in out-of-home care.⁷⁴ The six-step approach includes discovery, engagement, planning, decision making, evaluation, and follow-up support.⁷⁵ The overall conclusion was that the

[15%20Federal%20and%20State%20Funding%20Eligibility/CFOP%20170-15,%20Chapter%2004,%20Title%20IV-E%20Foster%20Care.pdf](#) (all sites last visited Feb. 16, 2021).

⁶⁵ *Id.*

⁶⁶ The DCF Analysis, p. 12.

⁶⁷ *Id.*

⁶⁸ Section 39.4015(3), F.S.

⁶⁹ Section 39.4015(3)(a), F.S.

⁷⁰ Section 39.01(23), F.S., defines “diligent efforts of social service agency” to mean reasonable efforts were taken to provide social services or reunification services made by any social service agency that is a party to a case plan. Section 39.01(24), F.S., defines “diligent search” to mean the efforts of a social service agency to locate a parent, or prospective parent whose identity or location is unknown, is initiated as soon as the social service agency is made aware of the existence of such parent. When a parent’s identity or location are unknown, s. 39.503, F.S., sets out efforts that must be made by the DCF to identify and locate him or her.

⁷¹ Section 39.4015(3)(b), F.S.

⁷² Section 39.4015(4), F.S.

⁷³ *Id.*

⁷⁴ Louis de la Parte, Florida Mental Health Institute, *Evaluation Brief 2, Florida’s IV-E Waiver Demonstration Project*, pp. 1-2, 4 (Jan. 2010) available at https://www.myflfamilies.com/general-information/publications-forms/docs/APSR/S10-008463_Title%20IV-E%20Brief%202%20January2010.pdf (last visited Feb. 16, 2021).

⁷⁵ *Id.* at p. 4.

flexible use of Title IV-E funds for expanded services reduces the number of children in out-of-home care through reunification of the child and the caregiver.⁷⁶

Child and Family Well-being Programs

Florida law does not presently provide for a child and family well-being system. There are, however, goals that the DCF in conjunction with lead agencies, community-based subcontractors, and the community alliance must aspire to achieve are to protect the best interest of the children including, in part, to:

- Protect children from abuse and neglect;
- Ensure that children remain safely in their home, if possible and appropriate;
- Preserve family relationships; and
- Provide services to families⁷⁷ and children to meet the children’s needs, including their educational and mental health needs, and skills for independent living.⁷⁸

There are innovative programs being developed throughout the United States which focus on family well-being and implementing creative preventative measures to keep families intact.⁷⁹ The U.S. Department of Health & Human Services Children’s Bureau (Children’s Bureau) provides information, training assistance, and grants focused on strengthening families, protecting children, and ensuring children have permanent families with a goal of improving safety, permanency, and well-being.⁸⁰

Casey Family Programs (CFP) is an organization that focuses on these key objectives of child-well-being. CFP was founded in 1966 and operates in all 50 states.⁸¹ The program provides consulting, research and analysis, and services free of charge to advance the goal of child well-being.⁸²

Alia is another program that is transforming child welfare systems by conducting research, providing strategy sessions, leadership coaching, and other workshops and events.⁸³ Alia promotes building an “unsystem” with five phases for implementing change to shift the primary focus of child welfare systems to “prevention”. The five stages consist of:

- Preparing to Lead Change: Co-creating your Vision.
- Building the Foundation: Workforce Resilience.
- Shifting Agency Mindset: *Why* Change is Needed.
- Aligning Practice with your *Why*.

⁷⁶ *Id.* at p. 4-5.

⁷⁷ Section 39.001(47), F.S., defines “family support services” to mean services provided to children (and their families) who have been found to be safe and at high or very high risk of future maltreatment.

⁷⁸ Section 409.986, F.S.

⁷⁹ Casey Family Programs, *Who We Are*, available at <https://www.casey.org/who-we-are/>; Children’s Bureau Express, *Transforming South Carolina’s Approach to Child Welfare*, available at <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=219§ionid=2&articleid=5652>; Alia, *Get to Know Us*, available at <https://www.aliainnovations.org/who-we-are> (all sites last visited February 16, 2021).

⁸⁰ Children’s Bureau, *What We Do*, available at <https://www.acf.hhs.gov/cb/about/what-we-do> (last visited Feb. 16, 2021).

⁸¹ Casey Family Programs, *Who We Are*, available at <https://www.casey.org/who-we-are/> (last visited Feb. 16, 2021).

⁸² *Id.*

⁸³ Alia, *Project Work*, available at <https://www.aliainnovations.org/project-work> (last visited Feb. 16, 2021).

- Reaching a Tipping Point Toward Primary Prevention.⁸⁴

South Carolina adopted a child welfare system with similar goals and objectives as these programs and allocates resources with a primary focus on a preventative system.⁸⁵ Key elements of the system include, in part, all of the following:

- Partnering with nonprofit and community-based organizations.
- Removing the stigma parents receive when receiving assistance.
- Engaging parents.
- Establishing family resource centers in local communities.
- Providing more services to meet families in locations convenient to them.
- Fostering a greater understanding of trauma.⁸⁶

Out-of-Home Placement

Section 39.4087, F.S., establishes goals for the DCF to achieve and requirements to meet with respect to caregivers. Specifically, one goal of the DCF is to treat caregivers, including foster parents, with dignity, respect, and trust while ensuring services are aimed at achieving what is in the child's best interest.⁸⁷ Subject to available resources and any state or federal law to the contrary, the DCF is required to provide to caregivers an open exchange of information and supportive services.⁸⁸ For example, the DCF should:

- Provide training and support to the caregiver to help meet necessary requirements for the daily care and any special needs of the child; and
- Fully disclose all relevant information regarding the child and the background of his or her biological family, including, but not limited to:
 - Any delinquency or criminal record of the child; and
 - With parental consent to the extent required by law, any known health history and medical, psychological, or behavioral health issues or needs of the child.⁸⁹

A caregiver must maintain the confidentiality of any information as required by law.⁹⁰

Community-based care lead agencies are required to provide support for all licensed out-of-home caregivers,⁹¹ including:

- Access to foster parent support groups;
- Service resources for children placed in the home;
- Foster parent mentors; and
- Service resources for caregivers.⁹²

⁸⁴ *Id.*

⁸⁵ Children's Bureau Express, *Transforming South Carolina's Approach to Child Welfare*, available at <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=219§ionid=2&articleid=5652> (last visited Feb. 16, 2021).

⁸⁶ *Id.*

⁸⁷ Section 39.4087(1), F.S.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Section 39.4087(1)(c), F.S.

⁹¹ Fla. Admin. Code R. 65C-45.011.

⁹² Fla. Admin. Code R. 65C-45.011(1).

The community-based care lead agencies must also make contact with the licensed caregiver at least quarterly.⁹³ Several other rules address efforts required by the child protective investigator or case manager to assist or provide information to caregivers.⁹⁴ Licensure rules address a caregiver's obligation to maintain confidentiality.⁹⁵

The DCF has also established operating procedures for providing services and support for children in care and for caregivers,⁹⁶ including supporting relatives who are caring for children placed in out-of-home care,⁹⁷ and nonrelative caregiver financial assistance.⁹⁸ Additional subsidies are available depending on the permanency status of the child.⁹⁹ The DCF procedures also list information with which the child welfare professional must provide to the relative caregiver for completing the home study.¹⁰⁰

Conflicts of Interest

There are several Florida statutes which address transactions or other situations in which a conflict of interest exists or may exist,¹⁰¹ and define the term "conflict of interest" in context of the statute with which it relates.¹⁰²

Corporations

Florida laws on corporations define "director's conflict of interest transaction" as a transaction between a corporation and one or more of its directors, or another entity in which one or more of the corporation's directors is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a shareholder of the corporation, and has a direct or indirect material financial interest or other material interest.¹⁰³ If a director's conflict of interest transaction is fair to the corporation at the time it is authorized, approved, effectuated, or ratified:

- Such transaction is not void or voidable; and

⁹³ Fla. Admin. Code R. 65C-45.011(2).

⁹⁴ See Fla. Admin. Code R. 65C-35.004 (assisting the caregiver with attending appointments with a child if the caregiver is unavailable); Fla. Admin. Code R. 65C-35.011(10) (informing the caregiver about the importance of communicating regarding a child's psychotropic medication and recommending they exchange contact details); and Fla. Admin. Code R. 65C-28.005(4) (regarding services and information relating to the child upon a change of placement).

⁹⁵ See Fla. Admin. Code R. 65C-45.003 (requiring an assessment of how, amongst other things, the caregiver will maintain confidentiality as required by law).

⁹⁶ Chapter 8, CFOP 170-10.

⁹⁷ Chapter 8, CFOP 170-10, p. 2-5. Several programs exist to provide relative caregiver support, including, but not limited to, the kinship navigator program, medical insurance, "at-risk child care subsidy, local flexible funds, "child-only" temporary cash assistance, and relative caregiver program.

⁹⁸ Chapter 9, CFOP 170-10.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at pp. 5-7.

¹⁰¹ See ss. 112.312, 605.04092, 607.0832, and 617.0832, F.S.

¹⁰² See ss. 112.312, and 605.0492, F.S.

¹⁰³ Section 607.0832, F.S.; see also s. 605.0492(1)(g), F.S., with respect to limited liability companies which defines "member's conflict of interest" as a transaction between a limited liability company and one or more of its members, or another entity in which one or more of the limited liability company's members is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a member of the limited liability company, and has a direct or indirect material financial interest or other material interest.

- The fact that the transaction is a director’s conflict of interest transaction is not grounds for any equitable relief, an award, or other sanctions.¹⁰⁴

If proceedings challenging the validity of a director’s conflict of interest transaction or proceedings seeking equitable relief, damages, or other sanction are brought, the person challenging the director’s conflict of interest transaction has the burden to prove the lack of fairness of the transaction in specified situations.¹⁰⁵

Nonprofit Organizations

Chapter 617, F.S., governs corporations not for profit and does not define conflict of interest. It provides, however, that no contract or other transaction between a corporation and one of its directors or other corporation in which one or more directors have an interest shall be void or voidable because of the relationship or interest, or because the interested director is present at the meeting which authorizes or ratifies such contract if:

- The relationship is disclosed or known to the other directors which authorizes or ratifies the transaction by a vote which is sufficient to approve the transaction without the interested director’s vote;¹⁰⁶
- The relationship is known or disclosed and the members entitled to vote authorize or ratify it by vote or written consent;¹⁰⁷ or
- The contract or transaction is fair and reasonable to the operation at the time it is authorized by the board, a committee, or the members.¹⁰⁸

The transactions are required to be approved by a majority vote of the members.¹⁰⁹

Public Officer and Employee

Public officers and employees must comply with standards of conduct provided for in s. 112.313, F.S. Chapter 112, F.S., restricts the type of business transactions that public officers and employees of an agency may have with a business entity in which the officer, employee, or the officer’s or employee’s specified family has a material interest.¹¹⁰ Public officers and employees of agencies are also prohibited from having conflicting employment or contractual relationships with any business entity or regulation.¹¹¹ Section 112.312(8), F.S., defines “conflict” or “conflict of interest” as a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

¹⁰⁴ Section 607.0832(2), F.S. This is the case when because of the relationship or interest, because such director is present at the meeting in which the transaction was authorized, or because his or her votes are counted for such purpose.

¹⁰⁵ Section 607.0832(3), F.S. The presence of or a vote cast by a director with an interest does not affect the validity of an action if specified conditions are met.

¹⁰⁶ Section 617.0832(1)(a), F.S. The presence of a vote cast by a director having a relationship or interest does not affect the validity of any action taken under paragraph (1)(a) if the transaction is otherwise authorized or ratified in this paragraph.

¹⁰⁷ Section 617.0832(1)(b), F.S.

¹⁰⁸ Section 617.0832(1)(c), F.S.

¹⁰⁹ Section 617.0832(2) and (3), F.S.

¹¹⁰ Section 112.313(3), F.S.

¹¹¹ Section 112.313(7), F.S.

Sanction against Certifications of Child Welfare Professionals

The DCF must approve at least one third-party credentialing entity¹¹² to develop and administer child welfare certification¹¹³ programs for individuals who provide child welfare services.^{114, 115} In order to obtain approval as a third-party credentialing entity from the DCF, the entity must comply with minimum requirements, including establishing professional requirements and standards to maintain certification, and maintaining a professional code of ethics and a disciplinary process.¹¹⁶

Unlike sanctions against addiction professionals in s. 397.321(15), F.S., current law is silent as to whether the DCF is authorized to conduct an administrative hearing pursuant to ss. 120.569 and 120.57(1), F.S., to review a DCF-recognized credentialing entity's decision to deny, revoke, suspend, or otherwise impose sanction on the certification of a child welfare professional.

Competency Restoration Treatment and Forensic Facilities

Chapter 916, F.S., governs the state forensic system, a network of state facilities and community services for persons with mental health issues involved with the criminal justice system. The forensic system serves defendants deemed incompetent to proceed or not guilty by reason of insanity. The court may appoint no more than three experts to determine a criminal defendant's mental condition, including competency to proceed.¹¹⁷ A defendant is incompetent to proceed if he or she does not have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding or if the defendant has no rational or factual understanding of the proceedings against him or her.¹¹⁸

Every defendant who is charged with a felony and who is adjudicated incompetent to proceed may be involuntarily committed for treatment upon certain findings by the court of clear and convincing evidence.¹¹⁹ A defendant who has been adjudicated incompetent to proceed due to mental illness and who meets the criteria for involuntary commitment may be committed to the DCF and the DCF must retain and treat the defendant.¹²⁰

The DCF runs three mental health treatment facilities: the Florida State Hospital (FSH), the Northeast Florida State Hospital (NEFSH), and the North Florida Evaluation and Treatment

¹¹² Section 402.40(2)(g), F.S., defines "third-party credentialing entity" as a DCF-approved nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.

¹¹³ Section 402.40(2)(a), F.S., defines "child welfare certification" as a professional credential awarded by a DCF approved third-party credentialing entity to individuals demonstrating core competency in any child welfare practice area.

¹¹⁴ Section 402.40(2)(b), F.S., defines "child welfare services" as any intake, protective investigations, preprotective services, protective services, foster care, shelter and group care, and adoption and related services program, including supportive services and supervision provided to children who are alleged to have been abused, abandoned, or neglected or who are at risk of becoming, are alleged to be, or have been found dependent pursuant to ch. 39, F.S.

¹¹⁵ Section 402.40(3), F.S.

¹¹⁶ *Id.*

¹¹⁷ Section 916.115(1), F.S.

¹¹⁸ Section 916.12(1), F.S.

¹¹⁹ Section 916.13(1), F.S.

¹²⁰ Section 916.13(2), F.S.

Center (NFETC).¹²¹ The DCF also contracts with a private provider to operate three additional facilities that provide competency restoration training. The facilities are the South Florida Evaluation and Treatment Center, South Florida State Hospital, and Treasure Coast Treatment Facility which are operated by Wellpath Recovery Solutions.¹²²

III. Effect of Proposed Changes:

Lead agencies and Managing Entities (MEs)

Duties

The bill amends s. 409.988, F.S., requiring the lead agencies to demonstrate the ability to adhere to all best child welfare practices under ss. 39.4087, 39.523, 409.1415, and 409.145, F.S. Further, the bill amends s. 409.996, F.S., to require the DCF to include a provision in its contracts with the lead agencies which requires them to provide information specifying how the lead agency will adhere to this requirement.

Publication of Information

The bill amends s. 409.988, F.S., removing the requirement for the individual lead agency to post specified budget information, but requiring them to publish the total number and percentage of case managers who are assigned 25 or more cases on its website. Sections 394.9082 and 409.996, F.S., are amended to add a similar provision; however, the bill requires the DCF, rather than each entity, to collect and post on its website compensation benefits for employees of MEs and lead agencies. The term “employee” is defined as their Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, or any other executive staff of the managing entity. The requirement to post this information in one centralized location will provide more consistency with the information posted for lead agencies statewide.

The bill also requires the DCF to post findings of a multi-year review of specified financial information, including revenues, expenditures, and financial position relating to the MEs and lead agencies. It must be conducted every 2 years relating to the MEs and lead agencies, and the agencies and entities must develop and maintain a plan to achieve financial viability. The review findings must be reported to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1 of each year.

Conflicts of Interest

The bill creates ss. 394.90825 and 409.987(7), F.S., establishing a process for disclosing and eliminating any transaction or activity that could reasonably be construed to be a conflict of interest for a member, officer, or relative of a lead agency or ME. The bill defines the following terms:

- “Activity” includes, but is not limited to, a contract for goods and services, a contract for the purchase of any real or tangible property, or an agreement to engage with the managing

¹²¹ The DCF, *State Mental Health Treatment Facilities*, available at <https://www.myflfamilies.com/service-programs/mental-health/state-mental-health-treatment-facilities.shtml> (last visited April 20, 2021).

¹²² *Id.*

entity for the benefit of a third party in exchange for an interest in real or tangible property, a monetary benefit, or an in-kind contribution.¹²³

- “Conflict of interest” means when a board member or an officer, or a relative of a board member or an officer, of the managing entity/lead agency does any of the following:
 - Enters into a contract or other transaction for goods or services with the managing entity/lead agency;
 - Holds a direct or indirect interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the managing entity/lead agency or proposes to enter into a contract or other transaction with the managing entity/lead agency; or¹²⁴
 - Knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship of such member or officer, or relative of the member or officer, with the managing entity/lead agency.¹²⁵
- “Managing entity” has the same meaning as in s. 394.9082, F.S.¹²⁶
- “Relative” means a relative within the third degree of consanguinity by blood or marriage.¹²⁷

For any activity that is presented to the board of these entities for initial consideration and approval after July 1, 2021, or any contract which is being considered for renewal between July 1, 2021 and December 31, 2021, a board member or officer must make a disclosure of such potential conflict of interest. A rebuttable presumption of a conflict of interest exists if the activity was acted upon by the board without prior notice.

If a contract is not subject to renewal before January 1, 2022, the board member or officer must disclose any information that could reasonably be construed to be a conflict of interest by December 31, 2021.

Any proposed activity or existing contract which does give rise to a disclosure obligation must be listed on the meeting agenda for the next general or special meeting of the members, and copies of all contracts and relevant documents related to the transaction must be included. The meeting agenda must clearly state the potential conflict of interest. The board must be given an opportunity to approve or disapprove the conflict of interest by a vote of two-thirds of all other members present.

If the board votes against the proposed activity, the board member or officer must notify the board in writing of his or her intention, or his or her relative’s intention, not to pursue the proposed activity or the board member or officer must resign. If the board finds that an officer or member has violated this provision, he or she will be deemed removed from office before the next scheduled board meeting. If the board votes against the renewal of an existing contract which gives rise to a conflict of interest, the parties to the activity may opt to cancel the activity,

¹²³ Sections 394.90825(1)(a) and 409.987(7)(a)1., F.S.

¹²⁴ Sections 349.90825(1)(b) and 409.987(7)(b)2., F.S. For purposes of this provision, the bill provides that the term “indirect interest” has the same meaning as provided in s. 112.312, F.S.

¹²⁵ For purposes of this provision, the bill provides that the term ‘benefit’ does not include per diem and travel expenses paid or reimbursed to board members in connection with their service on the board.

¹²⁶ Section 394.90825(1)(c), F.S.

¹²⁷ Sections 394.90825(1)(d) and 409.987(7)3., F.S.

or in the alternative, the member or officer must resign from the board before the next scheduled meeting. The bill provides for limitations on damages under any existing contracts.

A board member, officer, or relative who has an interest in an activity that is a possible conflict of interest may attend the meeting at which the activity is considered by the board, make a presentation, and then leave the meeting during any relevant discussion by the other board members. A member or officer who is a party to, or has an interest in, the activity shall recuse himself or herself from the vote.

A contract entered into between a board member, officer, or relative of a member or an officer in which there is a conflict of interest or potential conflict of interest, is void or voidable and terminates upon the filing of a written notice to the board which contains at least 20 percent of the voting interests of the managing entity.

MEs will need to amend their by-laws or articles of incorporation to ensure that the new requirements for potential conflict of interest transactions are incorporated.¹²⁸ The DCF would need to amend existing contracts with lead agencies and may need addendums to active Invitations to Negotiate in relation to several amendments proposed by the bill.¹²⁹ The DCF also would need to edit the Supplemental Contract related to future Invitations to Negotiate.¹³⁰

Funding

The bill amends s. 409.990, F.S., to require lead agencies to fund the cost of increased care if a subcontracted service provider must provide services that are beyond the contract limits due to increased client need or caseload.

Community Alliances

The bill amends s. 20.19, F.S., modifying the requirement for the DCF to form a community alliance to cover a county or counties, to cover a “community-based care lead agency service area” instead.

It also requires each community alliance to adopt bylaws to determine the specific membership composition that best represents the local area being serviced by the alliance, and redefines the membership to a minimum of 20 members from a specified list of representatives, including all of the following:

- A representative from the DCF.
- Representatives from local government.
- Representatives from the school district.
- A representative from the United Way.
- Representatives from county sheriffs’ offices.
- A representative from each circuit court in the lead agency service area.
- A representative from the children’s services council, if one exists.

¹²⁸ The DCF Analysis at p. 7.

¹²⁹ *Id.*

¹³⁰ *Id.*

- A representative of a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, or promote adoption.

This section also requires community alliances to adopt bylaws that allow for increased membership to no more than 30 members if the change is necessary to adequately represent the diversity in population within the community alliance service area.

The bill amends s. 409.997, F.S., requiring the DCF to develop, in collaboration with the local community alliance, an alternative plan with specified details to use local community entities to implement community-based care services if conditions make it impossible or not feasible to competitively contract with a lead agency. This provision allows for the DCF and community alliance to work with partners that may include, but not be limited to, private entities, local and county governmental entities. The plan created must detail how the community will continue to implement community-based care through competitively procuring either the specific components of foster care and related services or comprehensive services for defined eligible populations of children and families. The bill requires the plan to ensure local control over the management and administration of the service provision and to adhere to recognized best business practices, including, but not limited to, the use of public or private partnerships. The bill is substantially similar to former s. 409.1671(1)(d), F.S. (2013), before that section was repealed by ch. 2014-224, s. 46, Laws of Florida.

Family-Finding and Kinship Navigator Programs

Sections 39.4015 and 39.5086, F.S., are amended to require, rather than permit if resources are available, the establishment of a formal family-finding program and kinship navigator program. The amendments clarify that family-finding efforts must go beyond basic search tools to comply with each of efforts required by the DCF and lead agencies' to search for children's families. The DCF may adopt rules to implement these programs.

Lead agencies would be encouraged to meet federal standards for the kinship program to claim 50 percent of the applicable costs.¹³¹

The Children's Home Network has an existing kinship navigator program that is recognized by the Children's Bureau and is collaborating with the DCF to become rated in the clearinghouse for future utilization in all lead agencies.¹³²

Child and Family Well-Being

The bill requires the DCF to establish a program that consists of a child and family well-being, system¹³³ to provide services through contracts with lead agencies in accordance with s. 409.987, F.S. The bill provides program requirements, including:

- Creating a system that requires fundamental change;

¹³¹ The DCF Analysis at p. 5.

¹³² The DCF Analysis at p. 10.

¹³³ Section 409.998(2), F.S., defines "child and family well-being system" as a system that recognizes the difference between poverty and neglect and that provides mentoring and supports to biological parents as they develop the skills and resources necessary to adequately care for their children.

- Designating lead agency leadership that will identify a core group of agency individuals to develop a plan for creating the change;
- Recognizing that change of this magnitude is difficult and time-consuming, and determine steps to determine the well-being of individuals involved at an early stage of the process;
- Developing a plan for creating a change in the way partners view the process;
- Building relationships throughout the process of change;
- Providing regular interaction amongst the workforce to discuss changes that are needed; and
- Redirecting resources toward primary prevention and away from removing children from their homes.

The DCF must implement the program in collaboration with the designated lead agency, community alliance, and Florida Institute for Child Welfare. By October 1, 2021, and annually thereafter, the Florida Institute for Child Welfare must report to the Governor, President of the Senate, and the Speaker of the House of Representatives regarding program compliance and outcomes of the program.

The DCF has begun transitioning to a prevention focused child and family well-being system in accordance with the Family First Prevention Services Act (FFPSA) which authorizes new Title IV-E funding for a limited time period and in limited circumstances.¹³⁴

Caregivers

The bill provides that the DCF is required to treat caregivers in a certain manner and provide specified support and information that was formerly considered to be discretionary, depending on resources and subject to any laws to the contrary. Specifically, the DCF must treat caregivers with dignity, respect and trust while providing services that are in the best interest of the child. Also, the DCF now must provide specified support and information set out in s. 39.4087(1), F.S., including:

- Providing an explanation to the caregiver regarding the roles of the persons involved;
- Providing training and support to the caregiver;
- Disclosing all relevant information regarding the child and the background of his or her biological family;
- Allowing caregivers to communicate with professionals who work with the child;
- Providing a means by which a caregiver may contact the lead agency 24 hours a day, 7 days a week;
- Soliciting and considering caregiver input on a child's case plan;
- Providing a clear, written explanation to a caregiver of any plan concerning the placement of a child;
- Providing information on any emergency situation which arises;
- Allowing a caregiver to request removal of the child without retaliation;
- Informing the caregiver as soon as possible of any decision made by the court or child-caring agency relating to a child who is placed with the caregiver;
- Giving at least 7 days' notice to a caregiver of any meeting or court hearing;
- Considering the caregiver as placement for the child if the child reenters out-of-home care;

¹³⁴ The DCF Analysis at p. 8.

- Allowing a caregiver a period of respite upon reasonable notice; and
- Providing the caregiver, upon request, with copies of all information in the department's records regarding the caregiver.

The amendments to this subsection clarify that a caregiver must maintain confidentiality of any information as required by law, rather than this requirement being stated in relation only to the information the caregiver receives related to the child and the background of his or her biological family.

Sanction against Certified Child Welfare Professionals

The bill provides that the DCF may review pursuant to s. 397.321(15), F.S., any decision by a department-recognized credentialing entity to deny, revoke, or suspend a certification, or otherwise sanction an individual who is certified as a child welfare professional. This means that an individual who has his or her certification sanctioned may request an administrative hearing pursuant to ch. 120, F.S., for the DCF to review the decision.

Competency Restoration Treatment

The bill amends s. 916.13, F.S., to grant the DCF the discretion to place at any facility deemed appropriate a forensic client who is held in a jail awaiting admission to a facility and who is likely to regain competence to proceed in the foreseeable future.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

It is anticipated that a staff person will be needed by each CBC lead agency to sufficiently implement a family-finder program. Currently, five of the CBC lead agencies have an active family-finder program. For the 14 lead agencies that do not currently implement a family-finder program, adding one staff position each will cost \$964,106 annually, plus one-time costs of \$62,272.

The CBC lead agencies do not currently operate kinship navigator programs. It is projected that the 19 lead agencies will need an average of 11 positions each to implement a kinship navigator program. The positions for each lead agency include a director, a program manager, an intake coordinator, two peer navigators, four family support navigators, and two part-time support group assistants. However, a lead agency may contract with a child welfare provider for the kinship navigator services. It should be noted that Children's Home Network is an agency under contract with a CBC lead agency to provide a kinship navigator pilot program. The pilot program is the process of becoming an approved evidence-based program. Once it has received federal approval as an evidence-based program, it can be replicated in other CBC lead agencies. The cost to staff the lead agency or to contract for kinship navigator services is estimated to cost each lead agency \$695,750 annually, including expenses and travel costs to conduct the program. The lead agencies will likely use current resources to support the technology requirements of the kinship navigator program. Total projected costs for the lead agencies are estimated to be \$14,148,890 (\$13,219,258 in recurring costs and \$929,632 in one-time costs).

In summary, total costs for the lead agencies to implement the family-finder and kinship navigator programs are projected to be \$15,175,268 which includes one-time costs totaling \$991,904.¹³⁵

C. Government Sector Impact:

It is anticipated that the seven sheriffs' offices that conduct their own child protective investigations will need to hire an additional staff position to implement the family-finding program. The cost for the additional staffing is projected to total \$513,189, which includes one-time costs of \$31,136.¹³⁶

¹³⁵ The DCF, *Senate Bill 92 Fiscal Analysis*, p. 10 (Feb. 10, 2021, as revised Mar. 26, 2021) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

¹³⁶ The DCF Analysis at p. 9.

The DCF projects the need for 64 additional Child Protective Investigator FTE positions to implement the family-finding program.¹³⁷ Estimated expenditures, including Salaries and Benefits and associated expenses, total \$4,713,147, including one-time costs of \$284,672.¹³⁸ The DCF will likely require minimal use of existing technology resources to adapt any websites and contracts, as necessary.¹³⁹ Additionally, the bill is projected to cost the DCF \$360,000 annually for two years to contract with national experts on the implementation of a new child and family well-being system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.19, 30.4015, 39.4087, 39.5086, 394.9082, 409.987, 409.988, and 409.996.

This bill creates the following sections of the Florida Statutes: 394.90825 and 409.998.

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 Appropriations on April 19, 2021:

The committee substitute makes the following changes:

- Modifies the DCF's requirement to collect and post on its website annual and other specified expenses, and instead requires the DCF to post and report findings related to a multi-year review of the lead agencies' and ME's financial information; and
- Removes the bill's proposed salary cap for managing entities' employees, and the change to reduce the salary cap for lead agencies' employees.
- Requires, rather than authorizes, the DCF, contracted sheriffs' offices, and lead agencies to develop a formal family-finding program. The program must be implemented as soon as a child is taken into custody.
- Requires, rather than authorizes, each lead agency to establish a kinship navigator program.
- Removes the limitations for the family-finding and kinship navigator programs that tie the development of such programs to available resources.

¹³⁷ The DCF Analysis at p. 9.

¹³⁸ *Id.*

¹³⁹ *Id.*

- Requires the DCF to treat foster parents and other caregivers with dignity, respect, and trust while ensuring delivery of services is focused on the best interest of the child.
- Requires the DCF, rather than encourages, to provide information, training, and support to foster parents and caregivers except as otherwise provided by state or federal law.
- Amends the DCF's duties to collect and post information regarding the managing entities and lead agencies' compensation and findings of the multi-year review of their financial position.
- Removes requirement that the lead agencies post their current budgets on their websites and relocating it to the above-mentioned provision.
- Adds additional information that must be published by lead agencies on its websites to include the total number and percentage of case managers who have 25 or more cases on their caseloads.
- Requires lead agencies to fund the cost of increased care if subcontracted service providers must provide services that are beyond the contract limits due to increased client need or caseload.
- Requires through their contracts with the DCF that the lead agencies demonstrate the ability to adhere to best child welfare practices enumerated in chapters 39 and 409, Florida Statutes, and provide information on their adherence to such best practices.
- Requires board members or officers of a managing entity or lead agency to disclose specified activity that may reasonably be construed as a conflict of interest. The bill provides procedures to follow to address the potential conflict of interest.
- Requires the DCF to create a community alliance in each service area of the lead agency, rather than in each county, to align with the current service model in Florida.
- Modifies the membership of the community alliances by allowing the number of representative members to be increased from 20 to up to 30 members to provide for adequate representation of the diverse population within the service area.
- Directs the DCF to work in collaboration with the local community alliances to achieve community-focused delivery of child welfare services. Provides for an alternative plan that establishes an innovative consortium of partners in communities where conditions make it infeasible to competitively contract with a lead agency.
- Authorizes the DCF to review any decision by a department-recognized credentialing entity to impose a sanction against a child welfare professional upon request of an administrative hearing pursuant to ch. 120, F.S.
- Authorizes competency restoration treatment to be provided at any facility deemed appropriate by the DCF for a forensic client who is held in a jail awaiting admission to a facility and who is likely to regain competence to proceed in the foreseeable future.
- Creates a program that allows Florida to partner with national experts to implement a new child and family well-being system and requires the Florida Institute of Child Welfare to report to Governor and the Legislature annually on program compliance and outcomes.

B. Amendments:

None.

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