

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: SB 1358

INTRODUCER: Senator Rouson

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

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1358 creates the Task Force on the Monitoring of Children in Out-of-Home Care adjunct to the Florida Department of Law Enforcement (FDLE), with the FDLE providing administrative support for the Task Force. The Task Force is required to identify and counter the root causes of why children go missing while in out-of-home care and to ensure that prompt and effective action is taken to address such causes. The Task Force must examine and recommend improvements to current policies, procedures, programs, and initiatives to prevent children from going missing while in out-of-home care and to ensure that timely and comprehensive steps are taken to find children who are missing for any reason, including, but not limited to, running away, human trafficking, and abduction by or absconding with a parent or an individual who does not have care or custody of the child.

The Task Force is to be composed of 13 members, including, but not limited to, a member of the Senate, a member of the House of Representatives, and representatives from the FDLE, the Guardian ad Litem program, and the community-based care lead agencies (CBCs), a licensed foster parent, and a young adult who has aged out of the foster care system. Dates are specified for member appointments and the initial meeting of the Task Force.

The bill requires the Department of Children and Families (DCF or department) to submit monthly reports through October, 2023, to assist the Task Force in fulfilling its duties and requires the Florida Institute for Child Welfare to conduct focus groups with children in out-of-home care and young adults who have aged out of the foster care system to examine why children leave their out-of-home placements and how to prevent them from leaving.

The bill requires the Task Force to submit a report with findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2023.

The bill includes a date for repeal of the section creating the Task Force on June 30, 2024, unless reviewed and saved from repeal by the Legislature.

The bill is anticipated to have a significant negative fiscal impact on the FDLE. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2022.

II. Present Situation:

Out-of-home Care

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

After conducting an investigation, if the CPI determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, known as out-of-home care, a series of dependency court proceedings must occur before a child may be adjudicated dependent.⁶

When children cannot safely remain at home with parents, Florida's child welfare system finds safe out-of-home placements for such children. After an assessment to determine the most

¹ Section 39.201(1), F.S.

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

³ Section 39.01(1), F.S. The term "abandoned" or "abandonment" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

⁴ Sections 39.01(50) and 39.201(2)(a), F.S. "Neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

⁵ Section 39.101(2), F.S.

⁶ See s. 39.01(14), F.S., for the definition of "child who is found to be dependent".

appropriate out-of-home placement, a child may be placed with a relative, fictive kin, licensed foster parent, in a group home or residential setting.⁷ While in out-of-home care, the child and his or her parents receive services to address problems that led to the removal so that reunification or other permanency option may be reached as quickly as possible.⁸

Once removed, the shelter and daily care for the child are provided by foster or kinship families or group home staff. These caregivers undergo an assessment and licensing or certification process to ensure their suitability as caregivers. While in out-of-home care, services are provided to the child and his or her parents to help improve the problems that led to the removal so that reunification or other permanency options may be reached as quickly as possible.⁹

Missing Children in DCF Custody

When Rilya Wilson disappeared in 2002, national awareness of the problem of children becoming missing while under the care of child welfare agencies intensified.¹⁰ In the wake of her disappearance, at the direction of Governor Jeb Bush, DCF and the Florida Department of Law Enforcement (FDLE) teamed up to locate 393 missing children who were under the DCF's custody.¹¹ The multi-agency, statewide effort was entitled "Operation SafeKids" (Operation). Seven Regional Child Location Strike Forces were created in each of the FDLE's seven regions. The results of the Operation included:

- 292 (75%) children were located or cases were closed.
- 13 (3%) children aged out of care and were no longer under the custody of the DCF but still had active cases with law enforcement.
- 88 (22%) children were not located and remained under active investigation by the local law enforcement agency and the DCF. Of these, 20 were included in the Endangered/Parental Abduction/Involuntary group, and 68 were included in the Runaway group.¹²

The FDLE reports that the FDLE's Missing Endangered Persons Information Clearinghouse (MEPIC)¹³ led a multi-agency, statewide effort, titled "Operation Safe Kids." Part of this

⁷ Rule 65C-28.004, F.A.C.

⁸ Child Welfare Information Gateway, *Out-of-Home Care Overview*, available at <https://www.childwelfare.gov/topics/outofhome/overview/#:~:text=Out%2Dof%2Dhome%20care%20is,to%20abuse%20and%20for%20neglect> (last visited Jan. 22, 2022).

⁹ *Id.*

¹⁰ Four-year old Rilya Wilson went missing while in DCF's custody after the termination of her mother's parental rights. The DCF did not discover her disappearance until two years later, when Rilya was not found living at the home of her caregiver. The Florida Legislature passed, and the Governor signed, a bill into law that created the Rilya Wilson Act. Section 39.604, F.S., requires a child from birth to the age of school entry, who is under court-ordered protective supervision or in out-of-home care and is enrolled in an early education or child care program, to attend the program 5 days a week unless the court grants an exemption.

¹¹ The FDLE and the DCF, *Operation SafeKids, Results, Findings & Recommendations* (Dec. 17, 2002), available at https://popcenter.asu.edu/sites/default/files/problems/runaways/PDFs/FL%20DOC&F_2002.pdf (last visited January 22, 2022).

¹² *Id.*

¹³ The Missing Endangered Persons Information Clearinghouse (MEPIC) is the central repository of information regarding missing endangered persons in Florida. MEPIC assists law enforcement agencies and Florida's citizens in finding missing persons by providing analytical services and engaging the public in the search. As part of these services, MEPIC has worked with partner agencies to develop the Florida AMBER Plan and Florida Silver Alert Plan. Under these plans, MEPIC is responsible for issuing all AMBER Alerts, Missing Child Alerts and State Silver Alerts in Florida, *available at*: <https://www.fdle.state.fl.us/mcicsearch/> (Last visited January 11, 2022).

operation's work was implementation of the now standard procedure, opening missing persons cases for every child discovered missing while under the DCF custody. The DCF, as the custodian of the missing child, makes the initial missing report to the appropriate local law enforcement agency who then enters the case into the Florida Crime Information Center (FCIC). This entry ensures all law enforcement and criminal justice professionals nationwide making inquiries regarding a possible missing child similar to the subject of the case, are notified of the Florida missing child. Additionally, the DCF creates a record in the Florida Safe Families Network (FSFN), their internal database, concerning the missing episode.¹⁴

A DCF liaison, co-located within MEPIC, quality controls the information in FSFN using internal DCF information and the missing child's FCIC entry. This information is electronically transferred from the DCF liaison to members of MEPIC who facilitate its entry into MEPIC's Missing Persons Database (MPDB). In addition to populating a variety of Florida systems and access points to the information, MPDB also electronically transfers the information regarding the child to the National Center for Missing and Exploited Children (NCMEC). When fully implemented as an electronic network in February of 2008, this relay process became the first of its kind in the nation, rapidly transferring the missing record of a child in state care, to both state and federal missing persons clearinghouses to help optimize the safe recovery of the child in minimal time.¹⁵

The co-location and partnership with the DCF personnel within MEPIC facilitates the ongoing effectiveness and continued success of this system as well as the facilitation of near immediate agency-to-agency communication and information sharing between state and local partners on all DCF missing child cases. This benefit is particularly valuable with those cases involving the most serious danger for the children and urgency required to insure a safe recovery.¹⁶

Additionally, a Florida Senate interim project report noted that the disappearance of Rilya Wilson in 2002 raised national awareness of the problem of children who become missing while under the care of the child welfare agencies charged with protecting them. Since then, Florida and many other states studied the issue and enacted legislation and implemented policies intended to improve tracking of children in state care. The report made a number of recommendations related to changes in Florida law, including:

- The DCF should be given rule-making authority specific to missing children. The department should be directed to promulgate rules that will provide comprehensive, explicit and consistent guidelines to be followed by its employees and contracted providers.
- The Legislature should consider amending Chapter 39 to require the department and its contracted providers to report a child as missing to the appropriate law enforcement agency, after making reasonable, but unsuccessful, efforts to locate the child and determining that it is necessary to report the child as missing.
- Section 937.021(1), F.S., should be amended to make it clear that a law enforcement agency must take reports of missing children not only from parents and guardians, but also from the department or its contracted providers.

¹⁴ The FDLE, *2022 FDLE Legislative Bill Analysis SB 1358*, p. 5, January 19, 2022. (on file with the Senate Committee on Children, Families and Elder Affairs) (hereinafter cited as "The FDLE SB 1358 Analysis").

¹⁵ *Id.*

¹⁶ *Id.*

- Section 787.04(3), F.S., related to removing a child during an investigation or while under protective supervision, should be amended to require that a defendant act knowingly and willfully, rather than with criminal intent, after receiving constructive or actual notice of the pending matter.¹⁷

All of these recommendations were enacted during the 2008 legislative session.¹⁸

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

Federal legislation enacted in 1993 supports states in planning, designing, developing, and implementing a Statewide Automated Child Welfare Information System (SACWIS) system. SACWIS is a comprehensive, automated case management system that helps social workers manage foster care and adoption cases. All states and the District of Columbia collect data on their child welfare cases and activities for entry into a statewide automated system that provides reports for a variety of uses.¹⁹

The Children's Bureau requires states to include 66 data elements, including demographic information on the child's race, age, gender, and date of entry into care. The SACWIS includes case-related information, such as the reason identified for removing the child and placing him or her into foster care, service goals, number of placements, and availability for adoption. States may include other data elements to meet their needs, including elements that help caseworkers manage their caseloads within the structure of the child welfare system. States use their SACWIS data to create management and outcome reports.²⁰

The DCF's Florida Safe Families Network (FSFN) is the state's SACWIS.²¹ FSFN serves as the statewide electronic case record for all child abuse investigations and case management activities in Florida. The amount of data entered into FSFN is extensive and if fully utilized can provide infinite details on the whereabouts and safety of children in out-of-home care.

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University, College of Social Work. The Legislature created the FICW to provide research and evaluation that contributes to a more sustainable, accountable, and effective child welfare system. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research,

¹⁷ The Florida Senate, Committee on Children, Families, and Elder Affairs, *Missing Children*, Interim Project Report 2008-106, October 2007, available at <https://www.flsenate.gov/UserContent/Committees/Publications/InterimWorkProgram/2008/pdf/2008-106cf.pdf> (last visited January 22, 2022).

¹⁸ Chapter 2008-245, L.O.F.

¹⁹ Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment and Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, *Introduction to Cross-System Data Sources in Child Welfare, Alcohol and Other Drug Services, and Courts*, HHS Publication No. SMA-11-4630, 2011, available at https://ncsacw.samhsa.gov/files/DataPrimer_508.pdf (last visited January 22, 2022).

²⁰ *Id.*

²¹ Rule 65C-38.001, F.A.C.

policy analysis, evaluation, and leadership development.²² Current law requires the FICW to establish an affiliate network of public and private universities with accredited degrees in social work. All public universities with such programs in Florida are currently part of the network. In 2017, the FICW expanded its affiliate network to include research affiliates, and there are now over 50 research faculty affiliates. The FICW is statutorily mandated to:

- Maintain a program of research contributing to the scientific knowledge related to child safety, permanency, and child and family well-being.
- Advise the DCF and other organizations about scientific evidence regarding child welfare practice, as well as management practices and administrative processes.
- Assess performance of child welfare services based on specified outcome measures.
- Evaluate training requirements for the child welfare workforce and the effectiveness of training.
- Develop a program of training and consulting to assist organizations with employee retention.
- Identify and communicate effective policies and promising practices.
- Recommend improvements in the state's child welfare system.
- Submit annual reports to the Governor and Legislature.²³

The FICW sponsors and supports interdisciplinary research projects and program evaluation initiatives that contribute to knowledge relevant to enhancing Florida's child welfare outcomes.

Task Force

Section 20.03, F.S., includes definitions related to organizational structure. In part, it defines a "task force" as an advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.²⁴

Florida has established a number of task forces in the past related to child welfare. These have typically been created either by the Governor or the DCF's Secretary in response to a tragic incident involving a child under the DCF's custody. Examples of these include, in part:

- The Nubia Report, the Investigative Panel's Findings and Recommendations, 2011.²⁵
- Family Safety Quality Assurance Review of Courtney Alisa Clark, Initial Findings, 2007.²⁶
- Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse, 2010.²⁷
- Governor's Blue Ribbon Panel on Child Protection, 2003 (Rilya Wilson).²⁸

²² Section 1004.615, F.S.

²³ *Id.*

²⁴ Section 20.30(8), F.S.

²⁵ Lawrence, D., Martinez, R., and Sewell, J., *The Nubia Report, The Investigative Panel's Findings and Recommendations*, available at <http://centerforchildwelfare.org/kb/bppub/NubiasStory.pdf> (last visited Jan. 20, 2022).

²⁶ The DCF, *Family Safety Quality Assurance Review of Courtney Alisa Clark, Initial Findings*, available at <http://centerforchildwelfare.org/kb/FIPerformance/cclark%20QA%20Initial%20Findings.pdf> (last visited Jan. 20, 2022).

²⁷ The DCF, *Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse*, available at <https://www.myflfamilies.com/initiatives/GMWorkgroup/docs/Gabriel%20Myers%20COC%20Report%20May%2014%202010.pdf> (last visited Jan. 20, 2022).

²⁸ The DCF, *Governor's Blue Ribbon Panel on Child Protection*, available at <http://centerforchildwelfare.org/kb/FIPerformance/BlueRibbonFinal110703.pdf> (last visited Jan. 20, 2022).

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

III. Effect of Proposed Changes:

The bill creates the Task Force on the Monitoring of Children in Out-of-Home Care within the FDLE. The Task Force is created to identify and counter the root causes of why children go missing while in out-of-home care and to ensure prompt and effective action is taken to address such causes. The bill requires the Task Force to examine and recommend improvements to current policies, procedures, programs, and initiatives to prevent children from going missing while in out-of-home care and to ensure that timely and comprehensive steps are taken to find children who are missing for any reason, including, but not limited to, running away, human trafficking, and abduction by a parent or a person who does not have care or custody of the child.

The Task Force must be composed of the following 13 members:

- A member of the Senate, appointed by the President of the Senate.
- A member of the House of Representatives, appointed by the Speaker of the House of Representatives.
- The Secretary of the DCF, or designee.
- The Secretary of the Department of Juvenile Justice, or designee.
- The executive director of the Statewide Guardian ad Litem Office, or designee.
- The executive director of the FDLE, or designee.
- A representative from Safe Kids Florida, appointed by the State Surgeon General.
- A representative from the Statewide Council on Human Trafficking, appointed by the Attorney General.
- A representative from a CBC that delivers child welfare services in a rural county, appointed by the DCF's Secretary.
- A representative from a CBC that delivers child welfare services in an urban county, appointed by DCF's Secretary.
- A licensed foster parent, appointed by the DCF's Secretary.
- A representative from a residential group care provider, appointed by the DCF's Secretary.
- A young adult who aged out of the foster care system, appointed by the DCF's Secretary.

The bill requires all Task Force appointments to be made by August 1, 2022, and provides that each member serves at the pleasure of the appointing official. A vacancy on the Task Force must be filled in the same manner as the original appointment. The members must elect a chair from among the members.

The bill requires the Task Force to convene no later than September 1, 2022, and to meet monthly thereafter or upon the call of the chair. The bill allows meetings to be held through teleconference or other electronic means.

The bill requires the Task Force to:

- Analyze statistical data regarding children in out-of-home care who are missing and the reasons why, if known;
- Identify the root causes of why children go missing while in out-of-home care and how to prevent children from going missing while in out-of-home care;
- Assess the relationship between children who go missing from out-of-home care and the risks of such children becoming victims of human trafficking;
- Assess the comprehensiveness and effectiveness of existing policies and procedures for preventing children in out-of-home care from going missing, for promptly determining whether such children are missing, and for locating such children;
- Evaluate the state's approaches to reporting on the individual status of children missing from out-of-home care and the results of the efforts to locate such children, including, but not limited to, the use of technology, training, communication, and cooperation;
- Measure the overall performance of efforts to locate and recover children missing from out-of-home care, including, but not limited to, the communication and response between CBC's, the DCF, and other entities;
- Collaborate with the FICW to identify best practices used in other states for monitoring the location of children in out-of-home care who go missing, and evaluate whether such practices should be adopted in the state; and
- Submit recommendations to improve policies, procedures, and systems in the state, including, but not limited to, technology, training, communication, and cooperation, so all entities are effectively monitoring children in out-of-home care, responding appropriately when such children go missing, and preventing such children from going missing while in out-of-home care.

The bill requires the FICW to conduct focus groups with children in out-of-home care and young adults who aged out of the foster care system to assist the Task Force in fulfilling its duties. The focus groups must, at a minimum, consider the reasons why such children seek to leave their out-of-home placement, identify opportunities and resources to assist and prevent children from leaving their placements, and to facilitate the return of such missing children. The bill requires the FICW to submit the findings from the focus groups to the Task Force by April 1, 2023.

The bill requires the DCF to provide monthly reports to the Task Force until October 1, 2023. The monthly reports must, at a minimum, address the number and percentage of children in out-of-home care who have been reported missing, the reasons why such children are missing, if known, and the length of time between when such children are reported missing and their recovery or return. The monthly reports must categorize the required data by age, county, CBC, and reason, if known.

The Task Force must submit a report with its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2023.

The bill includes a repeal date of June 30, 2024, for the section creating the Task Force, unless reviewed and saved from repeal by the Legislature.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE reports that due to the short-term nature of the Task Force, the FDLE states it will require two OPS positions totaling \$140,076 (\$130,986 recurring) to support the Task Force.²⁹

VI. Technical Deficiencies:

None.

²⁹ The FDLE, *Agency Analysis for SB 1358*, p. 4, January 19, 2022 (on file with Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The FDLE SB 1358 Analysis”).

VII. Related Issues:

The FDLE has reported that as a task force pursuant to s. 20.03, F.S., this body would be required to meet sunshine meeting and records requirements. The bill does not provide an exception for closed sessions, therefore, task force members would not be able to openly discuss confidential and/or exempt records without waiving such rights. Further, the FDLE states that there may be the need to occasionally possess and review law enforcement sensitive information in this setting.³⁰ The FDLE respectfully recommends mirroring language found in s. 943.687(8), FS, which provides: “Any portion of a meeting of the Marjory Stoneman Douglas High School Public Safety Commission at which exempt or confidential and exempt information is discussed is exempt from s. 286.011, FS, and s. 24(b), Art. I of the State Constitution.”³¹

Additionally, the FDLE requests that additional language be included in the bill to allow for the Task Force to possess records while maintaining any exemption or confidentiality status those records may have already maintained and language authorizing closed sessions to discuss confidential and/or exempt materials that the Task Force may regularly need, such as active criminal intelligence information or active criminal investigative information, or personal identifiable information of individuals such as victims who may have constitutional rights under Marsy’s Law.³²

VIII. Statutes Affected:

The bill creates section 39.4093 of the Florida Statutes.

IX. Additional Information:

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

None.

B. **Amendments:**

None.

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

³⁰ The FDLE SB 1358 Analysis, p. 5.

³¹ *Id.*

³² *Id.*