

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 Health and Human Services

BILL: SB 7034

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Child Welfare

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Preston</u>	<u>Cox</u>		CF Submitted as Committee Bill
1.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	Pre-meeting
2.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 7034 makes a number of changes to current law relating to monthly payment amounts for foster parents and relative and nonrelative caregivers and other benefits to assist with benefiting the lives of foster youth.

Specifically, the bill amends s. 39.5085, F.S., to modify current monthly payment amounts for relatives and nonrelatives who have children placed with them in out-of-home care to the same rate established in s. 409.145(3), F.S., applicable in current law to Level II through Level V family foster home placements. The increased board rates are authorized for children placed in the home while the dependency proceedings are open, provided one of the following instances applies:

- From the date a child who is placed with the relative or nonrelative is found to be dependent, or from the date a child who has previously been found to be dependent is placed in out-of-home care with the relative or nonrelative, until 6 months after such placement, regardless of whether licensure as a child-specific Level I foster placement has been obtained.
- From the date the caregiver has obtained licensure as a child-specific Level I foster placement at any time after the date of the placement, regardless of whether a court has found that the child is dependent, until the child reaches permanency, as determined by the court under s. 39.621, F.S.

Additionally, the bill modifies the monthly payment amount for relatives and nonrelatives in other ways. First, the bill provides that relatives or nonrelatives who fail to obtain licensure as a child-specific Level I foster placement within 6 months of a certain out-of-home care placement date must receive a monthly payment less than the \$333 monthly payment provided to a participant enrolled in the Guardianship Assistance Program (GAP), which will be determined by rule. This payment is required to continue from 6 months of such date until the child reaches permanency as determined by the court under s. 39.621, F.S. However, if the relative or nonrelative caregiver obtains licensure as a child-specific Level I foster placement, he or she

again becomes eligible to receive payments at the higher board rate currently applicable to Level II through Level V foster family placements allowable under s. 409.145(3), F.S.

This monthly difference between nonlicensed and licensed child-specific Level I placements will create a payment structure that motivates caregivers to get licensed while also assisting these important caregivers with providing for the needs of the children placed in their care.

The bill maintains current law for relatives or nonrelatives of children who reach permanency in a permanent guardianship, but whose relative caregivers are not enrolled in GAP, by providing that such caregivers must receive a monthly payment in an amount determined by rule, which must be less than the \$333 monthly payment provided to a participant enrolled in the GAP.

The bill also amends s. 409.145, F.S., applying the current Level II to Level V room and board rate structure to relative and nonrelative caregivers who are licensed as a Level I child-specific foster placement, and to relative and nonrelative caregivers who are participating in the Relative Caregiver Program (RCP) and receiving the higher monthly board payments under the above-mentioned instances. Further, the bill applies the annual cost of living increase and the supplemental payment for teaching life skills and providing normalcy supports to children who are 13-17 years of age to the same caregivers mentioned above.

The bill also provides a \$200 per month subsidy to any foster parents and relative and nonrelative caregivers who have a child placed in their home between the ages of birth to school entry. This subsidy is provided regardless of whether the caregiver is licensed or not, but the child must be placed in out-of-home care with the caregiver and be the subject of an open dependency proceeding. The subsidy in the bill is intended to help defray the cost of an early learning or child care program.

The bill also expands the scope of potential students eligible for a tuition and fee exemption at a workforce education program, a Florida College System institution or a state university, by modifying one instance and adding two new instances for certain students who have been the subject of a dependency proceeding to be eligible for such an exemption, including for students who:

- Are, or were at the time of reaching 18 years of age, in out-of-home care, rather than in the custody of the DCF as is provided for in current law.
- After reaching 14 years of age, spent at least 18 months in out-of-home care and was reunified with his or her parents who were the subject of the dependency proceeding before reaching 18 years of age, including a student who was reunited under s. 39.8155, F.S. (reinstatement of parental rights). A student is only eligible for this tuition waiver if, in addition to the above-described factors, the student is also Pell Grant-eligible.
- Have been placed in a permanent guardianship, regardless of whether the caregiver participates or participated in the Relative Caregiver Program under s. 39.5085, F.S., and such student remains in the guardianship either until the student reaches 18 years of age or, if before reaching 18 years of age, he or she enrolls in an eligible institution.

The bill is expected to have a significant, indeterminate negative fiscal impact on the Department of Children and Families (DCF). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Florida's Child Welfare System - Overview

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 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 child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.⁶

Subsequent to a child being found dependent, a court must hold a disposition hearing to determine a course of treatment and services and placement of the child under protective supervision.⁷ The court must first consider placing the child with relatives.⁸ If a child cannot safely remain in the original home and no adult relative is available for temporary, legal custody, the child may be placed with an adult willing to care for the child under the protective

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".

⁷ Section 39.521(1), F.S.

⁸ Section 39.507(7)(c), F.S.

supervision of the DCF.⁹ Placing the child in the temporary, legal custody of the DCF invests the DCF with the rights and responsibilities of a legal custodian.¹⁰

The DCF must develop and refine a case plan¹¹ for each child receiving services throughout the dependency process with input from all parties to the child's dependency case. The case plan details are required to be tailored to address the abuse, abandonment, or neglect that gave rise to the abuse report, consider any other issues which would support family preservation if appropriate, and identify services to address the child's needs, as those needs are identified during the child protective investigation and throughout the case.¹²

The goal is for the dependency court and all parties involved in the child's case to ensure the child remains safe.¹³

When children are placed in out-of-home care, child welfare agencies must find safe, permanent homes for them as quickly as possible. In most cases, children are reunified with their families. When reunification is not possible, the DCF seeks to place children in permanent homes with relatives or adoptive families. Florida law requires a permanency hearing no later than 12 months after the child was removed from the home or within 30 days after a court determines that reasonable efforts to return the child to either parent are not required, whichever occurs first.¹⁴ The purpose of the permanency hearing is for the court to determine when the child will achieve permanency or whether modifying the permanency goal is in the child's best interest.¹⁵ A permanency hearing must be held at least every 12 months for any child who continues to be supervised by the DCF or awaits adoption.¹⁶

The permanency goals under Florida law, listed in order of preference are:

- Reunification;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship under s. 39.6221, F.S.;
- Permanent placement with a fit and willing relative under 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.¹⁷

Out-of-Home Placement Options

As mentioned above, the child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to

⁹ Section 39.521(3)(c), F.S.

¹⁰ Section 39.521(3)(d), F.S.

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

¹² Sections 39.6011 and 39.6012, F.S. Case plans must be developed in a face-to-face conference with the child's parent, any court-appointed Guardian ad Litem, and the child's temporary custodian and, if appropriate, the child.

¹³ Section 39.001(1)(a), F.S.

¹⁴ S. 39.621(1), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 39.621(3), F.S.

address the problems that are endangering children. If the problems cannot be ameliorated, the child welfare system finds other caregivers for children, such as foster families, relative and nonrelative caregivers, or adoptive families.¹⁸ These various types of placements as well as the specific licensure requirements are discussed below in more detail.

Relative and Nonrelative Caregivers

When children cannot remain safely with their parents, placement with relatives is preferred over placement in foster care with nonrelatives. Caseworkers try to identify and locate a relative or relatives who can safely care for the children while parents receive services to help them address the issues that brought the children to the attention of child welfare.¹⁹ Placement with relatives, or kinship care, provides permanency for children and helps them maintain family connections. Kinship care is the raising of children by grandparents, other extended family members, and nonrelative adults with whom they have a close, family-like relationship, such as godparents and close family friends.²⁰

In Florida, there were 22,078 children in out-of-home care as of December 31, 2021, and fewer than half of those children were placed with approved relatives and nonrelatives and the rest were placed in licensed foster care, group care, or in another placement.²¹

Relative Caregiver Program (RCP)

The RCP was established in 1998²² for the purpose of recognizing the importance of family relationships and providing additional placement options and incentives to help achieve permanency and stability for many children who are otherwise at risk of foster care placement. The program has been expanded²³ since its inception and currently the program applies to:

- Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under ch. 39, F.S.;
- Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's

¹⁸ See s. 39.001(1), F.S.

¹⁹ See s. 39.4015(3), F.S. The DCF is required to collaborate with sheriffs' offices that conduct child protective investigations and community-based care lead agencies to develop a family finding program. Family-finding efforts by the DCF and the community-based care lead agencies may include, but are not limited to: 1. searching for and locating adult relatives and fictive kin; 2. identifying and building positive connections between the child and the child's relatives and fictive kin; 3. supporting the engagement of relatives and fictive kin in social service planning and delivery of services and creating a network of extended family support to assist in remedying the concerns that led to the child becoming involved with the child welfare system, when appropriate; 4. maintaining family connections, when possible; and 5. keeping siblings together in care when possible and when in the best interest of each child.

²⁰ The American Bar Association, *Kinship Care is Better for Children and Families*, available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-36/july-aug-2017/kinship-care-is-better-for-children-and-families/ (last visited January 11, 2022).

²¹ 8,084 of these children were placed with approved relatives and nonrelatives and 10,490 with another placement. See the DCF, *Children in Out-of-Home Care – Statewide* (December 31, 2021), available at <https://www.myflfamilies.com/service-programs/child-welfare/dashboard/> (last visited January 12, 2022).

²² Chapter 1998-78, L.O.F.

²³ Chapter 2014-224, L.O.F.

determination of child abuse, neglect, or abandonment and subsequent placement with the relative;

- A relative or nonrelative caregiver, but the relative or nonrelative caregiver may not receive a Relative Caregiver Program payment if the parent or stepparent of the child resides in the home; and
- Nonrelatives who have a close relationship with the child but who are not a blood relative or a relative by marriage.²⁴

The RCP provides that relatives and nonrelatives who have a child or children placed in out-of-home in their care and who have found to be dependent are eligible for financial assistance. The court must find that a proposed placement is in the best interest of the child, but relatives or nonrelatives who qualify for and participate in the RCP are not required to meet foster care licensing requirements under s. 409.175, F.S., in order for the child to be placed in the home or for the caregiver to receive financial assistance to care for the child.²⁵ The amount of the monthly payment is determined by rule and discussed below.

Additionally, within available funding, the RCP is also required to provide caregivers with family support and preservation services, school readiness assistance, and other available services in order to support the child's safety, growth, and healthy development. Children living with caregivers who are receiving assistance under the program are also eligible for Medicaid coverage.²⁶

Licensed Foster Care

Foster home placements are intended to provide a temporary, safe place to live until a child can be reunited with his or her family, an adoptive family is identified, or other permanency is achieved. Section 409.175(2)(e), F.S., defines a "family foster home" as a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs. A family foster home does not include an adoptive home which has been approved by the DCF or by a licensed child-placing agency for children placed for adoption.²⁷

The recruitment, training, and licensing of foster parents is conducted by 18 community-based care agencies that maintain contracts with the DCF.²⁸ The total number of children placed in a family foster home must be based on the needs of each child in care; the ability of the foster family to meet the individual needs of each child, including any adoptive or biological children

²⁴ See s. 39.5085(2)(a), F.S.

²⁵ Section 39.5085(2)(a)3., F.S.

²⁶ Section 39.5085, F.S.

²⁷ Section 409.175(2)(e), F.S.

²⁸ The DCF, *Lead Agency Map*, available at <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited January 12, 2022). The DCF terminated the contract with Eckerd Connects for Circuit 6 and Family Support Services of North Florida took over on January 1, 2022. Eckerd Connects will carry out its contract until it expires June 30, 2022. WFLA, *DCF, Eckerd Connects ending child welfare services contracts in 3 Tampa Bay counties*, available at <https://www.wfla.com/news/local-news/dcf-eckerd-connects-end-child-welfare-services-in-3-tampa-bay-counties/>; WUSF Public Media, *Family Support Services of North Florida will fully take over on January 1, 2022*, Nov. 30, 2021, available at [State selects replacement for Eckerd Connects to run foster care in Pinellas, Pasco | WUSF Public Media](https://www.wusf.com/news/local-news/family-support-services-of-north-florida-will-fully-take-over-on-january-1-2022/) (all sites last visited Jan. 7, 2022).

or young adults remaining in foster care living in the home; the amount of safe physical plant space; the ratio of active and appropriate adult supervision; and the background, experience, and skill of the family foster parents.²⁹ Foster parents are responsible for the care and well-being of the child, including maintaining their health, safety, and best interests and encouraging emotional and developmental growth. Following placement, a foster child should be closely monitored by a case worker, who provides support and additional training related to special needs.³⁰

In 2019, Florida moved to a system of foster home licensing that consisted of five distinct levels:

- Level I: Child-Specific Foster Home.
- Level II: Non-Child Specific Foster Home.³¹
- Level III: Safe Foster Home for Victims of Human Trafficking.
- Level IV: Therapeutic Foster Home.
- Level V: Medical Foster Home.³²

Level I: Child-Specific Foster Home

A child specific licensed foster home is a new licensure type designed for relatives and nonrelatives who have an existing relationship with the child for whom they are seeking licensure. When a child is not able to safely remain at home with their parents, a family or like-family member who is willing and able to provide care for the child, is the next best alternative.³³

Level II: Non-Child Specific Foster Home

A non-child specific licensed foster home is identified when placement with a relative or nonrelative caregiver is not possible. This licensure type is available to individuals in the community who may be interested in fostering.³⁴

Level III: Safe Foster Home for Victims of Human Trafficking

This level of licensure is for individuals interested in providing a safe and stable environment for victims of human trafficking.³⁵ Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,³⁶ purchasing, patronizing, procuring, or obtaining³⁷ another person for the purpose of exploitation of that person.³⁸ In

²⁹ Section 409.175(3)(a) and (b), F.S., provides that the DCF may grant a capacity waiver in certain instances.

³⁰ See s. 409.1415(2), F.S., for specific roles and responsibilities of foster parents.

³¹ Previously “Traditional” foster homes are now Level II.

³² The DCF, *Levels of Foster Care Licensure*, available at <https://www.myflfamilies.com/service-programs/foster-care/levels.shtml>; Florida FAPA, *Become a Foster Parent*, available at [Become A Foster Parent – FloridaFAPA.org](http://www.BecomeAFosterParent.org) (all sites last visited January 12, 2022).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

³⁷ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

³⁸ Section 787.06(2)(d), F.S.

Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor or services, or commercial sexual activity, commits a crime.³⁹

Level IV: Therapeutic Foster Home

This level of licensure is for caregivers who have received specialized training to care for a wide variety of children and adolescents who may have significant emotional, behavioral, or social needs. As a therapeutic foster parent, individualized care is provided in the home by the foster parent to ensure a child receives the appropriate level of care in the least restrictive setting.⁴⁰

Level V: Medical Foster Home

This licensure type is for caregivers who have received specialized training to provide care for children and adolescents with chronic medical conditions. Medical foster parents enable children from birth through age 20 with medically-complex conditions whose parents are unable to care for them in their own homes, to live and receive care in a foster home rather than in hospitals or other facility settings.⁴¹

³⁹ Section 787.06(3), F.S.

⁴⁰ *Id.*

⁴¹ *Id.*

Foster Placement Licensure

It is less cumbersome to obtain a Level I foster license than it is to obtain licensure as a Level II through Level V family foster placement. A high level summary of the differences in licensure requirements is included in the below table:⁴²

Requirement Category	Level I: Child Specific Foster Home	Level II: Non-Child Specific Foster Home	Level III: Safe Foster Home for Human Trafficking Victims	Level IV: Therapeutic Foster Home	Level V: Medical Foster Home
Assessment	<ul style="list-style-type: none"> • Ability to Protect • Physical Environment • Financial Resources • Ability to care, nurture, and meet the child’s physical, emotional and educational needs.⁴³ 	Same as Level I	Same as Level I Medicaid Provider	Same as Level I Medicaid Provider	Same as Level I Medicaid Provider
Screening	<ul style="list-style-type: none"> • State and Federal • Local/Civil Checks • DJJ Sexual/Predator Offender • Abuse/ Neglect Checks⁴⁴ 	Same as Level I and Conviction/Charge Additional Offenses/Disqualifiers ⁴⁵	Same as Level II	Same as Level II	Same as Level II
Training	2 DCF licensing hours (online course)	21 DCF licensing hours	21 DCF licensing hours and 24 Commercial Sexual Exploitation hours	21 DCF licensing hours and 30 AHCA hours	21 DCF licensing hours and 32 AHCA hours

⁴² The DCF, *Power Point Presentation on Overview of Out-of-Home Care Placements and Caregivers*, Committee on Children Families and Elder Affairs, October 18, 2021, p. 5, available at https://www.flSenate.gov/Committees/Show/CF/MeetingPacket/5296/9500_MeetingPacket_5296_2.pdf (last visited January 12, 2022).

⁴³ Section 409.175, F.S., provides that non-safety requirements may be waived.

⁴⁴ See s. 39.0138, F.S., and 65C-45.001, F.A.C.

⁴⁵ See s. 39.0138, F.S., ch. 435, F.S., and 65C-45.001, F.A.C.

Monthly Compensation for Specified Caregivers

The monthly payment amounts provided to caregivers under current law depend upon the type of caregiver, whether the caregiver is licensed, and whether the dependency proceedings are open or closed where the child has reached permanency. Below is a description of the payment amounts and a table illustrating such payments.

Current law authorizes reimbursement for children in foster care or in residential group homes to begin at the time the child is placed regardless of if a court has found the child to be dependent, also known as an adjudication of dependency. However, the monthly benefit payment for relative and nonrelative caregivers does not begin until the court has made such a finding, which typically takes two months to a year.⁴⁶

Prior to the child being found to be dependent, a relative caregiver is only eligible for temporary cash assistance if he or she is in close enough consanguinity to the child.⁴⁷ During this time, a nonrelative caregiver receives no monthly benefit assistance. Once the child has been found to be dependent, the relative becomes eligible for the full Relative Caregiver Program benefit amount.⁴⁸

Relative Caregiver Program

Under the RCP, a monthly cash assistance is provided to relatives who meet eligibility rules and have custody of a child under age 18 who has been found to be dependent by a Florida court and placed in their home.⁴⁹ The amount of the assistance is based on the statewide average monthly rate for children placed by the court with relatives or nonrelatives who are not licensed as foster homes and may not exceed 82 percent of the statewide average foster care rate. Additionally, the cost of providing the assistance to any caregiver in the program may not exceed the cost of providing out-of-home care in an emergency shelter or in foster care.⁵⁰

Level I Licensed Foster Placement

The current board rate for a relative or nonrelative caregiver who has been licensed as a Level I child-specific foster placement is \$333 per month. This type of foster placement is not currently eligible for the cost of living increase or the supplemental board rate provided to Level II through Level V foster family placements pursuant to s. 409.145(3)(b) and (c), F.S.

Level II-V Licensed Foster Placement

Effective January 1, 2022, the room and board rates paid to these foster parents are:^{51 52}

- \$517.94 monthly for children 0-5 years of age.
- \$531.21 monthly for children 6-12 years of age.

⁴⁶ Section 39.5085(2)(a), F.S.

⁴⁷ FN

⁴⁸ *Id.*

⁴⁹ Section 39.5085(2)(a), F.S.

⁵⁰ Section 39.5085(2)(d), F.S.

⁵¹ Section 409.145(3)(a), F.S., lists the foster room and board rates in effect July 1, 2018.

⁵² Memorandum to Regional Managing Directors and Community-Based Care Lead Agencies CEOs from Taylor Hatch, Deputy Secretary of the Department of Children and Families (January 12, 2022) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

- \$621.77 monthly for children 13-21 years of age.⁵³

Level II through Level V licensed family foster home placements receive an annual cost of living increase. The cost of living adjustment is based on the annual percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) each December.⁵⁴ Additionally, the board rate amount may be increased upon agreement between the DCF, the community-based care lead agency, and the foster parent.⁵⁵

As demonstrated by the charts below, the monthly cash assistance amount is higher than the Temporary Cash Assistance for one child but less than the amount paid for a child in the foster care program.

Age of Child	RCP (No License requirement) ⁵⁶	Level I Licensure (Child Specific) ⁵⁷	Family Foster Homes (Level II-V) ⁵⁸	Adoption Assistance (Closed case that closes in an adoption) ⁵⁹	GAP (Closed case that closes in a permanent guardianship status) ⁶⁰
Ages 0 through 5 years	\$242	\$333	\$517.94	\$417 minimum	\$333 minimum
Ages 6 through 12 years	\$249	\$333	\$531.21	\$417 minimum	\$333 minimum
Ages 13 through 18 years	\$298	\$333	\$621.77	\$417 minimum	\$333 minimum

As an alternative to a monthly room and board or RCP assistance amount, a caregiver may receive a monthly payment after a child is placed in his or her care upon the court finding the child dependent through the DCF’s economic self-sufficient programs, including Temporary Cash Assistance for Needy Families (TANF). The amounts that are provided to the caregiver are based on the number of children and are as follows:

- \$180, one child;
- \$241, two children;
- \$303, three children.⁶¹

⁵³ Family foster parents are eligible to receive this monthly room and board rate until the child reaches age 21.

⁵⁴ Section 409.145(3)(b), F.S.

⁵⁵ Section 409.145(3)(f), F.S.

⁵⁶ See s. 39.5085, F.S., and the DCF CFOP No. 170-10, ch. 8-7, available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-10%20Providing%20Services%20and%20Support%20for%20Children%20in%20Care%20and%20for%20Caregivers/CFOP%20170-10%20Providing%20Services%20and%20Support%20for%20Children%20in%20Care%20and%20for%20Caregivers.pdf> (last visited January 13, 2022).

⁵⁷ Section 409.145(3)(c), F.S.

⁵⁸ Section 409.145(3)(a), F.S.

⁵⁹ See s. 409.166, F.S.

⁶⁰ See s. 39.6225, F.S.

⁶¹ See s. 414.095(10), F.S. These are monthly benefit amounts per total number of children.

A caregiver is prohibited from receiving both the monthly board rate assistance payment under the RCP and TANF payments in the same month.⁶²

Benefits Upon the Child Reaching Permanency

Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections)

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) was designed to improve the lives of children and youth in foster care and increase the likelihood that they will be able to leave the foster care system to live permanently with relative caregivers or adoptive families. The law accomplishes this, in part, by allowing states to:

- Extend foster care services for children leaving foster care and adoptive families to the age of 21 years; and
- Establish a subsidized guardianship assistance program for relative caregivers.⁶³

Extended Foster Care

In 2013, the Legislature exercised the option of providing for extended foster care, which applies to young adults aged 18 to 21 who have not achieved permanency prior to their 18th birthdays.⁶⁴ The program builds on independent living assistance services that were previously available to young adults who “aged-out” of the foster care system.⁶⁵ Extended foster care services are available to young adults who are living in licensed care on their 18th birthday and who are:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in programs or activities listed above full time due to a physical intellectual, emotional, or psychiatric condition that limits participation.⁶⁶

Title IV-E Guardianship Assistance Program

Additionally, Fostering Connections encouraged the creation of a federally supported program which was codified in s. 39.6225, F.S. The Guardianship Assistance Program (GAP) is for

⁶² The DCF, *CFOP 170-10, Chapter 8 Relative/Kinship Caregiver Support, 8-7(c)*, September 1, 2020, p. 10, available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-10%20State%20Providing%20Services%20and%20Support%20for%20Children%20in%20Care%20and%20for%20Caregivers/CFOP%20170-10,%20%20Chapter%2008,%20Relative-Kinship%20Caregiver%20Support.pdf#:~:text=Temporary%20Assistance%20for%20Needy%20Families%20%28TANF%29%20State%20Plan.,State%20Plan.%20Rule%2065C-28.008%2C%20Florida%20Administrative%20Code%20%28F.A.C.%29>. (last visited January 30, 2022).

⁶³ P.L. 110-351.

⁶⁴ Chapter 2013-178, L.O.F.

⁶⁵ Section 409.1451, F.S.

⁶⁶ Section 39.6251(2), F.S.

relatives, which includes fictive kin. Section 39.01, F.S., defines “relative” to mean fictive kin,⁶⁷ relative,⁶⁸ or next of kin.⁶⁹

The GAP provides for reimbursement under federal Title IV-E⁷⁰ to support kinship guardianship payments for children living in the homes of relative caregivers who become the children’s legal guardians through a permanent guardianship option.⁷¹ The DCF is required to provide guardianship assistance payments to a participant enrolled in the GAP program for an eligible child in the amount of \$4,000 annually, paid on a monthly basis, which equals \$333 per month. However, the DCF is authorized to provide an amount other than \$4,000 annually as determined by the guardian and the DCF if the alternate amount is memorialized in a written agreement between the guardian and the DCF and the agreement takes into consideration the circumstances of the guardian and the needs of the child.⁷²

Both the child and the “relative” may be eligible for assistance under the GAP program. If a child meets certain Title IV-E eligibility standards, he or she may also be eligible for a GAP subsidy if:

- The child has been removed from his or her family’s home pursuant to a voluntary placement agreement or as a result of a judicial determination that allows the child to remain in the home would be contrary to the child’s welfare;
- The child is eligible for federal foster care maintenance payments under Title IV-E for at least six consecutive months while residing in the home of the prospective relative guardian who is licensed or approved as meeting the licensure requirements as a foster family home;⁷³
- Returning home or adoption is not an appropriate permanency option for the child;
- The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
- The child has been consulted regarding the guardianship arrangement (applicable to children

⁶⁷ Section 39.01(28), F.S., defines “fictive kin” as a person unrelated by birth, marriage, or adoption who has an emotionally significant relationship, which possesses the characteristics of a family relationship, to a child.

⁶⁸ Section 39.01(73), F.S., defines “relative” to mean a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

⁶⁹ Section 39.01(51), F.S., defines “next of kin” to mean an adult relative of a child who is the child’s brother, sister, grandparent, aunt, uncle, or first cousin.

⁷⁰ The Title IV-E Foster Care Program provides funds to title IV-E agencies (states and Tribes) to assist with the costs of foster care maintenance for eligible children; administrative expenses to manage the program; and training for staff, foster parents, and certain private agency staff. Title IV-E foster care funds are awarded to the 50 States, the District of Columbia, Puerto Rico, and federally-recognized Indian Tribes, Indian Tribal organizations and Tribal consortia with approved title IV-E plans, and are available as open-ended entitlement grants through single-year appropriations. The program’s focus, which is articulated in statute, is children eligible under the pre-welfare reform Aid to Families with Dependent Children (AFDC) program and removed from their homes due to maltreatment, lack of care, lack of supervision, or other problems attributed to a relative caregiver. See The U.S. Department of Health and Human Services, *Title-IV-E Foster Care Eligibility Reviews Fact Sheet*, available at <https://www.acf.hhs.gov/cb/fact-sheet/title-iv-e-foster-care-eligibility-reviews-fact-sheet> (last visited January 13, 2022).

⁷¹ Mark F. Testa and Leslie Cohen, *Pursuing Permanence for Children in Foster Care: Issues and Options for Establishing a Federal Guardianship Assistance Program in New York State*, School of Social Work, the University of North Carolina at Chapel Hill. June 2010, available at <https://ocfs.ny.gov/main/reports/Pursuing%20Permanence%20for%20Children%20in%20Foster%20Care%20June%202010.pdf> (last visited January 11, 2022).

⁷² Section 39.6225(5)(d), F.S.

⁷³ The Level I child-specific licensure satisfies this requirement.

age 14 and older).⁷⁴

Further, a “relative” must meet certain conditions to qualify for a GAP subsidy, including that they must:

- Be the eligible child’s relative or close fictive kin;
- Have undergone fingerprint-based criminal record checks and child abuse and neglect registry checks;
- Be a licensed foster parent and approved for guardianship assistance by the DCF;
- Display a strong commitment to caring permanently for the child; and
- Have obtained legal guardianship of the child after the guardianship assistance agreement has been negotiated and finalized with the DCF.⁷⁵

Child Care Subsidy

In 2020, the average annual cost of center-based infant care in Florida was approximately \$9,312.⁷⁶ Single parents in Florida spend, on average, 34.7% of their income on center-based infant child care.⁷⁷ Married parents of two children living at the poverty line spend approximately 65.0% of their household income for center-based child care.⁷⁸ The average price of center-based infant child care in Florida is currently more than the average annual tuition and fees at a public four-year college or university.⁷⁹

The Rilya Wilson Act

Rilya Wilson disappeared from state custody in January 2001. The child’s caregiver maintained that someone from the DCF removed Rilya from her home sometime in January 2001. The DCF was unaware that the child was missing until April 2002 due to casework failures. While her caregiver was sentenced to 55 years in prison in 2013 for her disappearance, Rilya remains missing.⁸⁰

For a number of children, the increased visibility that participation in early education and childcare programs provides can minimize further abuse, neglect, or abandonment. Participation in these programs can also be an important ingredient in reversing the developmental effects that abuse, neglect, and abandonment can have on children.

Early education and child care programs are provided in Florida through the school readiness program under ss. 1002.86-1002.89, F.S. With the establishment of the school readiness program, the different early education and child care programs and their funding sources were merged for the delivery of a comprehensive program of school readiness services to be designed

⁷⁴ 33 42 U.S.C. s. 673(d)(3)(A)

⁷⁵ 42 U.S.C. ss. 671(a)(20(D) and 673(d)(3)(A)

⁷⁶ Child Care Aware, *Price of Child Care in Florida*, available at https://info.childcareaware.org/hubfs/2019%20Price%20of%20Care%20State%20Sheets/Florida.pdf?utm_campaign=2019%20Cost%20of%20Care&utm_source=2019%20COC%20-%20FL (last visited January 13, 2022).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ David Ovalle, GERALYN GRAHAM GET 55 YEARS IN RILYA WILSON FOSTER CHILD ABUSE CASE, MIAMI HERALD, Feb. 12, 2013), available at <http://www.miamiherald.com/latest-news/article1947207.html>. (last visited November 1, 2019)

and administered through local early learning coalitions.⁸¹ The school readiness program is housed with the Office of Early Learning, within the Department of Education.⁸²

Historically, children who have been abused, neglected, or abandoned and are being served through the dependency system have received one of the highest priorities for child care service. This is due, at least in part, to the interpretation of earlier statutory language that these children were to be provided the highest priority. Current law requires each early learning coalition to give priority for participation in the school readiness program according to specified criteria with an at-risk child being second on the priority list.⁸³ However, even with this prioritization, there are often not enough spaces in school readiness programs for all youth who are the subject of dependency proceedings.

Under the Rilya Wilson Act, children in the foster care system who are enrolled in an early education or child care program must be kept in the program and attend the program at least 5 days per week.⁸⁴ The cost of participating in the school readiness program is subsidized in part or fully by the funding of the coalition for eligible children.⁸⁵ Criteria have been established for the children who are to receive priority for participating in the program at no cost or at a subsidized rate.⁸⁶ The cost of child care shall be assumed by the licensed out-of-home caregiver to the extent that subsidized child care is unavailable.⁸⁷

Tuition and Fee Exemptions for Youth in Foster Care

Youth in foster care face a multitude of barriers when it comes to higher education and as a result the most cited statistic nationally is that about 4 percent graduate from college by the time they reach the age of 26, compared to 36 percent of the general population, according to some studies.⁸⁸ Florida was part of the original group of states in the late 1980s that began offering assistance with higher education to students leaving foster care.⁸⁹ There are a number of barriers that continue to keep eligible students from accessing existing state support for higher education.

Florida Law

Florida first enacted a law providing a fee exemption for youth in foster care in 1988.⁹⁰ The initial exemption was provided to young adults in foster care. Before being granted the

⁸¹ Section 1002.83, F.S.

⁸² Florida Division of Early Learning, *About Us*, available at <http://www.floridaearlylearning.com/> (last visited January 13, 2022).

⁸³ Section 1002.87, F.S.

⁸⁴ Section 39.604, F.S.

⁸⁵ Florida Division of Early Learning, *School Readiness Program*, available at <http://www.floridaearlylearning.com/parents/family-resources/financial-assistance> (last visited January 11, 2022).

⁸⁶ Florida Division of Early Learning, *School Readiness Eligibility Priorities*, available at <http://www.floridaearlylearning.com/school-readiness/coalitions/eligibility-for-school-readiness> (last visited January 11, 2022).

⁸⁷ Rule 65C-40.005, F.A.C.

⁸⁸ Youth Today, *As More Schools Aid Foster Students, Data on Results Needed, Researchers Say*, available at <https://youthtoday.org/2019/03/as-more-colleges-states-aid-youth-in-foster-care-data-on-results-is-needed-researchers-say/> (Last visited January 10, 2022).

⁸⁹ Section 240.235(6)(a), F.S. (1988).

⁹⁰ *Id.*

exemption, students had to apply for and be denied financial aid that covered the payment of all undergraduate fees. The exemption was limited to 8 semesters with the possibility of extending to 10 semesters if the recipient had to take college preparatory classes or needed extra time to pass communication and computation skills testing. Students had to maintain a 2.0 GPA on a 4.0 scale.

In 1997, the tuition and fee exemption was expanded to all cover all children adopted from the DCF custody after December 31, 1997.⁹¹ In 2002, the exemption was expanded again to cover a student who is or was at the time he or she turned 18 years old in the custody of a relative in the Relative Caregiver Program.⁹² In 2006, another expansion was granted to any student who after spending at least 6 months in the custody of the DCF after reaching 16 years of age, was placed in a guardianship by the court.⁹³ In 2010, the Legislature, recognizing the difficulties that former foster youth have in completing higher education upon emancipation, expanded the exemption to cover students until age 28 and removed the GPA requirement and the limitation as to the number of credit hours or semesters for which it is available.⁹⁴

III. Effect of Proposed Changes:

Caregiver Room and Board Payment Rates

The bill makes a number of changes to current law relating to monthly payment amounts for relative and nonrelative caregivers. The new rate structure includes increases in the amount of payments to relative and nonrelative caregivers to achieve parity with rates currently paid to Level II through Level V foster parents, while taking into account both non-licensure and levels of licensure and the circumstances of placements.

Specifically, the bill amends s. 39.5085, F.S., to modify current monthly payment amounts for relatives and nonrelatives who have children placed with them in out-of-home care to the same rates established in s. 409.145(3), F.S., applicable in current law to Level II through Level V family foster home placements mentioned above. The increased board rates are authorized for children placed in the home while the dependency proceedings are open, provided one of the following instances applies for the specified length of time stated:

- From the date a child who is placed with the relative or nonrelative is found to be dependent, or from the date a child who has previously been found to be dependent is placed in out-of-home care with the relative or nonrelative, until 6 months after such placement, regardless of whether licensure as a child-specific Level I foster placement has been obtained.⁹⁵
- From the date the caregiver has obtained licensure as a child-specific Level I foster placement at any time after the date of the placement, regardless of whether a court has found that the child is dependent, until the child reaches permanency, as determined by the court under s. 39.621, F.S.

⁹¹ Section 240.235(5)(a), F.S. (1997). In 1998 and 1999, the December 31, 1997 dates were changed to May 5, 1997.

⁹² Chapter 2002-38, L.O.F.

⁹³ Chapter 2006-194, L.O.F.

⁹⁴ Chapter 2010-68, L.O.F.

⁹⁵ The bill provides that licensure as a child-specific Level 1 foster placement must be obtained no later than 6 months after the date of the placement for that level of payment to continue until the child reaches permanency.

Additionally, the bill modifies the monthly payment amount for relatives and nonrelatives in other ways. First, the bill provides that relatives or nonrelatives who fail to obtain licensure as a child-specific Level I foster placement within 6 months after the date the child is found to be dependent or, after the child has been found to be dependent, is placed in out-of-home care in their home, the caregiver must receive a monthly payment less than the \$333 monthly payment provided to a participant enrolled in GAP, which must be determined in rule. This payment is required to continue from 6 months of the placement until the child reaches permanency as determined by the court under s. 39.621, F.S. However, if the relative or nonrelative caregiver obtains licensure as a child-specific Level I foster placement, he or she again becomes eligible to receive payments at the higher board rate allowable under s. 409.145(3), F.S. This monthly difference between non-licensed and licensed child-specific Level I placements will create a payment structure that motivates caregivers to get licensed.

The bill maintains current law for relatives or nonrelatives of children who reach permanency in a permanent guardianship but whose relative caregivers are not enrolled in GAP by providing that such caregivers must receive a monthly payment in an amount determined by rule. The maximum amount of the monthly payment that may be established by rule has been adjusted from 82 percent of the statewide average foster care rate to a rate that must be less than the \$333 monthly payment provided to a participant enrolled in the GAP.

The bill does not specify a lower limit on a monthly payment amount that is determined by the DCF rule rather than statute, but does specify a cap as noted above. Relatives and nonrelatives may also be eligible for a special benefit payment that is to be established by rule.

The bill also amends s. 409.145, F.S., applying the current Level II to Level V room and board rate structure to relative and nonrelative caregivers who are licensed as a Level I child-specific foster placement, and to relative and nonrelative caregivers who are participating in the Relative Caregiver Program and receiving payments pursuant to s. 39.5085(2)(d)1. or 2., F.S., as described above. Further, the bill applies the annual cost of living increase and the supplemental payment for teaching life skills and providing normalcy supports to children who are 13-17 years of age to the same caregivers mentioned above.

Early Learning or Child Care Subsidy

In addition to the monthly board rate payments discussed above, the bill amends s. 409.145, F.S., to provide a \$200 per month subsidy to any foster parents and relative and nonrelative caregivers who have a child placed in their home between the ages of birth to school entry. This subsidy is provided regardless of whether the caregiver is licensed or not, but the child must be placed in out-of-home care with the caregiver and be the subject of an open dependency proceeding.

As discussed above, children in the foster care system who are enrolled in an early education or child care program must be kept in that program and attend the program at least five days per week. The cost of participating in the school readiness program is subsidized in part or fully by the funding of the coalition for eligible children, but that funding is only able to be utilized if there is a spot open in a school readiness program. Even if the child is able to be enrolled in a program that qualifies for the school readiness subsidy from the ELC, often that subsidy does not cover the cost of the program and the caregiver is responsible for paying the difference. The

subsidy in the bill is therefore intended to help defray the cost of an early learning or child care program.

Postsecondary Tuition and Fee Exemption

As the tuition and fee exemption for students who are or were in out-of-home care under varying circumstances changed and expanded, instances were discovered that appeared to create inequities between similarly situated students and brought to light the issue of reunited students.

The bill addresses some of those issues by expanding the scope of potential students eligible for a tuition and fee exemption at a workforce education program, a Florida College System institution or a state university, to include a student who was the subject of a dependency proceedings and who:

- Are, or were at the time of reaching 18 years of age, in out-of-home care, rather than in the custody of the DCF as is provided for in current law;
- After reaching 14 years of age, spent at least 18 months in out-of-home care and were then reunited with his or her parents who were the subject of the dependency proceeding before reaching 18 years of age, including a student who was reunited under s. 39.8155, F.S. (reinstatement of parental rights). A student is only eligible for this tuition waiver if, in addition to the above-described factors, the student is also Pell Grant-eligible;⁹⁶ or
- Were placed in a permanent guardianship, regardless of whether the caregiver participates or participated in the Relative Caregiver Program under s. 39.5085, F.S., and remains in such guardianship either until the student either reaches 18 years of age or, if before reaching 18 years of age, he or she enrolls in an eligible institution.

The bill is effective July 1, 2022.

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.

⁹⁶ The bill provides that the entity imposing the tuition and fees must verify the eligibility.

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 DCF estimates that the bill will result in additional costs to state government totaling \$44,035,644. Specifically, additional funding is needed to provide for the following:

- \$18,215,844 in recurring funding to provide for increases in monthly payments for relative and nonrelative caregivers to achieve parity with rates currently paid to foster parents, including supplemental board rates when applicable. The increases would apply to caregivers enrolled in the Relative Caregiver Program or are classified as a Level I Child Specific Foster Home who are responsible for a child who has not reached permanent guardianship or adoption. The cost is \$12,956,082 from the General Revenue Fund; \$4,554,738 from the Federal Grants Trust Fund; and \$705,024 from the Welfare Transition Trust Fund
- \$24,880,800 in recurring funding to provide a supplemental child care subsidy of \$200 per month for relative and nonrelative caregivers and foster parents. The cost is \$19,206,037 from the General Revenue Fund and \$5,674,763 from the Federal Grants Trust Fund; and
- \$939,000 of nonrecurring funding to make necessary changes to the FSFN and the ACCESS information technology systems to support data currently not in these systems. The DCF estimates these costs to be \$469,500 from the General Revenue Fund and \$469,500 from the Federal Grants Trust Fund.⁹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁹⁷ The Department of Children and Families, SB 7034 Bill Analysis, p. 9, (January 29, 2022) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

VIII. Statutes Affected:

The bill substantially amends ss. 39.5085, 409.145, and 1009.25 of the Florida Statutes.

The bill reenacts ss. 393.065 and 409.1451 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.
