

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 92

INTRODUCER: Senator Bean

SUBJECT: Department of Children and Families

DATE: February 15, 2021      REVISED: 02/17/211

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

**I. Summary:**

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 and managing entities, who operate and provide services in the child welfare and behavioral health systems in accordance with chs. 394 and 409, F.S., respectively.

The bill amends several statutes within ch. 39, F.S., relating to programs and best practices of the child welfare system, to make such programs and practices mandatory, rather than permissive. Section 39.4015, F.S., is amended to require, rather than authorize, the DCF, sheriffs' offices, and community-based lead agencies to develop a formal family-finding program which must begin as soon as the child is taken into custody. Section 39.5086(2)(b), F.S., is also amended to require, rather than authorize, each community-based care lead agency to establish a kinship navigator program. Further, the bill removes the limitation for these two programs that tie the development of such programs to available resources. The bill also amends s. 39.4087, F.S., requiring 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. The DCF is also required, rather than encouraged, to provide information, training, and support to foster parents and other designated caregivers except as otherwise provided by state or federal law.

The bill amends the DCF's duties to collect and post information regarding the managing entities and lead agencies' compensation, and program, administrative, and fundraising expenses. The bill also provides that the DCF's contracts with managing entities and lead agencies must limit employees' salary from state-appropriated funds to not exceed 100 percent of the annual salary paid to the Secretary of the DCF.

The bill amends s. 409.988, F.S., removing a requirement that lead agencies post their current budgets on their websites and relocating it to the above-mentioned provision. Section 409.988, F.S., is also amended to require, through contract execution, that the lead agencies demonstrate the ability to adhere to best child welfare practices enumerated in specified sections of chs. 39

and 409, F.S. Further, the contracts with the DCF must require the lead agencies to provide information which specifies how they will adhere to such best practices.

Further, the bill creates provisions that the boards for the managing entities and lead agencies must comply with related to disclosure of activity that may be reasonably construed to be considered a conflict of interest. Section 394.90825, F.S., is created, and s. 409.987, F.S., is amended, to require a board member or officer of a managing entity or lead agency to disclose specified activity that may reasonably be construed as a conflict of interest. The bill also provides procedures that must be followed to address the potential conflict of interest.

The bill amends s. 20.19, F.S., in part, requiring the DCF to create a community alliance in each service area of the lead agency, rather than county, which will align these bodies with the current service model in Florida. The bill also modifies the representative members of the community alliance and allows for the number of representatives to be increased from 20 to 30 members as necessary to adequately represent the diverse population within the community alliance service area. The bill also amends s. 409.987, F.S., providing for an alternative plan that establishes an innovative consortia of partners in communities where conditions make it infeasible to competitively contract with a lead agency and requirements that the plan must meet. This provision directs the DCF to work in collaboration with the local community alliance to achieve community-focused delivery of child welfare services.

Lastly, the bill creates a program that allows Florida to partner with national experts to establish a program that will implement a new child and family well-being system. The bill also provides for the program scope and requirements and requires the Florida Institute of Child Welfare to submit an annual report by a specified date to specified parties which evaluates and the program and the outcomes of the children served by the program.

The DCF estimates there will be a potential fiscal impact to local government of \$513,189, state government of \$4,713,147, and private sector of \$11,088,360 resulting from the implementation of the family-finding and kinship navigator programs required under the bill. 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.<sup>1</sup> The DCF is required to work with local partners to provide services by contract through private providers to the extent allowed by law and within specified appropriations.<sup>2</sup> The DCF is responsible for providing services relating, amongst other services, to:

- Child care regulation;
- Child welfare;
- Domestic violence;
- Economic self-sufficiency;

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<sup>1</sup> See s. 20.19, F.S.

<sup>2</sup> Section 20.19(1)(c), F.S.

- Homelessness;
- Mental health and substance abuse;
- Refugee services; and
- Human trafficking.<sup>3</sup>

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.<sup>4</sup> The DCF contracts with community-based care lead agencies (lead agency) to provide direct or indirect child welfare services.<sup>5</sup>

### ***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.<sup>6</sup> The Legislature has articulated several duties with which DCF must comply, including, in part:

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

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<sup>3</sup> Section 20.19(4), F.S.

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

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

<sup>6</sup> Section 409.996, F.S.

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

***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.<sup>8</sup> The DCF enters into 5-year contracts with lead agencies for the procurement of services.<sup>9</sup> 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;<sup>10</sup>
- 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;<sup>11</sup> and
- The lead agency must also demonstrate financial responsibility by having a plan for regular fiscal audits and securing a performance bond.<sup>12</sup>

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

- Serve the children 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 statute 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.<sup>13</sup>

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

| <u>Lead Agency</u>                      | <u>Circuit(s)</u> |
|---|-------------------|
| Lakeview Center, Families First Network | 1                 |

<sup>8</sup> Section 409.986(3)(d), F.S.

<sup>9</sup> Section 409.987(3), F.S.

<sup>10</sup> Section 409.987(4)(a), F.S.

<sup>11</sup> Section 409.987(4)(b), F.S.

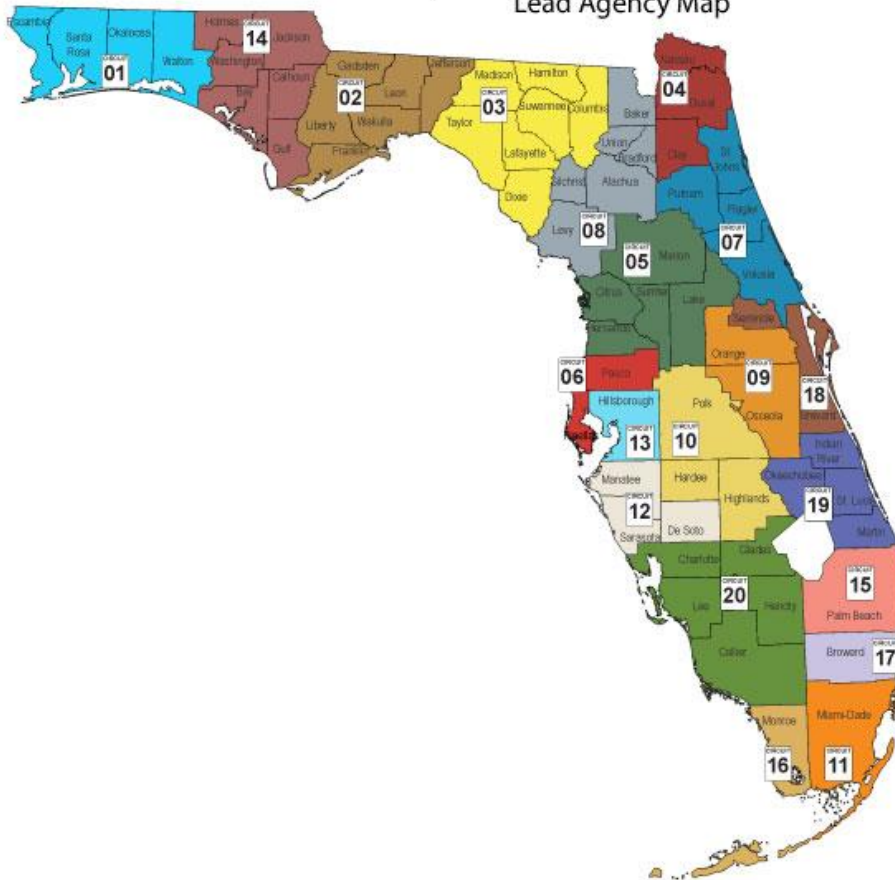
<sup>12</sup> Section 409.987(4)(c), F.S.

<sup>13</sup> 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.

<sup>14</sup> 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 Feb. 16, 2021).

|  |                              |
|--|------------------------------|
| 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                           |

## 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, other applicable state funds, or applicable federal funding sources.<sup>15</sup> 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.<sup>16</sup>

### ***Compensation***

Lead agency expenditures must comply with financial guidelines developed by the DCF, comply with federal and state law, and follow good business practices.<sup>17</sup> The Internal Revenue Code sets the rules governing compensation at public nonprofits, including those known as 501(c)(3) organizations, and specifies that no part of the net earnings of a section 501(c)(3) organization may inure to the benefit of any private shareholder or individual.<sup>18</sup> However, the Internal Revenue Service (IRS) gives each nonprofit's board of directors latitude in determining how much to pay top employees. The IRS requires a nonprofit board to have an objective process for setting executives' salaries, including use of comparisons with salaries paid by similar organizations for similar service. However, a nonprofit that normally pays no taxes may be taxed for paying excess benefits to an insider.<sup>19</sup>

In 2015, during an operational audit of the lead agencies, the Florida Auditor General found instances where salary payments, including bonuses, and leave balances did not appear to be properly supported or calculated in accordance with established community-based care policy or state law.<sup>20</sup> During the 2017 Legislative Session, CS/CS/HB 1121 passed and was signed into law, which, in part, limited the lead agencies' administrative employees' salaries to 150 percent of the annual salary paid to the Secretary of the DCF from state-appropriated funds.<sup>21</sup> Administrative employees is not defined in s. 409.992(3), F.S.

In a January 2019 operational audit, the Florida Auditor General conducted a new independent audit and also followed up on the findings noted in the 2015 report related to lead agencies mentioned above. The 2019 report stated that as of March 31, 2017, which is prior to the implementation of CS/CS/HB 1121 (2017), the lead agencies' chief executive officer annual

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<sup>15</sup> Section 409.990, F.S.

<sup>16</sup> 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 FY, 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.

<sup>17</sup> Section 409.992(1), F.S.

<sup>18</sup> 26 U.S.C. §501. Exemption from tax on corporations, certain trusts, etc. Subject to some exemptions, corporations and other eligible entities that are organized and operate exclusively for religious, charitable, scientific and other specified purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise conducting exempted activities, are exempt from taxation.

<sup>19</sup> *Id.*

<sup>20</sup> The Office of the Auditor General, *Department of Children and Families and Selected Community-Based Care Lead Agencies Oversight of Foster Care and Related Service*, Report No. 2015-156, p. 1, March 2015, available at [https://flauditor.gov/pages/pdf\\_files/2015-156.pdf](https://flauditor.gov/pages/pdf_files/2015-156.pdf) (last visited February 16, 2021).

<sup>21</sup> Chapter 2017-151, L.O.F.; codified in s. 409.992(3), F.S.

salaries, before bonuses, averaged \$210,863, and the average allocated to the DCF contracts with the lead agencies was \$160,000.<sup>22</sup> The only finding related to the lead agencies on compensation benefits stated that two of the DCF's subcontracted entities did not require salaried employees to record annual leave used in increments of less than 8 hours.<sup>23</sup> The Florida Auditor General recommended the DCF amend the ME contracts to require compliance with statutory provisions restricting of state-funded bonus payments under the contract.<sup>24</sup>

### Quality Assurance

The DCF shares responsibility with lead agencies and subcontractors to maintain a result-oriented accountability program that monitors and measures the use of resources, services provided, and outcomes achieved.<sup>25</sup> Reports must be produced quarterly, at a minimum, and published on the DCF's website.<sup>26</sup> The DCF reports the results in a quarterly scorecard which summarizes key issues, namely safety, permanency, and well-being metrics.<sup>27</sup>

### **Community Alliances**

The DCF is required to establish community alliances<sup>28</sup> 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.<sup>29</sup> Each community alliance may encompass more than one county when such arrangement is determined to provide for more effective representation.<sup>30</sup> Community alliances have a duty, amongst other obligations, to serve as a catalyst for community resource development, and promote prevention and early intervention.<sup>31</sup>

Community alliances are composed of a representative from the DCF, 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.<sup>32</sup> The community alliances shall adopt bylaws and may increase the membership of the alliance if such increase is necessary to adequately represent the diversity of the population.<sup>33</sup> The additional members may include states attorneys, public defenders, their designees, or

<sup>22</sup> The Office of the Auditor General, *Department of Children and Families Oversight and Administration of Community-Based Care Lead Agencies and Behavioral Health Managing Entities and Selected Department Administrative Activities*, Report No. 2019-111, p. 6 and 54-55, January 2019, available at [https://flauditor.gov/pages/pdf\\_files/2019-111.pdf](https://flauditor.gov/pages/pdf_files/2019-111.pdf) (last visited February 16, 2021) (hereinafter cited as "2019 Audit Report").

<sup>23</sup> *Id.* at p. 3.

<sup>24</sup> *Id.* at p. 28.

<sup>25</sup> Section 409.997(2), F.S.

<sup>26</sup> Section 409.997(2)(g), F.S.

<sup>27</sup> The DCF, *CBC Scorecard*, available at <https://www.myflfamilies.com/programs/childwelfare/dashboard/cbc-scorecard.shtml> (last visited February 16, 2021).

<sup>28</sup> Section 409.986(2)(c), FS., states a "community alliance" means the group of stakeholders, community leaders, client representatives, and funders of human services established pursuant to s. 20.19(5) to provide a focal point for community participation and oversight of community-based services.

<sup>29</sup> Section 20.19(5)(a), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> Section 20.19(5)(b), F.S.

<sup>32</sup> Section 20.19(5)(d), F.S.

<sup>33</sup> Section 20.19 (5)(e), F.S.



individuals from funding organizations, community leaders or individuals who have knowledge of community-based service issues.<sup>34</sup>

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.<sup>35</sup> The DCF was required to develop a plan in collaboration with the local community alliance.<sup>36</sup> 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.<sup>37</sup> A plan developed under this former provision had to include best business practices, including some form of public and private partnerships.<sup>38</sup>

### **Managing Entities**

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.<sup>39</sup>

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.<sup>40</sup> The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.<sup>41</sup> Full implementation of the statewide managing entity system occurred in 2013 and all geographic regions are now served by a managing entity.<sup>42</sup>

### ***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; and<sup>43</sup>

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<sup>34</sup> *Id.*

<sup>35</sup> Section 46, ch. 2014-224, L.O.F.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Section 46, ch. 2014-224, L.O.F.

<sup>39</sup> See chs. 394 and 397, F.S.

<sup>40</sup> Chapter 2001-191, L.O.F.

<sup>41</sup> Chapter 2008-243, L.O.F.

<sup>42</sup> Florida Tax Watch, *Analysis of Florida's Behavioral Health Managing Entity Models*, p. 4, March 2015, available at <https://floridatxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15758/Analysis-of-Floridas-Behavioral-Health-Managing-Entities-Model> (last visited February 16, 2021).

<sup>43</sup> Section 394.9082(7), F.S., details the performance measurements and accountability requirements of MEs.



- Periodically review contract and reporting requirements and reduce costly, duplicative, and unnecessary administrative requirements.<sup>44</sup>

### ***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;<sup>45</sup>
- 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
- Operate in a transparent manner, providing access to information, notice of meetings, and opportunities for public participation in ME decision making.<sup>46</sup>

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); and
- South Florida Behavioral Health Network, Inc. (beige).<sup>47</sup>

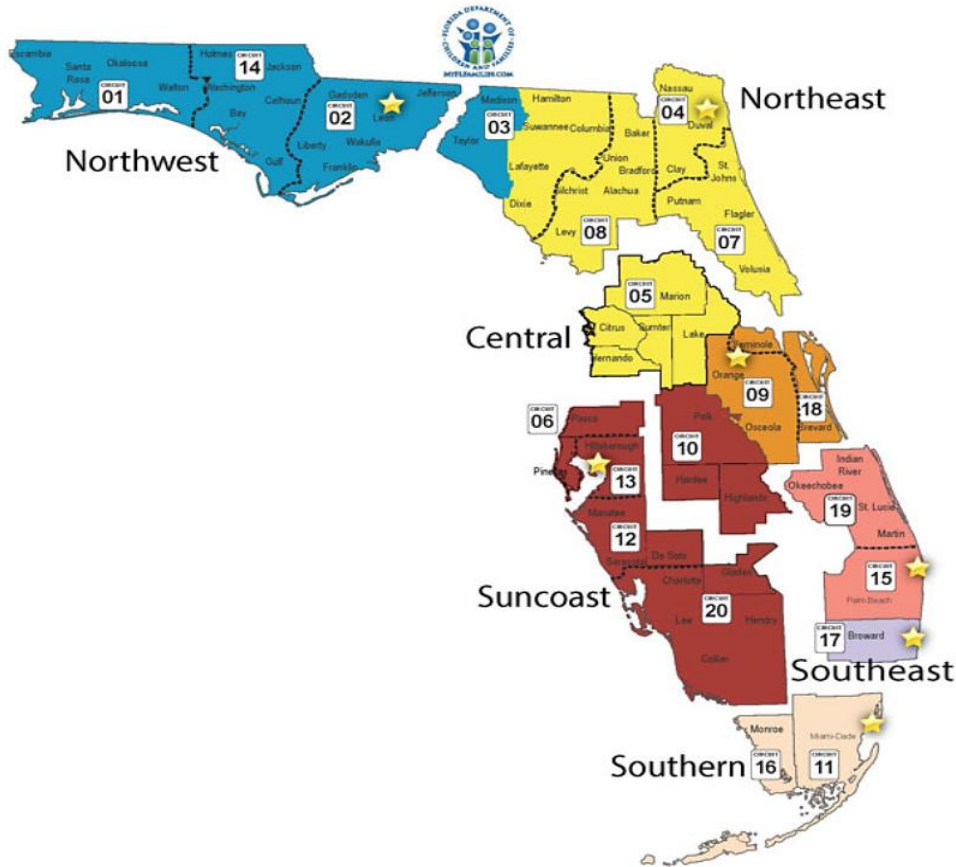
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<sup>44</sup> Section 394.9082(3), F.S.

<sup>45</sup> Section 394.9082(6), F.S., sets out the network accreditation and systems coordination agreement requirements.

<sup>46</sup> Section 394.9082(5), F.S.

<sup>47</sup> The DCF, *Managing Entities*, <https://www.myflfamilies.com/service-programs/samh/managing-entities/> (last visited February 16, 2021).



The MEs in turn contract with local service providers for the delivery of mental health and substance abuse services.<sup>48</sup> In FY 2018-2019, the network service providers under contract with the MEs served 339,093 individuals.<sup>49</sup>

***Coordinated System of Care***

Managing entities are required to promote the development and implementation of a coordinated system of care.<sup>50</sup> 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 managing entity or by another method of community partnership or mutual agreement.<sup>51</sup> 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 managing entities.<sup>52</sup> MEs must submit detailed plans to enhance

<sup>48</sup> Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

<sup>49</sup> The DCF, *Substance Abuse and Mental Health Triennial Plan Update for Fiscal Year*, (Dec. 6, 2019) <https://www.myflfamilies.com/service-programs/samh/publications/docs/SAMH%20Services%20Plan%202018%20Update.pdf> (last visited February 16, 2021).

<sup>50</sup> Section 394.9082(5)(d), F.S.

<sup>51</sup> Section 394.4573(1)(c), F.S.

<sup>52</sup> Section 394.4573(3), F.S. The Legislature has not funded system improvement grants.

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.<sup>53</sup> The DCF must use performance-based contracts to award grants.<sup>54</sup> There are several essential elements which make up a coordinated system of care, including:

- Community interventions;
- Case management;
- Care coordination;
- Outpatient services;
- Residential services;
- Hospital inpatient care;
- Aftercare and post-discharge services;
- Medication assisted treatment and medication management; and
- Recovery support.<sup>55</sup>

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;
- Therapeutic foster care;
- Residential treatment;
- Inpatient hospitalization;
- Case management;
- Services for victims of sex offenses;
- Transitional services; and
- Trauma-informed services for children who have suffered sexual exploitation.<sup>56</sup>

Current law requires the DCF to define the priority populations which would benefit from receiving care coordination, including considerations when defining such population.<sup>57</sup>

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.

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<sup>53</sup> *Id.*

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

<sup>55</sup> Section 394.4573(2), F.S.

<sup>56</sup> Section 394.495(4), F.S.

<sup>57</sup> Section 394.9082(3)(c), F.S.

### ***Funding and Expenses***

Contracts with MEs are funded with general revenue, other qualifying state funds, or applicable federal funding.<sup>58</sup> The MEs are required to develop and implement standards for collecting and reporting data related to crisis stabilization and detoxification and addictions receiving services.<sup>59</sup> The data is collected from entities who have received funds and operate under s. 394.875, F.S.<sup>60</sup> MEs are required to reconcile the data on a monthly basis, submit the data to the DCF on a monthly and annual basis, and the DCF is required to post data on its website regarding the utilization of funds these entities have received.<sup>61</sup>

In 2015, during an operational audit of the MEs, the Florida Auditor General found instances where salary payments for leave used and ME employee leave balances did not appear to be supported or calculated accurately.<sup>62</sup>

In the January 2019 operational audit by the Florida Auditor General described above, as of March 31, 2017, the MEs' chief executive officer annual salaries, before bonuses, averaged \$226,216, and the average allocated to the DCF contracts with the MEs was \$170,905.<sup>63</sup> The 2019 report also found that bonus payments of one ME did not appear clearly reasonable and necessary to the performance of the ME's duties.<sup>64</sup> The Florida Auditor General recommended the DCF amend the ME contracts to require compliance with statutory provisions restricting of state-funded bonus payments under the contract.<sup>65</sup>

Florida law is currently silent regarding a salary cap for administrative employees of MEs.

### **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.<sup>66</sup> 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;

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<sup>58</sup> Section 394.9082(9), F.S.

<sup>59</sup> Section 394.9082(10), F.S.

<sup>60</sup> *Id.*

<sup>61</sup> Section 394.9082(10)(e) and (f), F.S.

<sup>62</sup> The Office of the Auditor General, *Department of Children and Families and Selected Behavioral Health Managing Entities*, Report No. 2015-155, p. 1-2, March 2015, available at [https://flauditor.gov/pages/pdf\\_files/2015-155.pdf](https://flauditor.gov/pages/pdf_files/2015-155.pdf) (last visited February 16, 2021).

<sup>63</sup> 2019 Audit Report, at p. 6 and 57.

<sup>64</sup> *Id.* at p. 3.

<sup>65</sup> *Id.* at 28.

<sup>66</sup> Section 39.5086(1)(c), F.S.

- Provide toll-free telephone hotline services with information to link kinship caregivers, kinship support facilitators, and kinship service providers;
- 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.<sup>67</sup>

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;<sup>68</sup>
- Level I family foster care homes licensure if qualifications are met;<sup>69</sup>
- Relative Caregiver Program (RCP);<sup>70</sup> and
- Temporary Cash Assistance (TCA) Program.<sup>71</sup>

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.<sup>72</sup> All lead agencies except for one offer kinship services,<sup>73</sup> but the services provided do not meet the current statutory requirements for such a program.<sup>74</sup> 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.<sup>75</sup>

The Family First Prevention Act allows Title IV-E agencies to claim 50 percent of kinship navigator program costs if specified criteria are met.<sup>76</sup> The DCF has been working with the

<sup>67</sup> Section 39.5086(2)(b), F.S.

<sup>68</sup> Section 39.6225, F.S.

<sup>69</sup> Section 409.175, F.S.

<sup>70</sup> Section 39.5085, F.S.

<sup>71</sup> 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 February 16, 2021).

<sup>72</sup> 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 February 16, 2021) (hereinafter referred to as “CFOP 170-10”)

<sup>73</sup> The DCF, *Agency Analysis for SB 92*, p. 5, February 10, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The DCF Analysis”).

<sup>74</sup> *Id.*

<sup>75</sup> The DCF Analysis, p. 12.

<sup>76</sup> *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*

Children’s Home Network to contribute to the evidence of their program.<sup>77</sup> The DCF received a one year grant and has been given the opportunity to received continued Kinship grant to include a second provider.<sup>78</sup> One of the DCF’s objectives is to implement a plan for Kid’s, Inc. to have one or more of its own models meeting the federal reimbursement standards.<sup>79</sup>

### **Family-Finding Program**

The DCF may establish a formal family-finding program subject to available resources.<sup>80</sup> 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 assist with support and care of the child.<sup>81</sup> Florida law defines diligent search efforts,<sup>82</sup> but requires the DCF to make efforts beyond basic search tools by exploring alternative tools and methodology.<sup>83</sup>

The DCF has rule making authority to implement this discretionary program,<sup>84</sup> 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.<sup>85</sup>

Between FY 2001-02 to 2008-09, the DCF implemented or expanded family finding tools in 67 counties to test the effectiveness of flexibly using Title IV-E funding provided under a waiver program to expanded child welfare services and supports available to increase the availability of family connections and to reduce the number of children in out-of-home care.<sup>86</sup> The six-step approach adopted includes discovery, engagement, planning, decision making, evaluation, and

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

<sup>77</sup> *Id.*

<sup>78</sup> The DCF Analysis, p. 12.

<sup>79</sup> *Id.*

<sup>80</sup> Section 39.4015(3), F.S.

<sup>81</sup> Section 39.4015(3)(a), F.S.

<sup>82</sup> Section 39.01(23), F.S., defines “diligent efforts of social service agency” as 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.

<sup>83</sup> Section 39.4015(3)(b), F.S.

<sup>84</sup> Section 39.4015(4), F.S.

<sup>85</sup> *Id.*

<sup>86</sup> 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](https://www.myflfamilies.com/general-information/publications-forms/docs/APSR/S10-008463_Title%20IV-E%20Brief%202%20January2010.pdf) (last visited February 16, 2021).

follow-up support.<sup>87</sup> The overall conclusion was that flexible use of Title IV-E funds will result in expanded services which reduce the number of children in out-of-home care, and that more children were reunified or were placed with caregivers.<sup>88</sup>

### **Child and Family Well-being Programs**

Florida law does not presently provide for a child and family well-being system. There are, however, goals which 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 families<sup>89</sup> and children to meet the children’s needs, including their educational and mental health needs, and skills for independent living.<sup>90</sup>

There are innovative child and family well-being programs being developed throughout the United States which focus on family well-being and implementing creative preventative measures to keep families intact.<sup>91</sup> 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.<sup>92</sup>

Casey Family Programs (CFP) is an organization that focuses on these key objectives of child-welfare. It was founded in 1966 and works in all 50 states.<sup>93</sup> The program provides consulting, research and analysis, and services free of charge to advance these goals.<sup>94</sup>

Alia is another program that is transforming child welfare systems by conducting research, providing strategy sessions, leadership coaching, and other workshops and events.<sup>95</sup> Alia promotes building an “unsystem” with five phases for implementing change to shift child welfare systems’ primary focus 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;

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<sup>87</sup> *Id.* at p. 4.

<sup>88</sup> *Id.* at p. 4-5.

<sup>89</sup> Section 39.001(47), F.S., states that “family support services” means services provided to children (and their families) who have been found to be safe and at high or very high risk of future maltreatment.

<sup>90</sup> Section 409.986, F.S.

<sup>91</sup> 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&sectionid=2&articleid=5652>; Alia, *Get to Know Us*, available at <https://www.aliainnovations.org/who-we-are> (all sites last visited February 16, 2021).

<sup>92</sup> Children’s Bureau, *What We Do*, available at <https://www.acf.hhs.gov/cb/about/what-we-do> (last visited February 16, 2021).

<sup>93</sup> Casey Family Programs, *Who We Are*, available at <https://www.casey.org/who-we-are/> (last visited February 16, 2021).

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

<sup>95</sup> Alia, *Project Work*, available at <https://www.aliainnovations.org/project-work> (last visited February 16, 2021).



- Aligning Practice with your *Why*; and
- Reaching a Tipping Point Toward Primary Prevention.<sup>96</sup>

South Carolina has adopted a child welfare system with similar goals and objectives as these programs and allocates resources with a primary focus on a preventative system.<sup>97</sup> Key elements of the system include, in part:

- 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; and
- Fostering a greater understanding of trauma.<sup>98</sup>

### **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.<sup>99</sup> 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 as specified in the statute.<sup>100</sup> For example, the DCF should, amongst other things:

- Provide training and support to the caregiver to help meet necessary requirements for the daily care and any special needs of the child.
- 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.<sup>101</sup>

A caregiver must maintain the confidentiality of any information as required by law.<sup>102</sup>

The Florida Administrative Code requires community-based care lead agencies to provide support for all licensed out-of-home caregivers,<sup>103</sup> including:

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

<sup>96</sup> *Id.*

<sup>97</sup> 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&sectionid=2&articleid=5652> (last visited February 16, 2021).

<sup>98</sup> *Id.*

<sup>99</sup> Section 39.4087(1), F.S.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> Section 39.4087(1)(c), F.S.

<sup>103</sup> Rule 65C-45.011, F.A.C.

- Service resources for caregivers.<sup>104</sup>

The community-based care lead agencies must also make contact with the licensed caregiver at least quarterly.<sup>105</sup> Several other rules address efforts required by the child protective investigator or case manager to assist or provide information to caregivers.<sup>106</sup> Licensure rules address caregivers obligations to maintain confidentiality.<sup>107</sup>

The DCF has also established operating procedures for providing services and support for children in care and for caregivers,<sup>108</sup> including supporting relatives caring for children who are placed in out-of-home care,<sup>109</sup> and nonrelative caregiver financial assistance.<sup>110</sup> Additional subsidies are available depending on the permanency status of the child.<sup>111</sup> The DCF procedures also list information with which the child welfare professional must provide to the relative caregiver for completing the home study.<sup>112</sup>

### **Conflicts of Interest**

There are several Florida statutes which address transactions or other situations in which a conflict of interest exists or may exist,<sup>113</sup> and define the term “conflict of interest” in context of the statute with which it relates.<sup>114</sup>

### **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.<sup>115</sup> If a director’s conflict of interest transaction is fair to the corporation at the time it is authorized, approved, effectuated, or ratified:

<sup>104</sup> Rule 65C-45.011(1), F.A.C.

<sup>105</sup> Rule 65C-45.011(2), F.A.C.

<sup>106</sup> See Rule 65C-35.004, F.A.C. (assisting the caregiver with attending appointments with a child if the caregiver is unavailable); Rule 65C-35.011(10), F.A.C. (informing the caregiver about the importance of communicating regarding a child’s psychotropic medication and recommending they exchange contact details); and Rule 65C-28.005(4), F.A.C. (regarding services and information relating to the child upon a change of placement).

<sup>107</sup> See Rule 65C-45.003, F.A.C. (requiring an assessment of how, amongst other things, the caregiver will maintain confidentiality as required by law);

<sup>108</sup> Chapter 8, CFOP 170-10.

<sup>109</sup> 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.

<sup>110</sup> Chapter 9, CFOP 170-10.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at pp. 5-7.

<sup>113</sup> See ss. 112.312, 605.04092, 607.0832, and 617.0832, F.S.

<sup>114</sup> See ss. 112.312, and 605.0492, F.S.

<sup>115</sup> 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.

- Such transaction is not void or voidable; and
- 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.<sup>116</sup>

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.<sup>117</sup>

### ***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.<sup>118</sup>
- The relationship is known or disclosed and the members entitled to vote authorize or ratify it by vote or written consent,<sup>119</sup> or
- The contract or transaction is fair and reasonable to the operation at the time is it authorized by the board, a committee, or the members.<sup>120</sup>

The transactions are required to be approved by a majority vote of the members who are entitled to vote.<sup>121</sup>

### ***Public Officer and Employee***

Public officers and employees must comply with standards of conduct provided for in s. 112.313, F.S. Ch. 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.<sup>122</sup> Public officers and employees of agencies are also prohibited from having conflicting employment or contractual relationships with any business entity or regulation.<sup>123</sup> 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.

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<sup>116</sup> 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.

<sup>117</sup> 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.

<sup>118</sup> 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.

<sup>119</sup> Section 617.0832(1)(b), F.S.

<sup>120</sup> Section 617.0832(1)(c), F.S.

<sup>121</sup> Section 617.0832(2) and (3), F.S.

<sup>122</sup> Section 112.313(3), F.S.

<sup>123</sup> Section 112.313(7), F.S.

### III. Effect of Proposed Changes:

#### Lead agencies and 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., providing the DCF must include a provision in its contracts with the lead agencies that requires them to provide information which specifies how the lead agency will adhere to this requirement.

##### *Salary Provisions*

The bill amends s. 409.988, F.S., removing the requirement for the individual lead agency to post specified budget information 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, annual expenses, administrative expenses, and fundraising expenses 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 amends s. 394.9082, F.S., requiring any new or amended contracts the DCF executes with lead agencies and MEs to limit employees’ salaries<sup>124</sup> from state appropriated funds to no more than 100 percent of the annual salary paid to the secretary of the DCF. This provision is new in application to the MEs. Additionally, s. 409.992, F.S., is amended to reduce the limit on lead agencies salaries from state-appropriated funds to no more than 100 percent, from 150 percent, of the annual salary paid to the secretary of the DCF. These provisions explicitly state that this does not prevent the entity from paying more for salary, bonuses, etc. from other sources.

The DCF will need to develop new reporting templates, modify current year-end fiscal analysis tools, and modify ME contracts to implement these amendments.<sup>125</sup> MEs will have to assess employee compensation and determine whether any compensation requires an adjustment to comply with the new requirement, and the DCF is unable to estimate the number of employees which may be affected by this bill.<sup>126</sup>

##### *Conflicts of Interest*

The bill creates s. 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

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<sup>124</sup> “Salary” means base pay or base pay combined with any bonus or incentive payments, including the base pay or the base pay combined with any bonus or incentive payments received as a result of employment with one or more than one community-based care lead agency or managing entity. If the bill is passed, the terms employee and salary would apply to the contracts on July 1, 2021 even if not amended by that date.

<sup>125</sup> The DCF Analysis at p. 5.

<sup>126</sup> *Id.* at p. 6.

interest for a member, officer, or relative of a lead agency or ME. The terms activity, conflict of interest, managing entity and relative are defined as follows:

- “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 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;<sup>127</sup>
- “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;<sup>128</sup>
  - 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;<sup>129</sup>
- “Managing entity” has the same meaning as in s. 394.9082, F.S.;<sup>130</sup> and
- “Relative” means a relative within the third degree of consanguinity by blood or marriage.<sup>131</sup>

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 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

<sup>127</sup> Sections 394.90825(1)(a) and 409.987(7)(a)1., F.S.

<sup>128</sup> Sections 349.90825(1)(b) and 409.987(7)(b)2., F.S. The bill provides that for purposes of this provision, ‘indirect interest’ has the same meaning as provided in s. 112.312, F.S.

<sup>129</sup> 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.

<sup>130</sup> Section 394.90825(1)(c), F.S.

<sup>131</sup> Sections 394.90825(1)(d) and 409.987(7)3., F.S.

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, 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.<sup>132</sup> 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.<sup>133</sup> The DCF also would need to edit the Supplemental Contract related to the future Invitations to Negotiate.<sup>134</sup>

### **Community Alliances**

The bill amends s. 20.19, F.S., modifying the requirement for the DCF's to form a community alliance to cover a county or "more than one county," 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 services by the alliance, and redefines the membership to a minimum of 20 members from a specified list of representatives, including:

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

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<sup>132</sup> The DCF Analysis at p. 7.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

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

The bill also 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. This amendment creates legislation that is substantially similar to former legislation under s. 409.1671(1)(d) that existed prior to July 2014.

### **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.<sup>135</sup>

Children's Home Network that 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.<sup>136</sup>

### **Child and Family Well-Being**

The bill requires DCF to establish a program that consists of a child and family well-being, system<sup>137</sup> 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;
- Designating lead agency leadership that will identify a core group of agency individuals to develop a plan for creating the change;

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<sup>135</sup> The DCF Analysis at p. 5.

<sup>136</sup> The DCF Analysis at p. 10.

<sup>137</sup> 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.



- Recognizing that change of this magnitude is difficult and time-consuming, and determine steps to determine 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.<sup>138</sup>

### Caregivers

The bill provides that the DCF is required to treat caregiver in a certain manner and provide specified support and information that used 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:

- Provide an explanation to the caregiver regarding the roles of the persons involved;
- Provide training and support to the caregiver;
- Disclose all relevant information regarding the child and the background of his or her biological family;
- Allow caregivers to communicate with professionals who work with the child;
- Provide a means by which a caregiver may contact the lead agency 24 hours a day, 7 days a week;
- Solicit and consider caregiver input on a child's case plan;
- Provide a clear, written explanation to a caregiver of any plan concerning the placement of a child;
- Provide information on any emergency situation which arises;
- Allow a caregiver to request removal of the child without retaliation;
- Inform 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;
- Give at least 7 days' notice to a caregiver of any meeting or court hearing;
- Consider the caregiver as placement for the child if the child reenters out-of-home care;
- Allow a caregiver a period of respite upon reasonable notice; and
- Provide the caregiver, upon request, with copies of all information in the department's records regarding the caregiver.

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<sup>138</sup> The DCF Analysis at p. 8.

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.

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:

The DCF's Office of Administrative Services finds that this bill does not increase or decrease taxes, fees, or fines.<sup>139</sup>

B. Private Sector Impact:

##### **Family-Finding Programs**

The DCF's Office of Administrative Services finds that the potential fiscal impact to the private sector is \$11,088,360 (including nonrecurring of \$62,272) expenses to cover the positions for the family-finding and kinship navigator programs.

The DCF states that 14 lead agencies do not currently have a program and each will need one position to operate the program statewide. The DCF states that it anticipates the need

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<sup>139</sup> The DCF Analysis at p. 11.

for one position at each of the remaining 14 lead agency locations that are not operating a family-finding program. The positions expected to be necessary are for Operations Review Specialist to implement the family-finding program.<sup>140</sup>

The DCF reports the average annual salary for an Operations Review Specialist with benefits is \$62,890.71 a year with a total salary and benefits for the 14 positions of \$880,470.<sup>141</sup> Administrative costs to determine expenses for 14 positions are multiplied by \$10,422 for a total of \$145,908.<sup>142</sup> The total funds required for the 14 positions to staff the family-finding program is \$1,026,378 (\$964,106 in recurring and \$62,272 in nonrecurring) expenses.<sup>143</sup>

It should be noted that the DCF states that there are currently five lead agencies that are operating family finder programs even though the operation of such programs is permissive. These lead agencies are operating the family finder programs within existing resources and existing FTEs. As a result, additional information will need to be gathered from the DCF to understand the expenditure and FTE needs that are stated in the DCF's analysis dated February 10, 2021.

### **Kinship Navigator Programs**

The DCF's Office of Administrative Services also finds there would be a potential fiscal impact to the private sector to fund the salaries of staff that is required to operate the kinship program.<sup>144</sup> The lead agencies will use current resources to support the technology requirements that will be necessary to operate the kinship navigator program.<sup>145</sup> The DCF currently has 19 contracts with lead agencies and anticipates that these positions would be sufficient to implement the program.<sup>146</sup> The 19 positions require funding of \$10,061,982 (19 positions x \$529,578).

As is stated with the family finder programs, the DCF provides that kinship services are being provided in Florida. Additional information needs to be obtained from the DCF to understand whether the services being provided meet the criteria for kinship navigator programs required under s. 39.5086(2)(b), F.S.

### **C. Government Sector Impact:**

The DCF's Office of Administrative Services finds that the potential fiscal impact to local government is \$513,189 (including \$482,053 in recurring and \$31,136 in nonrecurring) expenses to cover the salary of 7 positions one at each sheriff's office for an Operations Review Specialists to implement the family-finding program.<sup>147</sup> Total

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<sup>140</sup> The DCF Analysis at p. 10.

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> The DCF Analysis at p. 10.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> The DCF Analysis at p. 10.

<sup>147</sup> The DCF Analysis at p. 9.

salary and benefits for 7 Operation Review Specialists is \$440,235.<sup>148</sup> To determine expenses, 7 Operations Review Specialists are multiplied by \$10,422 (\$5,974 recurring and \$4,448 nonrecurring) for a total of \$72,954 (\$41,818 is recurring and \$31,136 is nonrecurring).<sup>149</sup>

The DCF's Office of Administrative Services finds that the potential fiscal impact to state government is \$4,713.147 (including \$4,428,475 in recurring and \$284,672 in nonrecurring) expenses to cover the salary of 64 positions one at each Child Protective Investigator service center for an Operations Review Specialist to implement the family-finding program.<sup>150</sup> Total salary and benefits for 64 employees is \$4,025,005.<sup>151</sup> To determine expenses, 64 Operations Review Specialists are multiplied by \$10,422 (\$5,974 recurring and \$4,448 nonrecurring) for a total of \$667,008 (\$382,336 is recurring and \$284,672 is nonrecurring).<sup>152</sup> Human resources expenses have been determined by multiplying 64 full time employee positions by \$330.22 for a total of \$21,134.<sup>153</sup> The total amount of expenses and human resource costs are \$688,142 (\$403,470 is recurring and \$284,672 is nonrecurring).<sup>154</sup>

As stated in the private sector impact statement, additional information will need to be gathered from the DCF to understand the expenditure and FTE needs that are provided in the government sector impact section in the DCF's analysis dated February 10, 2021.

The DCF will need minimal use of existing resources to adapt websites and contracts.<sup>155</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 20.19, 30.4015, 39.4087, 39.5086, 394.9082, 409.987, 409.988, 409.992, and 409.996 of the Florida Statutes.

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

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<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> The DCF Analysis at p. 9.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> The DCF Analysis at p. 9.

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

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