

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1634

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Brodeur

SUBJECT: Child Welfare

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuzynski	Cox	CF	Fav/CS
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1634 makes numerous changes to chapters 39, 409, and 63, F.S., to enhance the child welfare system including changes to protect vulnerable children, support caregivers and foster parents, and streamline court proceedings and legal processes. The bill also makes numerous changes to enhance the system of care for victims of human trafficking.

In regards to ch. 39, F.S., related to the child welfare system, the bill:

- Creates a process to permanently commit a child whose parents die while the child is in the dependency system or who otherwise does not have a safe relative to care for the child and must rely upon the Department of Children and Families' (DCF) services, but is not a victim of abuse, abandonment, or neglect.
- Creates an emergency modification of placement process to immediately address child safety risks of children in out-of-home care separate from a shelter hearing.
- Modifies the adoption exchange requirements related to public access and display of photographs of each child eligible for adoption.
- Changes the judicial review process to allow permanent guardians of children who may be eligible for the Guardianship Assistance Program to receive maximum available benefits to minimize placement disruption and time to permanency by reducing the number of months required to close a case in permanent guardianship from 6 to 3 months if the caregiver was previously named as a successor guardian.
- Allows judges to amend case plans at judicial review hearings that already require the court to evaluate the appropriateness of the permanency goal and services being offered.

- Eliminates the requirement to personally serve a parent with a petition when the parent appears at a termination of parental rights hearing, aligning statute with the dependency hearing process.
- Shifts judicial review of the DCF's decision on adoption applications made to the DCF under ch. 39, F.S., from a separate administrative process under ch. 120, F.S., to the judge assigned to the dependency proceeding who has the most familiarity with the child and family.
- Expands the Keys to Independence program by removing language in statute that restricted one of eligibility paths.

In regards to human trafficking and commercial sexual exploitation, the bill:

- Requires additional inservice training for foster parents and agency staff to provide better tools to communicate and mitigate maladaptive behaviors and trauma for CSE victims and the caregivers that are caring for such youth.
- Requires the DCF and Department of Juvenile Justice (DJJ), by December 1, 2023, to implement recommendations for the HTST tool and implement a scoring mechanism to be utilized with the current tool.
- Requires the modified HTST tool to be validated by June 1, 2024 and, if it cannot be validated, for the DCF and DJJ to transition to a pre-validated tool. The cost of validation must be absorbed within the base appropriation of the Florida Institute for Child Welfare.
- Requires the DCF and Community-Based Care Lead Agencies (CBC) to develop a long range plan and strategic plan for current capacity and how to expand CSE capacity, which will improve upon the current requirement of the DCF and CBCs to assess local service capacity.
- Removes the requirement that the DCF only provide training to local law enforcement to the extent that funds are available.
- Establishes the Survivor Peer Mentor Model and also requires that CSE providers use the model to provide mentorship to CSE youth whenever possible.
- Requires the CBCs to ensure that staff of safe houses and foster parents of safe foster homes complete any of the inservice training required for serving the CSE youth population.
- Requires the DCF to establish a confidential portal to provide services and information to prospective and current CSE safe homes, including an interactive message board for providers to communicate and work through challenges.
- Clarifies that providers must, whenever possible, bill for services through revenue maximization methods, rather than current law which says there is no prohibition on such billing practices.
- Requires the DCF, ACHA, and DJJ to work together to analyze the bed rates and develop funding models or a CSE-specific Behavioral Health Overlay rate.

The bill has an indeterminate positive fiscal impact on state government and an indeterminate negative fiscal impact on the private sector. See Section V. Fiscal Impact Statement.

Sections 15 and 18 of the bill are effective upon becoming law and the remainder of the bill is effective July 1, 2023.

II. Present Situation:

An estimated 3.9 million referrals of alleged child abuse and neglect were made nationwide in 2021.¹ Of that 3.9 million, approximately 2 million met the requirements for an investigation² leading to approximately 588,000 children with a finding of maltreatment.³ More than 4.28 million children live in Florida, a vast majority of which, fortunately, never come to the attention of Florida's child welfare system.⁴ In 2021, the Department of Children and Families (DCF) investigated 256,060 reports of potential child abuse and approximately 11 percent (27,394) of those investigations resulted in a finding of maltreatment.⁵

Congress appropriates federal funds through various grants to the DCF to supplement state general revenue funds for the implementation of child welfare programs.⁶ The DCF uses these funds to contract with community-care based lead agencies (CBCs) to provide services.⁷

Florida's Child Welfare System - Generally

Chapter 39, F.S., creates Florida's dependency system that is charged with protecting the welfare of children; this system is often referred to as the "child welfare system." The DCF Office of Child and Family Well-Being works in partnership with local communities and the courts to ensure the safety, timely permanency, and well-being of children.

Child welfare services are directed toward the prevention of abandonment, abuse, and neglect of children.⁸ The DCF practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child's natural supports in his or her home environment. Such services are coordinated by the DCF-contracted community-based care lead agencies (CBC).⁹ The DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.¹⁰ Ultimately,

¹ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Report on Child Maltreatment 2021*, p. 8, available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2021.pdf> (last viewed March 19, 2023).

² *Id.* at 13; referred to as "screened in referrals."

³ *Id.* at 21; referred to as "victims of abuse and neglect."

⁴ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Child Population Data for Florida*, available at <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/florida.html> (last viewed March 19, 2023).

⁵ *Id.*

⁶ The main federal grant programs that supplement state-level child welfare programs are Titles IV-E and IV-B of the Social Security Act.

⁷ Part V of ch. 409, F.S.

⁸ Section 39.001(8), F.S.

⁹ Section 409.986(1), F.S.; *See generally* The Department of Children and Families (The DCF), *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last viewed March 15, 2023).

¹⁰ Office of Program Policy Analysis and Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, Report 06-50, June 2006, available at <https://oppaga.fl.gov/Products/ReportDetail?rn=06-50> (last viewed March 19, 2023).

the DCF is responsible for program oversight and the overall performance of the child welfare system.¹¹

Department of Children and Families

The DCF's statutory mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹² The DCF must develop a strategic plan to fulfill this mission and establish measurable goals, objectives, performance standards, and quality assurance requirements to ensure the DCF is accountable to taxpayers.¹³

The DCF is required to provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.¹⁴

The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.¹⁵ These private providers include CBCs delivering child welfare services and managing entities (MEs) delivering behavioral health services.¹⁶

Dependency Case Process - Generally

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in out-of-home placement, adjudicate the child dependent, and if necessary terminate parental rights and free that child for adoption. Steps in the dependency process usually include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.¹⁷

¹¹ *Id.*

¹² Section 20.19(1)(a), F.S.

¹³ Section 20.19(1)(b), F.S.

¹⁴ Section 20.19(4)(a), F.S.,

¹⁵ Section 20.19(1)(d), F.S.

¹⁶ Part V of ch. 409, F.S. and s. 394.9082, F.S.

¹⁷ The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. S. 63.022, F.S.

Dependency Proceeding	Description of Process	Controlling Statute(s)
Removal	The DCF may remove a child from his or her home after a protective investigation determines that conditions in that child’s home are unsafe and a safety plan cannot make the conditions safe.	s. 39.401, F.S.
Shelter Hearing	The court must hold a shelter hearing within 24 hours after removal. At this hearing, the judge determines whether there was probable cause to remove the child and whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	The DCF must file a petition for dependency within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	The court must hold an arraignment and shelter review within 28 days of the shelter hearing. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any previous shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	The court must hold an adjudicatory trial within 30 days of arraignment. The judge determines whether a child is dependent during this trial.	s. 39.507, F.S.
Disposition Hearing	The court must hold a disposition hearing within 15 days of arraignment (if the parents admits or consents to adjudication) or 30 days of adjudication if a court finds the child dependent. At this hearing, the judge reviews the case plan and placement of the child and orders the case plan and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition Change of Custody Hearing	The court may change the temporary out-of-home placement of a child 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 at least every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	If the DCF determines that reunification is no longer a viable goal and 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	The court must hold an advisory hearing 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.

Dependency Proceeding	Description of Process	Controlling Statute(s)
Adjudicatory Hearing	The court must hold an adjudicatory trial 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.

In-Home Services

The DCF is required to make all efforts to keep children with their families and provide interventions that allow children to remain safely in their own homes.¹⁸ Protective investigators and CBC case managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes. As of September 30, 2022, 30,217 children were receiving in-home services.¹⁹

Out-of-home Placement

When a child protective investigator determines that in-home services are not enough to ensure safety, the investigator removes and places the child with a safe and appropriate temporary out-of-home placement, often referred to as “foster care.”²⁰ These out-of-home placements provide housing, support, and services to a child until the conditions in his or her home are safe enough to return or the child achieves permanency with another family through another permanency option, like adoption.²¹

The CBCs must maintain and license various out-of-home placement types²² to place children in the most appropriate available setting after conducting an assessment using child-specific factors.²³ Legislative intent is to place a child in the least restrictive, most family-like environment in close proximity to parents when removed from his or her home.²⁴

The DCF, through the CBCs, places children in a variety of settings. As of January 31, 2023 there were 21,066 children in out-of-home care with 5,420 with non-licensed relatives, 1,948 with non-licensed non-relative kin, 10,989 in licensed family foster homes (to include Level I licensed family and kin), and 1,588 in residential group care.²⁵

¹⁸ Sections 39.402(7), 39.521(1)(f), and 39.701(d), F.S.

¹⁹ Department of Children and Families, *Child Welfare Key Indicators Monthly Report*, January 2023, p. 30, available at https://www2.myflfamilies.com/service-programs/child-welfare/kids/results-oriented-accountability/performanceManagement/docs/KI_Monthly_Report_Jan2023.pdf (last viewed March 20, 2023).

²⁰ Sections 39.401 through 39.4022, F.S.

²¹ The Office of Program Policy and Government Accountability, *Program Summary*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited March 15, 2023).

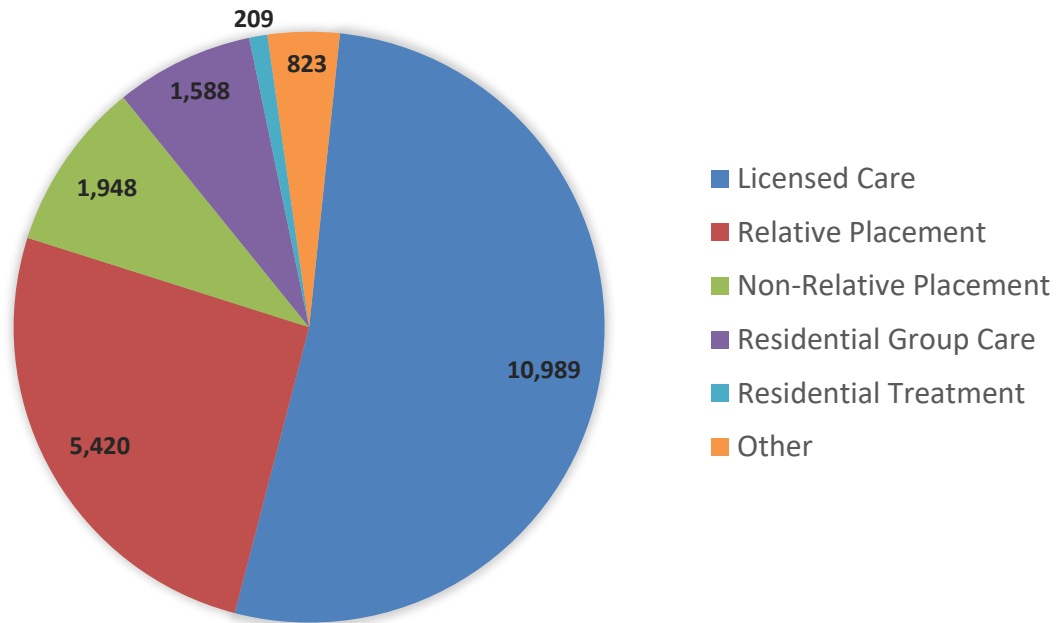
²² Chapter 65C-45, F.A.C.

²³ Rule 65C-28.004, F.A.C., provides that the child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement.

²⁴ Sections 39.001(1) and 39.4021(1), F.S.

²⁵ Department of Children and Families, *Child Welfare Key Indicators Monthly Report*, January 2023, p. 31, available at https://www2.myflfamilies.com/service-programs/child-welfare/kids/results-oriented-accountability/performanceManagement/docs/KI_Monthly_Report_Jan2023.pdf (last viewed March 20, 2023).

Out-of-home Placements as of January 31, 2023



Source: Department of Children and Families, Child Welfare Key Indicators Monthly Report, January 2023, p. 31.

Case planning

For all children and families requiring services in the child welfare system, the DCF must develop and draft a case plan.²⁶ The purpose of a case plan is to develop a documented plan that details the identified concerns and barriers within the family unit, the permanency goal or goals, and the services designed to ameliorate those concerns and barriers and achieve the permanency goal.²⁷

The services detailed in a case plan must be designed in collaboration with the parent and stakeholders to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child’s safe return to the home, ensure proper care of the child, or facilitate the child’s permanent placement.²⁸ The services offered must be the least intrusive possible into the life of the parent and child and must provide the most efficient path to quick reunification or other permanent placement.²⁹

Refer to Section III (Effect of Proposed Changes) of this Bill Analysis for a more detailed discussion of the specific sections of current law and the bill’s effect on those sections.

²⁶ See Part VII of ch. 39, F.S.

²⁷ Section 39.6012(1), F.S.

²⁸ *Id.*

²⁹ *Id.*

III. Effect of Proposed Changes:

Confidentiality of Child Welfare Reports and Records (Section 1)

Section 39.202, F.S., provides for the confidentiality of reports and records in child welfare cases. The law requires that that the DCF shall release records to “[a]ny person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect.”³⁰

Current law does not detail or specify whom must make the requisite determination that the death was the result of abuse, abandonment, or neglect or when that determination must occur. This lack of specificity has created issues with the DCF being unaware of ‘determinations’ made by other entities and being unknowingly liable for the release of records.³¹ The DCF is required to complete its investigation within 60 days after receiving

Effect of the Bill

The bill amends s. 39.202(2)(o), F.S., to clarify that access to child abuse records shall be granted to persons after the DCF has closed its investigation and met the requirements of 39.301(16), F.S., which state that the DCF must close its investigation within 60 days unless:

- There is an active, concurrent criminal investigation that is continuing beyond the 60-day period and closure of the DCF investigation may compromise successful criminal prosecution.
- The final report of a medical examiner is necessary for the DCF to close its investigation and the report has not been received.
- A child necessary to the investigation has been declared missing by the DCF, a law enforcement agency, or a court.

Clarifying s. 39.202(2)(o), F.S., provides for transparency and accuracy, giving the DCF time to conduct a proper investigation into the cause and circumstances into the death of a child, clarifies when an investigation is complete for purposes of record release, and also helps remaining family members, including siblings, by ensuring that no information is released pre-maturely, or inaccurately.

Multidisciplinary Legal Representation Model (Section 2)

Multidisciplinary legal representation models (MLRM) have been adopted in states around the country, including The Vermont Parent Representation Center, the Center for Family Representation, the Bronx Defenders, and the Detroit Center for Family Advocacy.³² While the traditional legal practice in the United States is to have a solo attorney represent a client, the MLRM promotes a team of individuals, including social workers and parent advocates.³³ A study

³⁰ Section 39.202(2)(o), F.S.

³¹ The DCF, 2023 Agency Legislative Bill Analysis, SB 1634, bill p. 3 (on file with Committee on Children, Families, and Elder Affairs Staff). (hereinafter cited as “DCF Bill Analysis”)

³² The Children’s Bureau Express, *Collaborating to Build Multidisciplinary, Family-Centered, Strengths-Based Courts*, May 2020, available at <https://cbexpress.acf.hhs.gov/article/2020/may/collaborating-to-build-multidisciplinary-family-centered-strengths-based-courts/e93880031b92c150517620efe54bcbf5> (last visited March 21, 2023).

³³ See *Id.* Children’s Bureau Express, *New Study Shows Providing Parents with Multidisciplinary Legal Representation in Child Welfare Cases furthers Everyone’s Interests*, July/August 2019, available at

by the Bronx Defenders that examined more than 28,000 New York dependency cases between 2007 and 2014 found that full implementation of the MLRM would have saved an estimated \$40 million per year for the foster care system.³⁴ This same study suggests that representation that utilized the multidisciplinary model were able to safely reunify children with their families 43 percent more often in their first year than solo practitioners, and 25 percent more often in the second year.³⁵

In 2018, Congress enacted the Family First Prevention Services Act (FFPSA) aimed at providing financial assistance with a focus on prevention services to turn the focus of the child welfare system toward keeping children safely with their families to avoid the trauma that results when children are placed in out-of-home care.³⁶ The FFPSA created a clear path to use Title IV-E federal funding for legal representation and advocacy for eligible children in foster care and their parents.³⁷

In 2021, the Legislature created s. 39.4092, F.S., with the intent of providing a statutory structure for Office of Criminal Conflict and Civil Regional Counsel's (OCCCRC) to establish and operate MLRM programs to serve families in dependency cases.³⁸ To monitor the use and collect data on the effect of the MLRM in Florida, the statute requires certain data to be collected and reported in an annual report to the Office of Program Policy Analysis and Government Accountability for analysis (OPPAGA).³⁹

Effect of the Bill

The bill changes the name from a Multidisciplinary Legal Representation Model Program to a Multidisciplinary Legal Representation Program (MLRP) and broadens the language of the MLRP requirements to allow “other similar professionals” as part of the model, not just parent-peer specialists and social workers. The bill also provides more flexibility for the establishment of MLRPs by changing the structure of the team from an attorney, forensic social worker, *and* a parent-peer specialist to at least an attorney and one other member, which may be a:

- Parent-peer specialist;
- Forensic social worker; *or*
- Similar professional.

The bill also reduces the reporting requirements on the OCCCRC from very specific data points in an annual report to “certain requested data” by OPPAGA and extends the annual data

<https://cbexpress.acf.hhs.gov/article/2019/july-august/new-study-shows-providing-parents-with-multidisciplinary-legal-representation-in-child-welfare-cases/c13840031b92c150517620efe54bcb67> (last visited March 21, 2023).

³⁴ NYU Law, *Providing Parents with the Right Kind of Legal Representation in Child Welfare Cases Significantly Reduces the Time Children Stay in Foster Care, New Study Finds*, May 7, 2009, available at <https://www.law.nyu.edu/martin-guggenheim-interdisciplinary-parental-representation-child-welfare> (last visited March 21, 2023).

³⁵ *Id.*

³⁶ U.S. Department of Health and Human Services, Administration for Children and Families, *Family First Prevention Services Act*, available at <https://www.childwelfare.gov/topics/systemwide/laws-policies/federal/family-first/> (last visited March 21, 2023).

³⁷ U.S. Department of Health and Human Services, Administration for Children and Families, *High Quality Memo*, p. 10-11, January 14, 2021, available at https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf (last visited March 21, 2023).

³⁸ Chapter 2021-170, s. 14, L.O.F.

³⁹ *Id.*

collection through 2026. These changes allow OCCCRC to operate MLRP with personnel that may fit their particular programs better and for OPPAGA to analyze and study the data from OCCCRC from around the state without forcing those offices into highly prescriptive data collection that may not be as instructive as other data points, ultimately leaving the data request up to OPPAGA.

Procedures related to Deceased Parents (Section 3)

Currently, when both parents of a child are deceased with no family member to serve as legal guardian or custodian through a probate or guardianship proceeding, the DCF can adjudicate a child dependent. However, there is no legal mechanism to permanently commit a child to the custody of DCF for subsequent adoption.⁴⁰

In *F.L.M. v. Department of Children and Families*,⁴¹ the court held that when the parents or guardians of a child have died, they have not abandoned the child because the definition of abandonment contemplates the failure to provide a minor child with support and supervision while being able and the parents who died are no longer able. Instead, the courts have held that an orphaned child without a legal custodian can be adjudicated dependent based upon s. 39.01(14)(e), F.S., in a child has no parent or legal custodian capable of providing supervision and care.⁴² As such, the DCF relies upon s. 39.01(14)(e), F.S., to adjudicate orphaned children dependent.

Section 39.811(2), F.S., permits a court to commit a child to the custody of the DCF for the purpose of adoption if the court finds by clear and convincing evidence that the grounds for termination of parental rights are established. Section 39.806(1), F.S., outlines various grounds for termination of parental rights. However, all available grounds require that a parent engage in behavior that puts a child at risk. The DCF cannot seek termination of a deceased parent's parental rights based on available grounds because a deceased parent has not and can no longer engage in behavior that puts a child at risk. Furthermore, even if there were a statutory ground to seek the termination of a deceased parent's rights, there are benefits that a child may be receiving such as social security benefits or an inheritance and the DCF would not want seek a termination of the deceased parent's rights and disrupt those benefits.⁴³ Currently, courts are permanently committing children to the custody of the DCF without meeting the requirements of s. 39.811(2), F.S., which requires termination of parental rights by clear and convincing evidence.⁴⁴

Effect of the Bill

The bill creates s. 39.5035, F.S., to create a process that allows a court to permanently commit a child whose parents are deceased to the custody of DCF for the purpose of adoption without terminating the parental rights of the deceased parents.

⁴⁰ DCF Bill Analysis, p. 3.

⁴¹ 912 So. 2d 1264 (Fla. 4th DCA 2005)

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

The bill allows an attorney for the DCF or any person with knowledge of the facts that support a petition for adjudication and permanent commitment to initiate proceedings with the filing of such petition. The bill requires that both parents of a child be deceased and there has not been an appointment of a legal custodian or guardian through probate or a guardianship proceeding.

For a child who has not previously been adjudicated dependent, the bill requires the filing of a petition for adjudication and permanent commitment within 21 days after the shelter hearing and placement in shelter status by court order or within a reasonable time after becoming aware of the facts that support the petition in all other cases. For a child who has already been adjudicated dependent, a petition for permanent commitment must be filed within a reasonable time after becoming aware of the facts that support the petition.

The bill requires the petition for adjudication and permanent commitment and the petition for permanent commitment to be in writing and contain all of the following:

- Identification of the deceased parent or parents;
- The facts that establish that both parents of the child are deceased;
- The facts that establish that a legal custodian or guardian has not been appointed; and
- The signature of the petitioner stating the filing of the petition is in good faith.

The bill requires an adjudicatory hearing be set as soon as practicable, but no later than 30 days after the filing of the petition. Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on:

- Any person who has physical custody of the child.
- A living relative of each parent of the child, unless a living relative cannot be found after diligent search or inquiry.
- The guardian ad litem for the child or a representative of the guardian ad litem program, if applicable.

The bill requires the adjudicatory hearing to be conducted by a judge without a jury and applying the rules of evidence in use in civil cases. The court must determine by clear and convincing evidence that the petitioner has established that both parents of the child are deceased and that a legal custodian or guardian has not been appointed for the child. The bill provides that a certified copy of a death certificate is sufficient evidence of proof of a parent's death.

The bill also requires the court to make one of the following determinations within 30 days after the adjudicatory hearing:

- For a petition for adjudication and permanent commitment:
 - If the court finds the petition has been proven by clear and convincing evidence, the court must adjudicate the child dependent and permanently commit the child to the custody of the DCF for the purpose of adoption, hold a disposition hearing no later than 30 days after the entry of the order, and the DCF must provide a case plan that identifies the permanency goal for the child. Reasonable efforts must be made to timely place the child and finalize the permanent placement of the child. The court must hold review hearings every 6 months until the child is adopted or reaches 18 years of age.
 - If the court does not find the petition has been proven by clear and convincing evidence, but that a preponderance of evidence establishes the child does not have a parent capable

- of providing supervision or care, the court must adjudicate the child dependent and hold a disposition hearing no later than 30 days after the entry of the order.
- If the court does not find the petition has been proven by clear and convincing evidence and that a preponderance of evidence does not establish the child does not have a parent capable of providing supervision or care, the court must dismiss the petition.
 - For a petition for permanent commitment:
 - If the court finds that the petition has been proven by clear and convincing evidence the court must permanently commit the child to the custody of the DCF for the purposes of adoption. A disposition hearing must be held no later than 30 days after the entry of the order, and the DCF must provide a case plan that identifies the permanency goal for the child. Reasonable efforts must be made to timely place the child and finalize the permanent placement of the child. The court must hold review hearings every 6 months until the child is adopted or reaches 18 years of age.
 - If the court does not find the petition has been proven by clear and convincing evidence, the court must deny the petition. The order denying the petition has no effect on the child's prior adjudication and does not bar the petitioner from filing a subsequent petition for permanent commitment based on newly discovered evidence.

Emergency Postdisposition Change of Placement (Section 4)

Section 39.522, F.S., details the process for a dependency court to grant changes of placement for children who are in the dependency system. The law allows a petition to be brought before the court alleging the need for the change of placement of a child who is placed by the DCF under protective supervision. If any party or the current caregiver denies the need for the change, the court must hear all parties through an evidentiary hearing. Upon the admission of a need for a change or after such hearing and finding of a need for change of placement, the court must enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for postdisposition change of placement is the best interests of the child.⁴⁵

When determining whether a change of legal custody or placement is in the best interests of the child, the court must consider 15 best interest factors,⁴⁶ and any report filed by the

⁴⁵ Section 39.01375, F.S.

⁴⁶ Section 39.01375, F.S. lists 15 factors the court must consider when determining whether a proposed placement change is in a child's best interest: The child's age; the physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement; the stability and longevity of the child's current placement; the established bonded relationship between the child and the current or proposed caregiver; the reasonable preference of the child, if the child is of a sufficient age and capacity to express a preference; the recommendation of the child's current caregiver, if applicable; the recommendation of the child's guardian ad litem, if one has been appointed; the child's previous and current relationship with a sibling and if the change of legal or physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024, F.S.; the likelihood of the child attaining permanency in the current or proposed placement; the likelihood the child will be required to change schools or child care placement, the impact of such change on the child, and the parties' recommendations as to the timing of the change, including an education transition plan required under s. 39.4023, F.S.; the child's receipt of medical, behavioral health, dental, or other treatment services in the current placement; the availability of such services and the degree to which they meet the child's needs; and whether the child will be able to continue to receive services from the same providers and the relative importance of such continuity of care; the allegations of any abuse, abandonment, or neglect, including sexual abuse and human trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect; the likely impact on activities that are important to the child and the ability of the child to continue such activities in the

multidisciplinary team. The court must also consider the priority of placements established in law when making a decision regarding the best interest of the child in out-of-home care.⁴⁷

Importantly, s. 39.522(2), F.S., does not provide for an emergency hearing when a child's placement must be immediately modified. Because there is no emergency process for modification of placement, when a child is at risk of abuse, abandonment, or neglect in his or her current licensed placement, the DCF has been exercising its shelter power to protect the child and the court conducts a shelter hearing.⁴⁸ This leads to confusion as to whether the standard to be used to move the child is probable cause to shelter or best interests of the child to modify placement.⁴⁹

The DCF reports that during FY 2021-2022 dependency courts granted a postdisposition change of placement for 6,921 children in the dependency system.⁵⁰

Effect of the Bill

The bill amends s. 39.522, F.S., to create a process for emergency modifications of placement for children who have already been subject to disposition in his or her dependency case.

The bill allows, at any time, an authorized agent of the DCF or a law enforcement officer to remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if the circumstances meet the criteria of a shelter.⁵¹

The bill requires that if at the time of the removal the child was not placed in licensed foster care, the DCF must file a motion to modify placement within one business day of the child being taken into custody. Unless all parties stipulate to the change of placement, the court must set a hearing within 24 hours of the filing of the motion. The bill requires the court to determine whether the DCF has established probable cause that reasonable grounds exist to immediately remove the child from the current placement. This determination may be based on a sworn motion or affidavit and the court may hear all relevant and material evidence, including oral and written reports to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing. The bill requires the court to order the return of the child to his or her placement, if probable cause is not established to support the removal. If the caregiver admits to a need for a change of placement, the court must enter an order changing the placement. If the need for a change of placement is made based on a finding of probable cause, the court must conduct a change of placement hearing.

proposed placement; the likely impact on the child's access to education, Medicaid, and independent living benefits if moved to the proposed placement; and any other relevant factor.

⁴⁷ Section 39.4021(2)(a), F.S. lists the priority of placements that must be considered, as follows: 1. Nonoffending parent; 2. Relative caregiver; 3. Adoptive parent of the child's sibling, when the DCF or CBC is aware of such sibling; 4. Fictive kin with a close existing relationship with the child; 5. Nonrelative caregiver that does not have an existing relationship with the child; 6. Licensed foster care; 7. Group or congregate care.

⁴⁸ DCF Bill Analysis, p. 4.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Section 39.401, F.S., details the conditions in which a child may be sheltered.

The bill also requires that when a child’s placement is changed to a non-licensed placement, the new placement must meet the home study criteria of ch. 39, F.S.⁵²

Case Plan Amendments (Section 5)

Dependency courts have routinely amended case plan goals and tasks during regular judicial review hearings required under s. 39.701, F.S.,⁵³ which provides that the court must conduct a judicial review hearing to review the child’s permanency goal. Historically, the courts have relied on the judicial review social study report filed by the DCF, the information therein, and information relayed to the case managers by service providers as evidence in the court’s review of the case plan goals and tasks.⁵⁴

In March of 2022, the Third District Court of Appeal in *R.R. v. Department of Children & Families*⁵⁵ ruled that a judicial review hearing is not a hearing to amend a case plan and that an evidentiary standard higher than what applies to judicial reviews is necessary to amend a case plan goal. Under the principles restated in *Pardo v. State*,⁵⁶ the Third District Court of Appeals’ decision is binding on all Florida trial courts.

As a result, the DCF is no longer able to rely on the judicial review social study report to change case plan goals; case managers and providers statewide must attend judicial review hearings and directly testify to the need to change the goal. Furthermore, case managers may no longer testify to information learned from providers about the parent’s progress toward reunification with the child.

Effect of the Bill

The bill amends s. 39.6013(4), F.S., to provide that, at any hearing, the case plan may be amended to change the goal, employ concurrent planning, or change tasks the parent must complete if there is evidence demonstrating the need for the case plan amendment, which includes testimony and oral and written reports, even if not competent at an adjudicatory hearing. The bill provides that any change in the goal from reunification to another permanency goal does not eliminate the DCF’s responsibility to provide reasonable efforts to provide services where reasonable efforts are otherwise required by law.

The bill also amends s. 39.6013(5), F.S., provide that, at any hearing, the case plan may be amended to provide appropriate services to the child if there is evidence demonstrating the need

⁵² Section 39.521(2)(o), F.S., requires that a proposed shelter or postdisposition placement for a child must have a favorable home study report, unless the court otherwise finds the placement in in the child’s interest.

⁵³ DCF Bill Analysis, p. 4.

⁵⁴ *Id.*

⁵⁵ 338 So. 3d 1026 (Fla. 3d DCA 2022).

⁵⁶ 596 So. 2d 665, 666 (Fla. 1992); the court held that “in the absence of interdistrict conflict, district court decisions bind all Florida trial courts.” Further quoting *State v. Hayes*, 333 So.2d 51, 53 (Fla. 4th DCA 1976) to state that “The District Courts of Appeal are required to follow Supreme Court decisions. As an adjunct to this rule it is logical and necessary in order to preserve stability and predictability in the law that, likewise, trial courts be required to follow the holdings of higher courts— District Courts of Appeal. The proper hierarchy of decisional holdings would demand that in the event the only case on point on a district level is from a district other than the one in which the trial court is located, the trial court be required to follow that decision.”

for the case plan amendment, which includes testimony and oral and written reports, even if not competent at an adjudicatory hearing.

With these changes, the court is allowed to rely on reports filed by the DCF or Guardian ad Litem program, including any provider reports and information provided at the hearing, to change a case plan goal or to order additional services for a child without the need to schedule an additional hearing.

Permanent Guardianship and Guardian Assistance Program (Sections 6 and 8)

Congress approved the Fostering Connections and Increasing Adoptions Act in 2008.⁵⁷ A key element of the legislation is the creation of a federally-supported Guardianship Assistance Program (GAP) for relatives and fictive kin. The GAP gives states the option of using federal Title IV-E funds to support kinship guardianship payments for children living in the homes of relative caregivers who become these children's legal guardians. The GAP reflects a significant body of research establishing the importance of linking foster children with relatives and other adults with whom they have a close relationship.

Florida established its GAP program in law in 2018.⁵⁸ Establishment of the GAP framework allows the state to receive other Title IV-E funds to support guardians and allows the DCF to provide caregivers who establish legal guardianship with a larger monthly stipend relative to existing state programs.

The eligibility requirements to participate in Florida's GAP are set by statute.⁵⁹ In keeping with federal requirements, for a guardian to qualify to receive benefits on behalf of the child, he or she must:

- Have the child's placement approved by the court;
- Have the court grant legal custody to the guardian;
- Be licensed as a Level I provider of foster care under s. 409.175, F.S.; and,
- Be a guardian for a 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 provider of foster care.⁶⁰

The DCF provides GAP participants assistance payments of \$4,000 annually, or another amount specified in a written agreement, paid on a monthly basis.⁶¹ The DCF must redetermine eligibility annually for GAP participants. Payments can continue even if the family moves out of the state, or until the child reaches 18 or 21 if a guardianship assistance agreement was first established when the child was 16 or 17 years old.

Federal law allows for the identification of a successor guardian for families receiving a GAP payment.⁶² The successor guardian is intended to maintain a relationship with the child while the

⁵⁷ H.R. 6893 of 2008. P.L. 110-351.

⁵⁸ Chapter 2018-103 s. 10, L.O.F.

⁵⁹ Section 39.6225, F.S.

⁶⁰ *Id.*

⁶¹ Section 39.6225(5)(d), F.S.

⁶² Title IV-E, 42 U.S.C. s. 673(d)(3)(C).

child is placed with the initial guardian and to care for the child in the event of death or incapacitation of the initial guardian. A successor guardian must be identified and documented in the Guardianship Assistance Agreement and must complete background screening.⁶³

Current law requires a child to be placed with a caregiver for a minimum of six months prior to closing out to permanent guardianship.⁶⁴ If a successor guardian were needed, the court would be required to re-open the dependency case for the full six-month post-placement supervision. This six-month timeframe unnecessarily prolongs the time to permanency for a child, especially considering that the successor guardians already have a relationship with the child prior to becoming their guardian.

Section 39.701, F.S., which outlines the judicial review process, does not currently contemplate that the dependency court will inquire about the caregiver's progress toward meeting the eligibility criteria for the GAP. As a result, permanency hearings to close cases to permanent guardianship are often continued to complete the eligibility requirements before closure, which prolongs how long the child remains in the dependency system.⁶⁵ Alternatively, some dependency courts have prematurely closed cases to permanent guardianship before all eligibility criteria were met and preclude caregivers from receiving the full range of benefits that have been made available to promote stable placements.⁶⁶ The DCF has received guidance that federal funding cannot be used to support GAP payments unless all eligibility criteria were met prior to closure.⁶⁷ Upon notification to caregivers that they will not be receiving GAP payments, some are requesting that the guardianship be dissolved or are filing Chapter 120 appeals of the denial of payments.⁶⁸

Effect of the Bill

The bill amends s. 39.6221, F.S., to require a child to be placed with a successor guardian for a minimum of three months prior to closing out to permanent guardianship. The requirement would only apply, if the individual has been identified as the child's successor guardian and was listed on the child's Guardianship Assistance Agreement. All other caregivers would be required to complete a minimum of six months of placement prior to closing out to permanent guardianship. Monitoring the child's placement for three months, is sufficient and will allow for establishing services and ensuring the child is adapting to the change in placement.

Section 39.6221(1), F.S., is amended to add, as a prerequisite to a court establishing a permanent guardianship, that the court inquire of the eligibility status under s. 39.6225, F.S., to determine if the prospective permanent guardian intends to enter the GAP.

Section 39.701(2)(c), F.S., is modified to require the dependency court to determine at a judicial review whether there are any barriers to meeting the eligibility requirements of the GAP. This amendment would ensure that, when it is in the child's best interests, the case can close to

⁶³ Rule 65C-44.0045, F.A.C.

⁶⁴ Section 39.6221(1)(a), F.S.

⁶⁵ DCF Bill Analysis, p. 5.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

permanent guardianship with the caregiver receiving the necessary benefits to prevent disruption due to financial instability.

Continuing Care for Young Adults in DJJ placements (Section 7)

In 2013, the Legislature created a path for youth who have not achieved permanency and turned 18 years of age while in licensed care to remain in licensed care and receive case management services until the date of the young adult's 21st birthday.⁶⁹ This program is commonly referred to as "extended foster care." To be eligible for extended foster care, a young adult must be:

- 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 at least 80 hours per month; or
- Unable to participate in the above listed activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation.⁷⁰

The young adult must live in a supervised living arrangement that is approved by the DCF or CBC and must live independently, but in an environment in which he or she is provided supervision, case management, and supportive services. These supervised living arrangements may include a:

- Licensed foster home;
- Licensed group home;
- College dormitory;
- Shared housing;
- Apartment; or
- Other housing arrangement approved by the CBC.⁷¹

Effect of the Bill

The bill amends s. 39.6251, F.S., to clarify that a young adult in a DJJ detention center or commitment program, who otherwise would have been living in licensed care on the date of his or her 18th birthday, must be deemed to have met the licensed placement eligibility requirement for extended foster care. The DCF's supervision of such young adults is limited to CBC case management services to facilitate the young adult's transition to a supervised living environment upon release from a DJJ detention or commitment program.

Judicial Notice in Termination of Parental Rights Cases (Section 9)

During the dependency phase of a case, current law provides that personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.⁷² However, there is no similar provision during the termination of parental rights phase of the

⁶⁹ Chapter 2013-178 s. 5, L.O.F., codified as s. 39.6251, F.S.

⁷⁰ Section 39.6251(2), F.S.

⁷¹ Section 39.6251(4)(a), F.S.

⁷² Section 39.502(2), F.S.

case.⁷³ When a case has entered the termination of parental rights phase, even if a parent arrives to a hearing, the DCF must personally serve that parent and the hearing must be reset to a later date. When hearings are conducted remotely, the DCF is not able to personally serve the parent during the hearing; therefore, the hearing cannot be re-held until service by a formal process server is completed.⁷⁴ This can result in delays in the termination of parental rights process and permanency for children.

Effect of the Bill

The bill amends s. 39.801(3), F.S., to mirror language relating to the dependency phase of the case that allows for personal appearance at a termination advisory hearing, or any other subsequent hearing, to remove the need for personal service.⁷⁵

This language will enable a trial court to conduct an advisory hearing if a parent has personally appeared regardless of whether the parent was personally served with the petition, eliminating continuances and delays, and reducing time to permanency for children.

Child Welfare Adoptions and Adoption Decision Review Process (Sections 10 and 11)

The Florida Adoption Act, codified in ch. 63, F.S., applies to all adoptions, whether private or from the child welfare system, involving the following entities:

- The DCF under ch. 39, F.S.;
- Child-placing agencies licensed by the DCF under s. 63.202, F.S.;
- Child-caring agencies registered under s. 409.176, F.S.;
- An attorney licensed to practice in Florida; or
- A child-placing agency licensed in another state which is licensed by the DCF to place children in Florida.⁷⁶

Child Welfare Adoptions

Ultimately, if a child's home remains unsafe and the court is unable to reunify him or her, the child welfare system may seek a permanent home for that child through the adoption process.⁷⁷ Adoption is the act of creating a legal relationship between a parent and child where one did not previously exist, declaring the child to be legally the child of the adoptive parents and entitled to all rights and privileges and subject to all obligations of a child born to the adoptive parents.⁷⁸ Adoption is one of the legally recognized child-welfare permanency goals that may be ordered by a court for a child within the child welfare system.⁷⁹

⁷³ See generally Part X of ch. 39, F.S.

⁷⁴ DCF Bill Analysis, p. 5.

⁷⁵ Section 39.502(2), F.S.

⁷⁶ Section 63.032(3), F.S.

⁷⁷ Section 39.811(2), F.S.; See generally Parts VIII and X of ch. 39, F.S.

⁷⁸ Section 39.01(5), F.S.

⁷⁹ Section 39.01(59), F.S., defines "permanency goal" to mean the living arrangement identified for the child to return to or identified as the permanent living arrangement of the child. The permanency goal is also the case plan goal. If concurrent case planning is being used, reunification may be pursued at the same time as another permanency goal is pursued. See also Section 39.621(3), F.S.

To free a child for adoption, the DCF must terminate the legal relationship between the child and his or her current parents in a proceeding known as a termination of parental rights. Once this process has occurred and parental rights have been terminated, the court retains jurisdiction over the child until the child is adopted.⁸⁰ The DCF may place the child with a licensed child-placing agency, a registered child-caring agency, or a family home for prospective adoption if given custody of a child that has been made available for a subsequent adoption under ch. 39, F.S.⁸¹

The DCF's ability to place a child in its custody for adoption and the court's review of that placement is controlled by s. 39.812, F.S. The law provides that the DCF may place a child in a home and the DCF's consent alone, in all cases, is sufficient.⁸² The dependency court retains jurisdiction over any child placed in the custody of the DCF until the child is adopted.⁸³ After custody of a child for subsequent adoption has been given to the DCF, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement.⁸⁴ As part of this continuing jurisdiction, the court may review the appropriateness of the adoptive placement upon good cause shown by the Guardian ad Litem for the child.⁸⁵

Adoption Decision Review Process

When a child is available for adoption, the DCF through its contractors receives applications to adopt the child.⁸⁶ Some applicants are denied because their adoption home study is denied based on criminal history.⁸⁷ When there are two or more families with approved home studies, the DCF sends these conflicting applications through the adoption applicant review committee (AARC) for resolution.⁸⁸ The decision of the AARC is then reviewed and the DCF issues its consent to one applicant while communicating its denial to the other applicants through certified letter.⁸⁹

Unsuccessful applicants are able to seek review of the DCF action through the administrative hearing process under ch. 120, F.S. Designated hearing officers at the DCF hear these reviews. The assignment of adoption decision disputes to the ch. 120, F.S., process did not originate with, nor was it inspired by, legislative directive. This process arose due to the opinion in *Department of Children & Family Services v. I.B. and D.B.*⁹⁰ Notwithstanding this opinion, the Legislature's overall intent in relation to permanency and the resolution of disputes in the dependency case is to proceed under ch. 39, F.S. Furthermore, the ch. 120, F.S., process precludes the selected applicant from participating, which is statutorily permissible in the dependency court proceeding.⁹¹

⁸⁰ Section 39.811(9)

⁸¹ Section 39.812(1), F.S.; *See generally* Parts VIII and X of ch. 39, F.S.

⁸² Section 39.812(1), F.S.

⁸³ See ss. 39.811(9), 39.812(4), and 39.813, F.S.

⁸⁴ Section 39.812(4), F.S.

⁸⁵ Section 39.811(9), F.S.

⁸⁶ Rule 65C-16.004, F.A.C.

⁸⁷ Rule 65C-16.007, F.A.C.

⁸⁸ Rule 65C-16.005(9), F.A.C.

⁸⁹ *Id.*

⁹⁰ *See generally* 891 So. 2d 1168 (Fla. 1st DCA 2005).

⁹¹ DCF Bill Analysis, p. 6.

Florida law also permits denied adoption applicants to initiate legal action under ch. 63, F.S., by filing a petition for adoption.⁹² Upon filing the petition, the petitioner must demonstrate that the DCF has unreasonably withheld its consent to the adoption.⁹³ Because ch. 63, F.S., permits anyone who meets the requirements of s. 63.042(2), F.S., to adopt and any petitioner may argue the DCF’s consent to the adoption should be waived because it was unreasonably withheld, multiple parties may file a petition to adopt the same child.⁹⁴

There can be up to four proceedings simultaneously addressing the permanency or adoption of a single child using the same child-specific facts:

- The Chapter 39, F.S., dependency proceeding;
- The Chapter 63, F.S., adoption proceeding filed by the family who has the DCF’s consent;
- The Chapter 63, F.S., adoption proceeding filed by the applicant whose application was denied; and
- The Chapter 120, F.S., proceeding to dispute the adoption decision by the DCF.

Multiple competing adoption petitions and proceedings require additional court hearings to resolve the conflict and lead to a delay of the child’s adoption.⁹⁵ These court proceedings often occur concurrently with the administrative hearing process, which can lead to disparate results.⁹⁶

Chapter 120 Administrative Hearings		
Year	Number of Hearings	Decision Overturned by Hearing Officer
2018	38	1
2019	58	0
2020	51	0
2021	43	1
2022	41	3

Each of these cases involves attorneys for DCF serving as lead trial counsel as well as a separate attorney serving as a designated hearing officer.⁹⁷ The amount of hourly work performed by staff in each of these cases is as follows:

- Hearing officer: approximately 33 hours.
- Assigned counsel: approximately 49 hours.
- Agency clerk’s office: approximately 17 hours.
- Designated representative: approximately 35 hours.⁹⁸

In total, each case involves an average of 134 hours of resources by the DCF.⁹⁹

⁹² Section 63.042(2), F.S.

⁹³ Section 63.062(7), F.S.

⁹⁴ DCF Bill Analysis, p. 6.

⁹⁵ *Id.*

⁹⁶ The DCF, Electronic email from John Paul Fiore, Legislative Affairs Director, *RE: Senate Request: OCFW Bill – Adoption Proceedings*, February 9, 2022 (on file with the Committee on Children, Families, and Elder Affairs)

⁹⁷ Section 120.80(7), F.S.

⁹⁸ DCF Bill Analysis, p. 6.

⁹⁹ *Id.*

In addition to the hourly cost associated with staff time, there are fixed costs associated with each case, to include a standard appearance fee, necessary for each hearing by statute, is generally \$1000 for a two day case.¹⁰⁰ This \$1,000 fee is compounded by the costs of transcripts, generally a \$1,750 expense.¹⁰¹ The total costs associated with these administrative matters for 58 cases annually equate to \$555,524 with total hourly commitment by Department staff equating to 7,772 hours, or four FTEs.¹⁰²

These numbers do not include the hours, time, and monetary resources required by the DCF contracted staff, agency witnesses, or other individuals required to give/present testimony and resolve these matters. These cases routinely involve multiple individuals, many of whom have primary responsibilities as front-line investigators, case managers, nurses, or even psychologist and doctors. It is difficult to estimate the costs of these individuals' time due to the varied nature of their employment, but it likely equals or surpasses the dollar and time amounts from Department counsel, agency clerk, and agency representative.¹⁰³

Beyond the agency costs are the delays inherent in these procedures that work counter to the ch. 39, F.S. goal of permanency. Twenty-five ch. 120, F.S., contested adoption matters were sampled from 2020 and 2021, and the average length of time between the receipt of a hearing request and entry of a final order was 206 days.¹⁰⁴ Of note, this does not include any additional delays caused by appeal of the administrative hearing decision to the District Court which adds, on average, an additional 120 days of delay.¹⁰⁵

Effect of the Bill

The bill amends s. 39.812(4), F.S., to provide that the court may review the DCF's denial of an application to adopt a child. The DCF's decision to deny an application will now be reviewable only under s. 39.812, F.S., and is not subject to ch. 120, F.S. The bill requires the DCF to file the denial with the court and provide copies to the parties within 10 days after the decision. The bill allows a denied applicant to file a motion to review the denial within 30 days of the issuance of DCF's written notification. The denied applicant is given limited standing in the ch. 39, F.S., proceeding to file such a motion and to present evidence in support of the motion. Such standing is terminated upon entry of the court's order. The motion must allege the DCF unreasonably withheld its consent and request that the court allow the denied applicant to file a petition to adopt the child under ch. 63, F.S., without the DCF's consent. The bill maintains the standard of review for these cases that is applicable in the ch. 120, F.S., proceedings.

The bill requires the court to hold a hearing within 30 days after the filing of the motion. The court may only consider whether the DCF's review of the application was consistent with the agency's policies and made in an expeditious manner using an abuse of discretion review. If the DCF selected another applicant to adopt the child, the selected applicant may participate in the hearing as a participant and may be granted leave by the court to be heard without filing a motion

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

to intervene. The bill gives applicants selected by the DCF who don't currently have custody of the child the ability to be informed of the hearing, attend the hearing, and provide information to the court. Thereafter, the court must enter a written order within 15 days after the hearing either denying the motion to review

The bill amends s. 39.812(5), F.S., to allow the DCF to remove a child from a foster home or court-ordered custodian whose application to adopt has been denied and the court has denied the motion to review the DCF's denial.

The bill amends s. 39.812(6), F.S., to require the DCF to attach a copy of the executed consent to adoption must be attached to the petition to adopt, unless waived.

The bill also amends s. 63.062(7), F.S., to provide that when a court permanently commits a minor to the DCF for subsequent adoption, the DCF must consent to the adoption or the petitioner must attach to his or her petition to adopt the court order with a finding that the DCF unreasonably withheld its consent. The petitioner must also file a favorable preliminary adoptive home study as required under s. 63.092, F.S.

The bill will reduce the number of simultaneous adoption actions that can be filed by multiple parties to adopt the same child by requiring that a denied applicant seek ch. 39, F.S., court review of a determination by the DCF to deny consent and only allow the filing of a ch. 63, F.S., petition to adopt upon a court's determination that the DCF unreasonably withheld its consent.

The DCF estimates that approximately 116 days (almost four months) of delay to permanency delay can be removed if ch. 120, F.S., proceedings are eliminated by using the review process detailed in the bill.¹⁰⁶

Keys to Independence (Section 12)

Children in the dependency system often face barriers to participating in everyday life experiences common to other young people their age. These normal life experiences are an integral part of how all children learn and prepare for the responsibilities they will assume as adults. With the support of their families, millions of teens learn to drive and earn driver licenses every year. A study by the National Highway Traffic Safety Administration found that there are approximately 12 million young drivers on America's roadways.¹⁰⁷ However, for a teen in foster care, for whom securing a driver license can be critically important to his or her success, achieving this milestone can be more complicated. Teens with access to a car are reported to perform better in school, obtain better jobs, have more college options, and eventually, more successful careers.¹⁰⁸ Without a driver license, a teen has difficulty traveling, securing an

¹⁰⁶ DCF Bill Analysis, p. 12.

¹⁰⁷ US Department of Transportation, NHTSA, *Traffic Safety Facts 2020 Data*, p. 2, June 2022, available at <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813313> (last visited March 27, 2023).

¹⁰⁸ Embrace Families, Report to Congress, *Impact Report: Keys to Independence*, May 2022, available at <https://embracefamilies.org/wp-content/uploads/2022/07/KEYS-TO-INDEPENDENCE-Report-to-Congress-FINAL-May-2022.pdf> (last visited March 27, 2023). The Annie E. Casey Foundation's Jim Casey Initiative Youth Opportunities Initiative funded Child Trends, a non-profit research organization with a focus on children and families, to conduct analysis of Embrace Families' data.

apartment, and achieving gainful employment.¹⁰⁹ Florida law supports the efforts of teens in foster care to engage in age-appropriate activities¹¹⁰ and requires the Department of Children and Families (DCF), or its contracted vendors, to provide “independent life skills and normalcy supports” for children 13 through 17 years of age.¹¹¹

Independent Living Services

Florida’s Independent Living service array is designed to assist youth and young adults in obtaining skills and support in six federally identified outcome areas¹¹² as they transition to adulthood. Independent Living programs include:

- Extended Foster Care (EFC) – a program that allows young adults to remain in foster care until the age of 21 while they participate in school, work or work training, and live in a supervised living arrangement;
- Postsecondary Education Services and Support- a program that helps pay for housing, and other expenses related to attending an educational institution; and
- Aftercare Services - a temporary needs-based program intended to be a bridge between EFC and PESS programs that may include mentoring, tutoring, mental health and substance abuse services, counseling, and financial assistance.¹¹³

Postsecondary Education Services and Support

Postsecondary Education Services and Support (PESS) is a state-funded Independent Living program that provides a monthly financial award of \$1,720 for housing, utilities, and related expenses to eligible youth who were in the foster care system while working to receive the skills and education necessary to become self-sufficient.¹¹⁴

¹⁰⁹ *Id.*

¹¹⁰ Section 409.145(2)(b), F.S.

¹¹¹ Section 409.145(3)(d), F.S.

¹¹² The six federally identified outcome areas are increasing financial self-sufficiency, improving educational attainment, increasing connections to caring adults, reducing homelessness, reducing high-risk behavior, and improving access to health insurance.

¹¹³ See generally The DCF, Office of Child and Family Well-Being, Legislatively Mandated Reports, *Independent Living Services Annual Report FY 2020-21*, January 31, 2022, available at https://www.myflfamilies.com/sites/default/files/2023-02/Independent_Living_Services_Report_2021.pdf (last visited March 27, 2023).

¹¹⁴ Section 409.1451(2), F.S.

PESS Eligibility

Group 1	Group 2
Not yet 23 years of age but turned 18 years of age while in the custody of the Department of Children and Families (DCF) and spent at least six months in licensed care before turning 18.	Not yet 23 years of age but at least 18 years of age and adopted or placed with a court-approved guardian after his or her 16 th birthday and spent at least six months in licensed care during the 12 months immediately preceding such placement or adoption.
OR	
AND	
Earned a standard high school diploma or equivalent	
AND	
Enrolled in at least nine credit hours and attending a Florida Bright Futures eligible college or vocational school.	

Keys to Independence Program

The Keys to Independence program (Keys program) is a state-funded normalcy support program designed to remove barriers to obtaining a driver license for foster and former foster youth.¹¹⁵ The program removes barriers to driving by paying, subject to available funding, the cost of driver education, licensure, other costs incidental to licensure, and motor vehicle insurance for certain populations.¹¹⁶ The DCF contracts with the Lead Agency in the 9th and 10th Circuit, Embrace Families, to operate the Keys program statewide.¹¹⁷

In 2021, the Legislature expanded the Keys program to include children who are receiving Postsecondary Education Services and Support under s. 409.1451(2), F.S., and who were also in licensed care when reaching 18 years of age.¹¹⁸

Since December 2017, the Keys program has had over 8,213 enrolled and helped young adults obtain 2,231 learner permits and 1,199 driver licenses.¹¹⁹ The Keys program has stated that the additional requirement that the young adult have been in licensed care when turning 18 years of age is preventing approximately 450 otherwise eligible young adults from the program.¹²⁰

Effect of the Bill

The bill expands the Keys program by removing language in statute that restricted one of eligibility paths. Currently, youth and young adults who achieve eligibility for the Keys program via enrollment in PESS must also have been in licensed care when he or she reached 18 years of

¹¹⁵ Section 409.1454, F.S.

¹¹⁶ Section 409.1454(2), F.S.

¹¹⁷ Keys to Independence, *About*, available at <https://keystoindependencefl.com/about/> (last visited March 27, 2023).

¹¹⁸ Chapter 2021-169, L.O.F. In 2022, the Legislature again expanded the Keys program to include certain certified unaccompanied homeless youth under s. 743.067, F.S. Chapter 2022-65, L.O.F.

¹¹⁹ Keys to Independence Program Monthly Report, *All Youth Life of Program Tab*, December 2022 (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹²⁰ Embrace Families, Electronic mail from Gerry Glynn, Chief Legal Officer, *Re: Keys to Independence Glitch Bill*, November 29, 2022 (on file with the Senate Committee on Children, Families, and Elder Affairs).

age. The bill removes the requirement for young adults who are eligible by enrollment in PESS to have also been in licensed care when he or she reached 18 years of age. This change will include the group of young adults in the “PESS Eligibility” chart (above) identified as “Group 2,” and expand eligibility for the Keys program by approximately 450 additional young adults.¹²¹

The number of young adults that will enroll in the Keys program out of the newly eligible 450 is unknown. However, lead agency enrollment of eligible young adults in the program range from 99% (Heartland for Children) to 43% (Citrus) for an average of 68% of eligible young adults.¹²² Based on this utilization, it would be fair to apply that percentage to the 450 newly eligible, resulting in an increase of 301 young adults in the Keys program.

Statewide Adoption Exchange (Section 13)

Section 409.167, F.S., establishes a statewide adoption exchange (exchange), the purpose of which is to serve all authorized licensed child-placing agencies in the state as a means of recruiting adoptive families for children who have been legally freed for adoption and have been permanently placed with the DCF or a licensed child-placing agency. The DCF currently contracts with a third-party vendor to operate exchange, which by law is required to post a description of the child along with a photograph and other relevant information.¹²³

The law was implemented in 1983, long before the internet was a viable option for the display of this information.¹²⁴ In subsequent updates to the law in 1994, 1997, and 2014 the language has not been updated to take into account the unique privacy concerns the internet creates.¹²⁵ The exchange currently operates as a website with profiles and photos of children eligible for adoption open and searchable to the general public.¹²⁶

Effect of the Bill

The bill amends s. 409.167, F.S., to clean up language and clarify that the purpose of the adoption exchange is family-matching. The bill requires the exchange to provide information deemed useful in facilitating family-matching in accordance with rules established by the DCF. The bill requires that the photo listing component of the adoption exchange to be in a format that is only accessible to persons who have completed or in the process of completing an adoption home study, not open and available to the general public. The bill also requires consultation with a child 12 years of age or older about his or her photo listing.

These changes will provide the DCF the ability to establish in rule the processes and procedures needed to protect the privacy of children who do not want photos or specific information about themselves made available on a public website.

¹²¹ *Id.*

¹²² Department of Children and Families, *Keys to Independence Annual Report*, p. 2-3, July 2022 (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹²³ Section 409.167(2), F.S.

¹²⁴ Chapter 1983-246 s. 2, L.O.F.

¹²⁵ Chapters 1994-164 s. 47, 1997-101 s. 114, and 2014-19 s. 175, L.O.F.

¹²⁶ The DCF, *Explore Adoption*, available at <http://www.adoptflorida.org/> (last viewed March 23, 2023).

Foster-family Support Program (Sections 17 and 18)

Community-Based Care Lead Agencies

The DCF contracts for case management, out-of-home care (foster care), adoption, and other child welfare related services with the CBCs; this model is designed to increase local community ownership of service delivery and design of child welfare services.¹²⁷

The DCF, through the CBCs, administers a system of care¹²⁸ for children that is directed toward:

- 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;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.¹²⁹

The CBCs must give priority to services that are evidence-based and trauma informed.¹³⁰ The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.¹³¹ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. These case managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.¹³²

Currently, there is no requirement for the DCF to contract with or for the CBCs to provide any form of foster-family support program.

Effect of the Bill

The bill expands the duties of a CBCs under s. 409.988, F.S., and the contract requirements of the DCF under s. 409.996, F.S., to require a lead agency to provide a foster-family support program that is available 24 hours a day, 7 days a week. The bill requires the program to provide, at a minimum, the ability for foster parents to seek counsel and advice from former and current foster parents and access mental health crisis services and supports for foster parents including, but not limited to:

- Trauma counseling.
- Placement stabilization.
- De-escalation.

¹²⁷ The DCF, *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited March 19, 2023).

¹²⁸ *Id.*

¹²⁹ *Id.*; Also see generally s. 409.988, F.S.

¹³⁰ Section 409.988(3), F.S.

¹³¹ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited March 7, 2023).

¹³² Section 409.988(1), F.S.

- Parent coaching.

Human Trafficking (Sections 14, 15, 16, 19, and 20)

Human trafficking is a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.¹³³ Many human trafficking victims are induced with false promises of financial or emotional security, but are forced or coerced into commercial sex, domestic servitude, or other types of forced labor.¹³⁴ Federal law views any minor who is younger than 18 years old who is induced to perform a commercial sex act as a human trafficking victim even if there is no force, fraud, or coercion.¹³⁵

Human Trafficking in Florida

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,¹³⁶ purchasing, patronizing, procuring, or obtaining¹³⁷ another person for the purpose of exploitation of that person.¹³⁸ In 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.¹³⁹ Florida law sets out several circumstances which give rise to specified penalties including, in part:

- Labor or services of any child under the age of 18 commits a first degree felony;¹⁴⁰
- Labor or services of any child under the age of 18 who is an unauthorized alien¹⁴¹ commits a first degree felony;¹⁴²
- Labor or services who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹⁴³

¹³³ *Id.*

¹³⁴ The Department of Education, *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.shtml> (last visited March 19, 2023).

¹³⁵ 22 U.S.C. s. 7101 et seq.; Federal Victims of Trafficking and Violence Protection Act of 2000, P.L. 106-386.

¹³⁶ 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.

¹³⁷ 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.

¹³⁸ Section 787.06(2)(d), F.S.

¹³⁹ Section 787.06(3), F.S.

¹⁴⁰ Section 787.06(3)(a)1., F.S. A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

¹⁴¹ Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

¹⁴² Section 787.06(3)(c)1., F.S.

¹⁴³ Section 787.06(3)(e)1., F.S.

- Commercial sexual activity¹⁴⁴ who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹⁴⁵ or
- Commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective¹⁴⁶ or mentally incapacitated¹⁴⁷ is involved commits a life felony.¹⁴⁸

The above-mentioned first-degree felonies are reclassified as a life felony if a person causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense.¹⁴⁹ Ignorance of the human trafficking victim's age, the victim's misrepresentation of his or her age, or a bona fide belief of the victim's age cannot be raised as a defense by a defendant.¹⁵⁰

Florida is ranked the third highest state of reported human trafficking cases in the United States.¹⁵¹ In 2021, reports of commercially exploited children to the Florida Abuse Hotline remained relatively stable, increasing from 3,181 reports in 2020 to 3,182 reports in 2021.¹⁵²

Safe Houses and Safe Foster Homes for Child-victims of Human Trafficking

Current law defines and provides for the certification of specialized residential options for children who are victims of human trafficking or commercial sexual exploitation (CSE).¹⁵³ The law defines a "safe foster home" to mean a foster home certified by the DCF to care for sexually exploited children and a "safe house" to mean a group residential placement certified by the DCF to care for sexually exploited children.¹⁵⁴ To be certified, a safe house or safe foster home must:

- Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.
- Serve exclusively one sex.
- Group child victims of CSE by age or maturity level.
- Care for child victims of CSE in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children

¹⁴⁴ Section 787.06(2)(b), F.S., defines "commercial sexual activity" as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines "sexual explicit performance" as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

¹⁴⁵ Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

¹⁴⁶ Section 794.011(1)(c), F.S., defines "mentally defective" as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

¹⁴⁷ Section 794.011(1)(d), F.S., defines "mental incapacitated" as temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

¹⁴⁸ A life felony is punishable by a term of life imprisonment, \$15,000 fine, or both as provided in s. 775.082(3)(a)6., F.S., s. 775.083, F.S., or s. 775.084, F.S.

¹⁴⁹ Section 787.06(8)(b), F.S.

¹⁵⁰ Section 787.06(9), F.S.

¹⁵¹ Florida Alliance to End Human Trafficking, *The Issue*, available at <https://floridaallianceendht.com/the-issue/> (last visited March 19, 2023).

¹⁵² The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, p. 2, July 2022, available at <https://oppaga.fl.gov/Documents/Reports/22-05.pdf> (last visited March 19, 2023).

¹⁵³ Section 409.1678, F.S.

¹⁵⁴ Section 409.1678(1), F.S.

who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

- Have awake staff members on duty 24 hours a day, if a safe house.
- Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.
- Meet other criteria established by department rule,¹⁵⁵ which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.¹⁵⁶

At-Risk Houses

At-Risk Houses are group care homes that are certified to serve children considered to be at-risk for sex trafficking. Children are deemed to be “at risk of sex trafficking” if they have experienced trauma, such as abuse, neglect, and/or maltreatment, and present one or more of the accompanying risk factors: history of running away and/or homelessness; history of sexual abuse and/or sexually acting out behavior; inappropriate interpersonal and/or social media boundaries; family history of or exposure to human trafficking; or, out-of-home placement instability demonstrated by repeated moves from less restrictive levels of care. There are currently 157 At-Risk Houses licensed by DCF to provide services to youth who are at risk of sex trafficking.¹⁵⁷

Human Trafficking Screening Tool for Child-victims of Human Trafficking

In 2014, the Legislature directed the DCF to develop an initial screening and assessment instrument (commonly referred to as the “Human Trafficking Screening Tool” or the “HTST”) for use with child-victims of human trafficking and validate the instrument, if possible.¹⁵⁸ The HTST must assess the appropriate placement of a child-victim of CSE, including whether to place in a safe house or safe foster home, and must consider, at a minimum, the following factors:

- Runaway risk.
- Recruitment risk.
- Attachment to the exploiter.
- Level and type of trauma the child has endured.
- Nature of the child’s interactions with law enforcement.
- Length of time that the child has been exploited.
- Extent of any substance abuse by the child.¹⁵⁹

The screening tool is to be used by the DCF, the DJJ, and CBCs to screen youth and help identify potential victims.¹⁶⁰ The Office of Program Policy Analysis and Government Accountability (OPPAGA) has recommended the DCF validate the HTST in their annual reports

¹⁵⁵ Rule 65C-46.020, F.A.C.

¹⁵⁶ Section 409.1678(2)(c), F.S.

¹⁵⁷ The DCF, 2023 Agency Legislative Bill Analysis, SB 1690, *Human Trafficking*, p. 3 (on file with Committee on Children, Families, and Elder Affairs Staff).

¹⁵⁸ Chapter 2014-161 s. 1, L.O.F.; codified as s. 409.1754, F.S.

¹⁵⁹ Section 409.1754(1)(a), F.S.

¹⁶⁰ Section 409.1754(1)(b), F.S.

in 2015, 2016, and 2017.¹⁶¹ Since 2017, Florida State University's Institute for Child Welfare has collaborated with DCF to determine the validity and reliability of the tool in identifying trafficked youth; to date, the institute has been unable to validate the tool.¹⁶²

Peer Mentor Support Models

Peer support is a type of group therapy that includes a variety of programmatic aspects, leadership types, and guidelines.¹⁶³ There is not one set program model for peer support; instead, it is an overarching framework that is adaptable to a variety of settings, including substance use recovery and mental health.¹⁶⁴ The core components of peer support include:

- Participants who are peers with similar lived experience;
- A trainer or volunteer facilitator who may or may not have lived experience and
- Voluntary participation.¹⁶⁵

Regardless of the specific type or location of a peer support, there are overarching themes that are foundational to peer support models.¹⁶⁶ The foundational aspects of peer support include shared experiences, the diverse background of participants, focusing on strength, and supporting one another to grow and heal.¹⁶⁷ Peer support recovery programs are rooted in the theoretical framework of social support; more specifically, peer-led support groups are formed through a shared identity or experience and provide emotional support through an empathetic, caring relationship.¹⁶⁸

Effect of the Bill

The bill makes numerous changes to laws related to human trafficking and commercial sexual exploitation. The bill seeks to provide better assessment for identification of human trafficking/CSE victims, training for staff, increase services and bed capacity, and reduce barriers for providers seeking to enter this specialized area of treatment and care.

The bill amends s. 409.1754(1), F.S., to require the DCF, in collaboration with certain stakeholders, to implement any recommendations necessary to validate the current HTST and develop an indicator tool and outcome algorithm to be used in conjunction with the HTST. The bill requires the HTST to be validated, if possible, by June 1, 2024. If not validated by this date, the DCF must identify and implement the use of a screening and assessment instrument and indicator tool that has been previously validated. The bill creates an unnumbered section of law

¹⁶¹ Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, p. 5, July 2022, available at <https://oppaga.fl.gov/Documents/Reports/22-05.pdf> (last viewed March 22, 2023).

¹⁶² *Id.* p. 1.

¹⁶³ US Department of Health and Human Services, Administration for Children and Families, Office of Trafficking in Persons, *Adapting Peer Support Models for Survivors at the Intersection of Trafficking and Substance Use*, p. 7, August 2019, available at <https://nhhtac.acf.hhs.gov/sites/default/files/2020-02/Peer-to-Peer%20Literature%20Review.pdf> (last viewed March 22, 2023).

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* at p. 8

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

requiring the FICW to validate the HTST if the DCF implements the necessary recommendations and to absorb the cost of the validation within its current base appropriation.

Related to training, the bill amends s. 409.175(14)(e), F.S., to require enhanced inservice training for foster parents and agency staff that provides better tools and strategies to communicate with CSE youth, mitigate maladaptive behaviors and trauma for CSE victims, and mitigate secondary traumatic stress experienced by the caregivers for such youth. The bill also amends s. 409.1678(2)(e), F.S., to require a CBC ensure that staff of safe houses and foster parents of safe foster homes complete this enhanced inservice training related to CSE youth. The bill also amends s. 409.1754(4), F.S., to remove language making the requirement for the DCF to train local law enforcement contingent on the availability of funds. These changes will enhance the human trafficking/CSE training to caregivers, agency staff, and law enforcement statewide.

Related to services and bed capacity, the bill amends s. 409.1754(3), F.S., to require the DCF and each CBC to prepare a service capacity assessment and development plan by December 1, 2023, and every three years thereafter. At a minimum, the plan must detail the following specific factors as they relate to local community service options for CSE youth:

- A summary of current specific community services and bed capacity;
- Historical barriers to the development of specific community services and bed capacity;
- An analysis of funding and funding sources, to include Medicaid;
- Any barriers to Medicaid billing; and
- A strategic action plan to develop specific services and bed capacity in the local service area.

The bill changes the permissive wording in s. 409.1678(4), F.S., related to billing Medicaid for services rendered for CSE youth, to a requirement that such providers maximize revenue and bill Medicaid whenever possible.

The bill further amends s. 409.1678, F.S., to establish a survivor peer mentor model for victims of CSE, and requires the use of a peer mentor whenever possible. A survivor peer mentor is defined as a person who has previously been a victim of CSE and received specialized training to become a peer mentor. The bill provides legislative findings related to the effectiveness of such models and their use to help CSE victims navigate the unique issues of this population. The bill requires a survivor peer mentor to undergo a minimum number of training hours, established by the DCF's rule, to ensure the peer mentor is able to properly support and interact with youth in the dependency system. The bill requires any community overlay service provider or safe house or safe foster home operator to collaborate with local providers to ensure survivor peer mentors are regularly accessible to CSE youth.

The bill also amends s. 409.1678(2), F.S., to require the DCF, in collaboration with the Florida Digital Service, to establish a confidential portal to provide services and information to prospective and current CSE safe houses and foster homes, including an interactive message board for providers to communicate and work through challenges.

Finally, the bill creates an unnumbered section of law that requires the DCF, the Agency for Health Care Administration (AHCA), and the DJJ to work in consultation with stakeholders and subject matter experts to create a workgroup for the purpose of developing and enhancing the state's service array for persons who are victims of CSE. The bill requires the workgroup to:

- Analyze the current bed rate for CSE beds and recommend a bed rate that is sufficient to provide for the services, physical space, safety, and costs incidental to treatment for the CSE population;
- Analyze the CBC funding specific to CSE victims and develop a funding model that combines available funding sources to cover services, board, and administrative costs;
- Analyze the use of Medicaid services for CSE victims and establish a CSE specific behavioral health overlay as a Medicaid-covered service.¹⁶⁹
- Draft a joint strategic action plan to implement the recommendations of the new rates and submit a report on such to the President of the Senate and Speaker of the House of Representatives by December 1, 2023.

Effective Dates

Sections 15¹⁷⁰ and 18¹⁷¹ of the bill are effective upon becoming law and the remaining sections of the bill are effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁶⁹ The bill also instructs the AHCA to modify any state Medicaid plans and implement any federal waivers necessary to implement this requirement.

¹⁷⁰ Section 15 is related to the commercial sexual exploitation of children, validating the HTST, training, and peer survivor mentor model.

¹⁷¹ Section 18 of the bill is related to the CSE service and bed capacity workgroup.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Section 7

The DCF projects that providing the monthly allowance provided by the EFC program to the potential expanded DJJ population contemplated in this section could have a fiscal impact of approximately \$200,000 per 1.75 caseworkers needed for the new population at a client to case-worker ratio of 12:1.¹⁷² The DCF projects an increase in the EFC population by approximately 21 participants per year.¹⁷³

However, the child welfare system was appropriated a record amount of money in the 2022 General Appropriations Act to cover the workforce issues identified, particularly around case-worker vacancies. The cost of these case workers could likely be absorbed into this budget.

Sections 10 and 11

The DCF provides that these sections will result in a significant positive fiscal impact to the DCF of a total annual cost avoidance of approximately 1.1 million dollars due to expected workload reduction for staff. They project a staff savings of \$6,828 and fixed-cost savings of \$2,750 or \$9,578 per case. They project at 58 cases that cost avoidance to equal \$555,524 per year.¹⁷⁴

The DCF also states that it anticipates a significant positive fiscal impact to the DCF as a result of these changes expediting permanency. The DCF calculates an average reduction of case time by 116 days at \$37.64 per day (2020 rate of average daily cost of child in out-of-home care) The DCF assumes an average of 2 children per case for a total cost avoidance of cost-of-care at \$9,861 per case, or \$506,484 per year.¹⁷⁵

Section 12

As specific populations of young adult have been added to the Keys program, funding has also increased in the DCF contract with Embrace Families:¹⁷⁶

State Fiscal Year	Keys Program Funding via Contract
2019-2020	\$800,000
2020-2021	\$800,000
2021-2022	\$1,017,688
2022-2023	\$1,688,317

¹⁷² DCF Bill Analysis, pp. 18-19.

¹⁷³ *Id.*

¹⁷⁴ *Id.* at p. 17.

¹⁷⁵ *Id.*

¹⁷⁶ The DCF, *Embrace Families Contract #LJ973, Amendment #0007*, available at <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=600000&ContractId=LJ973> (last visited February 8, 2023).

2023-2024	\$1,923,571
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The DCF has contracted with Embrace Families for \$1,923,571 for Fiscal Year 2023-24 and plans to amend the contract to increase funding as needed based on ongoing utilization.¹⁷⁷

Embrace Families has reported that the cost of expansion can likely be covered within current budget and contract amounts.¹⁷⁸

Section 14

The DCF estimates that this section will have a significant negative fiscal impact on the DCF to implement the confidential web-based portal, specifically a projected cost of 2 to 2.5 million dollars¹⁷⁹. However, the development of the portal, or similar functionality may be able to be included within ongoing IT projects. See Section VII. Related Issues.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DCF reports concerns with developing the confidential web-based portal outside of the ongoing IT project to modernize the Child Welfare Information System to new federal CCWIS standards. The portal or similar functionality may be able to be developed within the licensing module of the CCWIS modernization project.¹⁸⁰

VIII. Statutes Affected:

This bill substantially amends sections 39.202, 39.4092, 39.522, 39.6013, 39.6221, 39.6251, 39.701, 39.801, 39.812, 63.062, 409.1454, 409.167, 409.1678, 409.175, 409.1754, 409.988, and 409.996 of the Florida Statutes.

This bill creates section 39.5035 of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 27, 2023:

¹⁷⁷ The DCF, Electronic mail from Chad Barrett, *RE: Keys to Independence Program (K2i)*, February 8, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁷⁸ Embrace Families, Electronic mail from Gerry Glynn, Chief Legal Officer, *Re: Keys to Independence Glitch Bill*, November 29, 2022 (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁷⁹ *Id.* at p. 19.

¹⁸⁰ *Id.* at p. 20.

The committee substitute:

- Expands the Keys to Independence program by removing language in statute that restricted one of eligibility paths.
- Requires validation of the Human Trafficking Screening tool by a date certain and for the cost of such validation to be absorbed within the base appropriation of the Florida Institute for Child Welfare.

B. Amendments:

None.

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