

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/SB 7034 Child Welfare

SPONSOR(S): Appropriations and Children, Families, and Elder Affairs

TIED BILLS: IDEN./SIM. BILLS:

FINAL HOUSE FLOOR ACTION: 112 Y's 0 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. Department of Children and Families (DCF) and community-based care lead agencies (CBC's) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for children. Children in out-of-home care can be placed with relatives, nonrelatives with whom they have an emotionally significant relationship, licensed foster parents, in group homes or residential settings.

Florida's licensed foster parents receive a monthly room and board rate payment to cover the cost of caring for foster children. Florida also gives relative and nonrelative caregivers participating in the Relative Caregiver Program (RCP) or Guardianship Assistance Program a monthly benefit to care for children in their home. The monthly room and board rate for licensed foster parents is higher than the monthly benefit relative and nonrelatives receive.

If a child in out-of-home care needs child care, foster parents and relative or nonrelative caregivers may also receive a child care subsidy provided through the School Readiness (SR) program. Any difference between the subsidy and the price of child care is assumed by the caregiver. Current law prioritizes eligibility by categories of children for the SR program, with child welfare children second on the priority list. However, even with this prioritization, there are often not enough spaces in SR programs for all dependent children in out-of-home care.

Current law allows certain foster children to receive a tuition and fee exemption for postsecondary education, including those who age out of foster care, or were adopted or placed in permanent guardianship.

CS/SB 7034 amends current law relating to monthly payment amounts for licensed foster placements and relative and nonrelative caregivers and other assistance for foster youth. Specifically, the bill:

- Increases the monthly payment for certain relative and nonrelative caregivers to achieve parity with rates currently paid to licensed foster parents.
- Requires CBC's to give a supplemental board payment to both licensed foster placements and caregivers in the RCP receiving the increased monthly payment to teach life skill development to children ages 13 to 17.
- Requires DCF to provide foster parents and caregivers caring for children under school age with a monthly payment of \$200 to cover the cost of child care.
- Expands the postsecondary education tuition and fee exemption to additional students who are or were in the child welfare system.

The bill has a significant, negative, recurring fiscal impact on DCF, for which the General Appropriations Act (GAA) for Fiscal Year 2022-23 provides a total of \$44,036,644 to implement the bill's provisions. The bill has no fiscal impact on local government.

Subject to the Governor's veto, the bill provides an effective date of July 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Department of Children and Families

DCF is responsible for providing child welfare and support services in accordance with federal and state law.¹ However, DCF contracts with community-based care lead agencies (CBC's) to delivery, administer, and manage child welfare services. Using CBC's to provide child welfare services is designed to increase local community ownership of service delivery and design.² DCF, through CBCs, administers a system of care for children with the goals of:

- Prevention of separation of children from their families.
- Intervention to allow children to remain safely in their own homes.
- Reunification of families who have had children removed from their care.
- Safety for children who are separated from their families.
- Well-being of children through emphasis on educational stability and timely health care.
- Achievement of permanency.
- Effective transition to independence and self-sufficiency.

CBC's provide foster care and related services, including, but not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, foster parent recruitment and licensure, and adoption.³ CBC's contract with a number of subcontractors for case management and direct care services to children and their families.⁴ There are 18 CBC's statewide, which together serve the state's 20 judicial circuits.⁵

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. DCF and CBC's work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for children. DCF and CBC's must find safe, permanent homes as quickly as possible when children are placed in out-of-home care. In most cases, children are reunified with parents. However, when reunification is not possible, DCF seeks to place children in permanent homes with relatives or adoptive families. Current law requires a permanency hearing no later than 12 months after a child is removed from the home, or within 30 days after a court determines that reasonable efforts to return the child to a parent are not required.⁶ Section 39.621(3), F.S., lists the preference for permanency as:

- 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 or willing relative under s. 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.

¹ S. 409.996, F.S.

² Florida Department of Children and Families, *Community-Based Care*, <https://www.myflfamilies.com/service-programs/community-based-care/> (last visited Jan. 28, 2022).

³ S. 409.145(1), F.S.

⁴ *Id.*

⁵ Florida Department of Children and Families, *Community-Based Care Lead Agency Map*, <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last visited Jan. 28, 2022).

⁶ S. 39.621(1), F.S.

Dependency Court Process

When child welfare necessitates that DCF remove a child from the home, a series of dependency court proceedings must occur to adjudicate a child dependent and place that child in out-of-home care, as illustrated in the table below.

Dependency Proceeding	Description of Process	Controlling Statute
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arrestment Hearing and Shelter Review	An arrestment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arrestment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arrestment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition Hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

Out-of-Home Placements

Children in out-of-home care are placed with relatives, nonrelatives who have an emotionally significant relationship with the child,⁷ licensed foster parents, or in group homes or residential settings.⁸ Out-of-home placement with relatives is preferred over placement in foster care with nonrelatives because it maintains family connections while in out-of-home care. Relative and certain nonrelative caregivers may participate in programs to receive financial assistance to care for children in their home. The relative or nonrelative decides which program to participate in depending on that caregiver's needs and the program's eligibility requirements.

⁷ These nonrelatives are defined as "fictive kin" in s. 39.01, F.S.

⁸ R. 65C-28.004, F.A.C.

In Florida, 22,078 children were in out-of-home care as of December 31, 2021.⁹ Fewer than half of these children were placed with relative and nonrelative caregivers, while the rest were placed in licensed foster care, or in group care or residential setting.¹⁰

Licensed Foster Care

Foster home placements provide a temporary, safe place for a child to live until reunited with a parent, or, if reunification is not possible, permanency through adoption or other permanency option. A family foster home is a private residence where children are provided 24-hour care while unattended by a parent or legal guardian.¹¹ Family foster homes include emergency shelters and specialized foster homes for children with special needs.

CBC's handle the recruitment, training, and licensing of foster homes. The total number of children placed in a foster home is 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 living in the home; the amount of safe, physical space; the ratio of active and appropriate adult supervision; and the background, experience, and skill of the foster parent.¹² Foster parents are responsible for the care and well-being of all children in their care, including maintaining their health and safety and encouraging emotional and physical growth and development.

Current law requires all foster homes to be licensed by DCF, in one of five distinct levels¹³:

- **Level I: Child-Specific Foster Home:** relatives and nonrelatives who have an existing relationship with the child for whom they are seeking licensure.¹⁴
- **Level II: Non-Child Specific Foster Home:** individuals in the community who are generally interested in fostering.
- **Level III: Safe Foster Home for Victims of Human Trafficking:** individuals who provide a safe and stable environment for victims of human trafficking.
- **Level IV: Therapeutic Foster Home:** individuals who have received specialized training to care for a wide variety of children who may have significant emotional, behavioral, or social needs. 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.
- **Level V: Medical Foster Home:** individuals who have received specialized training to provide care for children 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 a hospital or other facility setting.

Level I licensure standards and qualifications are less strict than Level II-V licensure. For example, to obtain Level I license, the CBC may waive non-safety requirements during the home study process.¹⁵ Additionally, Level I licenses only require two hours of training, while Level II-V licenses require 21 hours of training. Level II-I licensees also have more background screening requirements than for Level I licensees.

⁹ Department of Children and Families, *Agency Bill Analysis for SB 7034* (Jan. 29, 2022).

¹⁰ *Id.*

¹¹ S. 409.175(2)(e), F.S.

¹² S. 409.175(3)(a) and (b), F.S.

¹³ S. 409.175(5), F.S.

¹⁴ Level I licensure went into effect in July 2018. The purpose of Level I licensure is to provide a path to licensure for relatives and nonrelatives and allow them to close out in permanent guardianship through the federally-funded Guardianship Assistance Program (GAP); *Supra* note 9.

¹⁵ S. 409.175, F.S. Waivable non-safety requirements include, but are not limited to, a posted evacuation and disaster preparedness plan, having a first aid kit available and accessible to all caregivers, having a fully charged and unexpired 2A10BC fire extinguisher, prohibiting children under 10 from sleeping on the upper tier of a bunk bed without rails, and prohibiting an extension cord from extending from one room to another except in emergencies.

Current law requires DCF to pay foster parents a monthly room and board rate.¹⁶ The room and board rate payment begins at the time the child is placed, regardless of whether the court has found the child dependent.

The current room and board rate for Level II-Level V foster homes is:

- Age 0 through age 5 - \$517.94 per month.
- Age 6 through age 12 - \$531.21 per month.
- Age 13 through age 21¹⁷ - \$621.77 per month.

This is higher than the Level I foster home room and board rate for licensed relative and nonrelative caregivers, which is \$333 a month.

In addition, Level II-Level V licensed foster parents also receive an annual cost of living adjustment and a supplemental board rate to teach life skill development to children ages 13 to 17.¹⁸ These benefits are not available to relative or nonrelative caregivers licensed as a Level I foster placement or those participating in the RCP.

Relative Caregiver Program

Florida created the Relative Caregiver Program (RCP) in 1998¹⁹ to provide financial assistance to eligible relatives caring for children who would otherwise be in the foster care system. In 2014, the Legislature expanded the program to include nonrelatives with whom a child has a close relationship, if they are able and willing to care for the child and provide a safe, stable home environment.²⁰ These nonrelatives are also eligible for financial assistance.

The program is funded with a combination of federal revenues under the Temporary Assistance for Needy Families (TANF) program and state revenues (particularly for nonrelatives, which do not qualify for TANF funding).²¹ Currently, the basic monthly payment amount to caregivers in RCP is linked to the age of the child in care:²²

- Age 0 through age 5 - \$242 per month.
- Age 6 through age 12 - \$249 per month.
- Age 13 through age 18 - \$298 per month.

Relative and nonrelative caregivers do not need to meet foster care licensure requirements to receive RCP benefits.²³ However, relative and nonrelative caregivers may obtain a Level I foster care license to receive a higher monthly benefit, which is \$333 (as discussed above). As of March 20, 2022, 37% of relative and nonrelative caregivers are licensed as a Level I foster care placement.²⁴

Relative and nonrelative caregivers in RCP receive a monthly payment for care only after the court finds the child dependent. This is different than the payment structure for licensed foster parents, who receive a monthly payment for care at the time a child is placed, regardless of whether the court has

¹⁶ S. 409.145, F.S.

¹⁷ Foster youth can choose to remain in foster care until turning 21 through the extended foster care program under s. 39.6251, F.S.

¹⁸ S. 409.145(3)(b) and (c), F.S. The amount of the supplemental board rate is set by CBC's, but it is generally 10% above the base room and board rate a licensed foster parent receives.

¹⁹ S. 39.5085, F.S.

²⁰ Ch. 2014-224, L.O.F.

²¹ Some children placed with a relative guardian are eligible for the TANF "child only" program. See Department of Children and Families, *Temporary Assistance to Needy Families State Plan Renewal: October 1, 2020 – September 30, 2023*, <https://www.myflfamilies.com/service-programs/access/docs/TANF-Plan.pdf> (last visited Feb. 7, 2022).

²² R. 65C-28.008(2)(g), F.A.C.

²³ S. 39.5085(2)(c), F.S.

²⁴ Email from Madeline G. Donofrio, Legislative Affairs Staff Assistant, Department of Children and Families, UPDATE – Candidacy/Title IV-E Claiming Activities – 3-20-22 (on file with the Children, Families, and Seniors Subcommittee).

found the child dependent. RCP benefits continue until the child is reunified with a parent or adopted, is no longer under the care of the relative or nonrelative, turns 18, or the caregiver receives foster care licensure.

In Fiscal Year 2020-21, 13,971 relative caregivers and 2,074 nonrelative caregivers participated in RCP.²⁵

Guardianship Assistance Program

The Guardianship Assistance Program (GAP) is a federally-funded program to support relatives and nonrelatives who care for children on a long-term basis. This is for qualifying relatives and nonrelatives who become guardians for children removed from their homes due to abuse or neglect.²⁶ Section 39.6225, F.S., sets the eligibility requirements to participate in Florida's GAP. In keeping with federal requirements, for a guardian to qualify to receive benefits on behalf of the child, the guardian must:

- Have the child's placement approved by the court;
- Have court-granted legal custody of the child;
- Be licensed as a Level I foster care provider under s. 409.175, F.S.; and,
- Be a guardian for the child who was eligible for federal foster care maintenance payments under Title IV-E for at least six consecutive months while the child resided in the home of the guardian and the guardian was licensed as a foster care provider.

DCF provides GAP participants financial assistance of \$333 monthly, or another amount specified in a written agreement negotiated between the caregiver and the CBC.²⁷ According to DCF, seven percent of caregivers currently negotiate a higher amount. The average negotiated amount is \$787, which is a \$454 increase over the Level I foster care rate of \$333, which these families received prior to moving to GAP. This increase may currently incentivize permanency.

Participants are also eligible for a one-time payment of up to \$2,000 for expenses associated with obtaining legal guardianship of a child.

As of November 2021, 1,122 children were in GAP.²⁸

Adoption Assistance

Adoption is one method of achieving permanency for children in foster care. Under s. 409.166, F.S., caregiver may receive adoption assistance if adopting a child from foster care who is:

- Age 8 or older,
- In a sibling group of any age (if two or more siblings remain together for purposes of adoption);
- Developmentally disabled;
- Physically or emotionally handicapped, or
- Of black or racially mixed percentage²⁹.

Florida adoption assistance is \$417 per month, unless a different amount is negotiated by the family.³⁰ According to DCF, 37 percent of caregivers currently negotiate a higher amount. The average negotiated amount is \$655, which is a \$99 increase over the average Level II-V rate, a \$322 increase

²⁵ *Supra* note 9.

²⁶ Florida Department of Children and Families, Office of Child Welfare, *Guardianship Assistance Program (GAP)*, [Guardianship Assistance Program Community Supports - Florida Department of Children and Families \(myflfamilies.com\)](https://myflfamilies.com) (last visited Jan. 20, 2022).

²⁷ S. 39.6225(5)(d), F.S.

²⁸ Email from John Paul Fiore, Legislative Affairs Director, Department of Children and Families, RE: GAP (Jan. 20, 2022).

²⁹ This characteristic was changed during the 2022 Legislative Session in CS/CS/HB 893 to "a member of a racial group that is disproportionately represented" among children who are free for adoption from the child welfare system.

³⁰ S. 409.166(4)(c), F.S.

over the Level I foster care rate, and a \$392 increase over the RCP rate, which these caregivers would have received prior to adoption. This increase may currently incentivize permanency.

The following table provides information on the payment amounts and other benefits caregivers receive based on the type of out-of-home placement.

	Relative Caregiver Program (RCP)		Level I Foster Home	Level II-V Foster Home	Guardianship Assistance Program (GAP)	Adoption
	Relative Component	Nonrelative Component	Foster parent	Foster parent	Permanent guardian	Adoptive Parent
Type of Care	Temporary or long-term	Temporary or long-term	Temporary or long-term	Temporary or long-term	Long-term (permanency)	Long-term – permanency
Relationship to Child	Relative	Nonrelative	Relative or Nonrelative (fictive kin)	Not known to the child	Relative or nonrelative	Unknown or known to child
Benefit Amount (monthly)	Age 0-5: \$242 Age 6-12: \$249 Age 13-18: \$298		\$333	Age 0-5: \$517 Age 6-12: \$531 Age 13-18: \$621 + life skills supplement	\$333 (can negotiate a higher amount)	\$417 (can negotiate a higher amount)
Cost of Living Increase	No			Yes	No	No

Child Care Subsidy

In 2020, the average annual cost of infant child care in Florida was approximately \$9,312. Single parents in Florida spend, on average, 34.7 percent of their income on infant child care. Married parents of two children living at the poverty line spend approximately 65 percent of their household income on child care. The average price of infant child care in Florida is currently more than the average annual tuition and fees at a public four-year college or university.³¹

Florida’s School Readiness (SR) program provides subsidies for child care services and early childhood education for children, including child welfare children in out-of-home care.³² The SR program offers financial assistance for child care while supporting children in the development of skills for success in school.³³

SR funding for participating providers is a mix of federal funds and General Revenue distributed by early learning coalitions (ELC) and tuition payments by participating families.³⁴ Each ELC reimburses providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.³⁵ The reimbursement amounts are determined locally by ELCs.

³¹ Child Care Aware, *Price of Child Care in Florida*, 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 Jan. 30, 2022).

³² Ss. 1002.81 and 1002.87, F.S.

³³ Florida Department of Education, Division of Early Learning, *School Readiness Program*, <http://www.floridaearlylearning.com/school-readiness> (last visited Feb. 1, 2022).

³⁴ See ss. 1002.84(8) and 1002.89, F.S.; Specific Appropriation 86, s. 2, ch. 2019-115, L.O.F.

³⁵ See R. 6M-4.500(1), F.A.C.; see also 45 C.F.R. s. 98.20(a); see Division of Early Learning, *Florida Child Care Development Fund (CCDF) Plan with Conditional Approval Letter for FY 2019-2021*, at 53 (Oct. 1, 2018),

Any additional amount a parent must pay is based on the difference between the provider's tuition rate and the sum of the reimbursement rate. Reimbursement amounts vary based on provider type and level of care.³⁶

Children in child welfare out-of-home placements are eligible for a child care subsidy provided through the SR program.³⁷ However, spaces in the SR program are limited, so current law prioritizes eligibility for highest-need populations, including low-income families and disabled children. Children involved in the child welfare system are second on the priority list, but there are often not enough spaces in SR programs for all child welfare children in out-of-home care.

As of December 2021, 10,367 children under the age of 6 were in out-of-home care with licensed foster parents, relative caregivers, or nonrelative caregivers.³⁸ As of February 4, 2022, 3,089 children received subsidized child care through the SR program.³⁹ It is unknown how many child welfare children are in unsubsidized child care.

Tuition and Fee Exemptions for Youth in Foster Care

Youth in foster care face a multitude of barriers when it comes to higher education. About 4 percent of former foster youth graduate from college by the time they reach the age of 26, compared to 36 percent of the general population.⁴⁰

In 1988, Florida enacted a law providing a tuition and fee exemption for postsecondary education for current and former foster youth.⁴¹ 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 using the exemption had to maintain a 2.0 GPA. Throughout the years, the Legislature has expanded the tuition and fee exemption to cover additional students:

- In 1997, the exemption was expanded to students who were adopted from the child welfare system after December 31, 1997.⁴²
- In 2002, the exemption was expanded to students who are, or were, at the time of turning 18, in the custody of a relative participating in the Relative Caregiver Program.⁴³
- In 2006, the exemption was expanded to any student who, after spending at least 6 months in the custody of DCF after turning 16, was placed in a guardianship.⁴⁴

In 2010, the Legislature made the tuition and fee exemption available 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.⁴⁵

http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CCDBG_FY2019-2021CCDFPlanFINAL_FINAL_4.9.19.pdf

³⁶ See s. 1002.895, F.S.; rules 6M-4.400(2) and 6M-4.500(1), F.A.C.

³⁷ Children in the child welfare system are not required to be in child care. However, s. 39.604, F.S., the Rilya Wilson Act, sets attendance standards for children from birth to the age of school entry who are enrolled in a child care program: they must attend the program five days a week unless the court grants an exception, and may not be withdrawn without prior written approval from DCF or a CBC.

³⁸ Department of Children and Families, *Office of Child Welfare, Dashboard*, <https://www.myflfamilies.com/service-programs/child-welfare/dashboard/> (last visited Feb. 1, 2022).

³⁹ Email from Jessica Fowler, Deputy Legislative Affairs Director, Department of Education, School Readiness (SR) Program, (Feb. 7, 2022) (on file with the Children, Families, and Seniors Subcommittee).

⁴⁰ Youth Today, *As More Schools Aid Foster Students, Data on Results Needed, Researchers Say*, <https://youthtoday.org/2019/03/as-more-colleges-states-aid-youth-in-foster-care-data-on-results-is-needed-researchers-say/> (last visited Jan. 30, 2022).

⁴¹ *Id.*

⁴² S. 240.235(5)(a), F.S. (1997). In 1998 and 1999, the December 31, 1997 dates were changed to May 5, 1997.

⁴³ Ch. 2002-38, L.O.F.

⁴⁴ Ch. 2006-194, L.O.F.

⁴⁵ Ch. 2010-68, L.O.F.

Currently, an estimated 69,846 students qualify for the tuition and fee exemption.⁴⁶

Effect of Proposed Changes

Out-of-Home Placements – Room and Board Rates

Level I Foster Homes and RCP Caregivers

The bill increases the monthly room and board payment rate to the Level II-V foster parent rate⁴⁷ for Level I licensed foster placements, and unlicensed caregivers in the Relative Caregiver Program (RCP), as illustrated below.

RCP Old Rate	RCP New Rate		Level I Old Rate	Level I New Rate
	New Rate: First 6 months	New Rate: After 6 months		
Age 0-5: \$242 Age 6-12: \$249 Age 13-18: \$298	Age 0-5: \$517 Age 6-12: \$531 Age 13-18: \$621 + life skills supplement	Licensed: New Level I rates Unlicensed: Rate set by DCF (less than \$333 GAP rate)	\$333	Age 0-5: \$517 Age 6-12: \$531 Age 13-18: \$621 + life skills supplement

The bill limits the RCP increase to a six-month period, beginning either after a child is adjudicated dependent or from the date the child is placed with the caregiver, whichever occurs later. RCP caregivers can remain at the higher rate after six months if the caregiver obtains a Level I foster placement license. If the caregiver is unlicensed after six months, the bill reduces the room and board rate to an amount set by DCF. The monthly room and board rate set by DCF must be less than the monthly payment amount provided to those enrolled in the Guardianship Assistance Program (GAP) (which is \$333 a month).

The bill requires DCF to pay the lower, DCF-set, room and board rate to relative and nonrelative caregivers who are not participating in GAP and who have a child in their care:

- by permanent guardianship pursuant to s. 39.6221, F.S.
- in a permanent placement with a fit and willing relative pursuant to s. 39.6231, F.S., or
- under former s. 39.622, F.S.,⁴⁸ if the placement was made before July 1, 2006.

The bill applies the annual cost of living adjustment for room and board payment rates for Level II-V licensed foster parents to both Level I licensed foster placements and caregivers in the RCP who receive the increased room and board rate (but not for the unlicensed caregivers at the lower, DCF-set, rate).

In addition, the bill expands the CBC supplemental payment (for life skill development for children ages 13-17) to both Level I licensed foster placements and caregivers in the RCP receiving the increased room and board rate (but not for unlicensed caregivers at the lower, DCF-set, rate).

The financial increase for room and board rates and additional benefits provided by the bill may incentivize more individuals to become licensed foster parents thereby increasing available placements for children needing out-of-home care.

⁴⁶ *Supra* note 9.

⁴⁷ This current room and board rate for Level II-V licensed foster parents is the current cost of living adjustment for 2021-22.

⁴⁸ The Legislature removed s. 39.622, F.S., relating to long-term custody, in 2006 to align with the permanency options in federal law. See CS/CS/SB 1080, Ch. 2006-86.

Anticipation of the drop in RCP assistance after six months from \$517-\$621 (depending on the child's age) to some amount lower than \$333 could incentivize the caregiver to obtain a Level I licensure during that six-month period, which would allow the caregiver to maintain the higher rate after that time.⁴⁹ Similarly, expansion of the cost of living adjustment and the supplemental payment for life skill development to Level I licensees may also incentivize RCP caregivers to pursue licensure.

The bill does not change the room and board rates for payment for the Guardianship Assistance Program (GAP) (which is \$333 a month) or for adoption assistance (which is \$417 a month). However, caregivers may, under current law, negotiate with DCF for a higher rate. The bill's increases to pre-permanency room and board rates may increase the likelihood that GAP guardians and adoptive parents will negotiate higher rates.

Under the bill, a Level I licensed caregiver will receive \$517-\$621 a month (depending on the age of the child). After entering into a permanent guardianship and GAP, the caregiver's monthly assistance will drop to the GAP payment of \$333 per month; whereas, under the previous Level I rate of \$333, caregivers experienced no reduction in financial assistance when entering GAP. This could have the effect of discouraging caregivers from moving to permanency via guardianship, or incentivize them to negotiate a higher GAP rate, to avoid the loss of \$184-\$288 a month. Currently, seven percent of GAP participants negotiate a higher rate; this portion may increase under the bill's provisions.

A similar, but more pronounced, effect may occur with adoption. Under the bill, a Level I licensed caregiver will receive \$517-\$621 a month (depending on the age of the child). After entering into adoption and the adoption assistance program⁵⁰, the monthly assistance will drop to the adoption payment of \$417 per month; whereas, under the old Level I rate of \$333, caregivers experienced an increase in financial assistance when adopting the child. This could have the effect of discouraging caregivers from moving to permanency via adoption, or incentivize them to negotiate a higher adoption assistance rate, to avoid the loss of \$100-\$204 a month. Currently, 37 percent of adoption assistance recipients negotiate a higher rate; this portion may increase under the bill's provisions.

Child Care Subsidy

The bill requires DCF to provide foster parents and relative and nonrelative caregivers caring for children under school age a monthly payment of \$200 to cover the cost of child care. This funding will be in addition to any School Readiness (SR) program subsidy. Unlike SR, the funds will go directly to the caregiver (not to the child care provider).

Tuition and Fee Exemption

The bill expands the postsecondary school tuition and fee exemption to a student who was the subject of a shelter, dependency, or termination of parental rights proceeding, and:

- who is, or was at the time of turning 18, in out-of-home care, or
- who, after turning 14 and spending at least 18 months in out-of-home care, was reunited with a parent before turning 18, and who is Pell Grant-eligible, or
- was placed in permanent guardianship and remains in such guardianship until turning 18 or enrolls in an eligible institution before turning 18.

⁴⁹ Currently, only 37% of relative and nonrelative caregivers obtain Level I licensure. Financial assistance for licensed caregivers qualifies for Title IV-E federal funding, so increasing the number of caregivers who achieve licensure would reduce the amount of state general revenue that must be expended for this assistance.

⁵⁰ If eligible: adoption assistance, unlike GAP assistance, is only for children difficult to place without such assistance. According to DCF, all children available for adoption are "difficult to place" and eligible for adoption assistance.

This allows additional children who are or were in the dependency system access to the tuition and fee exemption who would otherwise not be eligible due to a caregiver not participating in a DCF offered caregiver program or those who are reunified with a parent after spending significant time in care.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Colleges and Universities

The bill has an indeterminate, significant, negative revenue impact on state colleges and universities relating to the bill's provisions expanding the tuition and fee exemption to additional individuals. An estimated 69,846 individuals currently qualify for the exemption under current law.⁵¹ An estimated 62,470 additional individuals would qualify for the exemption under the bill.⁵² However, it is unknown what portion of the additional individuals will use the tuition and fee exemption for which they qualify.

DCF

The department may be able to draw down additional Title IV-E funds to pay for financial assistance for licensed caregivers, if more caregivers become licensed as a result of the bill's provisions. See Fiscal Comments.

2. Expenditures:

The General Appropriations Act (GAA) for Fiscal Year 2022-23 provides a total of \$44,035,644 to DCF to implement the bill's provisions, including:

- \$18,215,844 for the increase in room and board rates for relative and nonrelative caregivers and foster placements licensed as Level I-V.
- \$24,880,800 for a monthly child care subsidy of \$200 for licensed foster parents and relative and nonrelative caregivers.
- \$939,000 for DCF to implement the bill's provisions relating to room and board rate parity and supplemental child care subsidies for eligible caregivers.

The bill's increased Level I room and board rates may have a significant, indeterminate, negative fiscal impact on DCF if GAP guardians and adoptive parents negotiate higher rates as a result of the drop in financial assistance they will experience when moving from licensed care into permanency. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁵¹ *Supra* note 9, pg. 4.

⁵² *Id* at p. 7.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill's additional child care funding may increase the number of child welfare children in child care, which may result in establishment of new child care businesses or expansion of existing ones.

D. FISCAL COMMENTS:

The bill's higher pre-permanency (Level I licensure) room and board rates may incentivize more GAP guardians and adoptive parents to negotiate with DCF for a higher monthly benefit, to avoid the reduction in assistance when moving to permanency created by the bill. This would have a significant, indeterminate, negative fiscal impact on DCF.

Similarly, unlicensed RCP caregivers may be more incentivized to obtain licensure than currently when their higher room and board rate under the bill drops to a lower rate after six months. An increase in the number of licensed caregivers would have a significant, indeterminate, negative fiscal impact on DCF, to pay for the higher (Level I licensure) room and board rate for additional caregivers. However, this may have a positive impact on state general revenue, as financial assistance for licensed caregivers is eligible for Title IV-E funding. In this instance, the state general revenue that would have been used for unlicensed RCP assistance could be redirected to other purposes.

The Fiscal Year 2022-2023 General Appropriations Act (GAA) accommodates both these possible impacts by authorizing DCF to use a simpler method of moving surplus funds between categories than under current law. The GAA provides a total of \$71 million to DCF to fund various child welfare and foster care needs, including:

- Line items 307-316 for salaries and benefits, OPS services, operating capital outlay and other expenses, CBC risk pool, and contracted services;
- Line item 319 for child protection;
- Line items 321-323 for temporary emergency shelter services and residential group care; and
- Line items 326 and 327 for contracted services.

Although appropriated funds must be expended only for the purpose for which appropriated, s. 216.292(4)(a), F.S., authorizes state agencies to transfer excess funds between appropriation categories with Legislative Budget Commission (LBC) approval. However, section 22 of the GAA Implementing Bill (HB 5003) expressly authorizes DCF to submit a budget amendment to the Legislature to realign funding to maximize the use of Title IV-E and other federal funds without going through the LBC approval process, instead using the notice, review, and objection procedures of s. 216.177, F.S.

DCF has a history of reverting unexpended funds back to the Legislature at the end of the fiscal year; therefore, DCF should have sufficient surplus funds, and the flexibility to transfer such funds to other categories, if GAP guardians or adoptive parents negotiate a higher monthly benefit due to the drop in benefits occurring upon permanency as a result of the bill.