

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/CS/HB 1083 Permanency for Children

SPONSOR(S): Health & Human Services Committee and Appropriations Committee and Children, Families & Seniors Subcommittee, Trabulsy and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1486

FINAL HOUSE FLOOR ACTION: 110 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 1083 passed the House on March 1, 2024, and subsequently passed the Senate on March 5, 2024.

When child welfare necessitates that the Department of Children and Families (DCF) remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent, place that child in out-of-home care, and achieve a permanency outcome for the child in the form of reunification, a permanent guardian, adoption, or another permanent living arrangement. For young adults who have aged out of foster care, extended foster care or independent living programs may be available to the young adult to help that individual transition into adulthood.

CS/CS/CS/HB 1083 makes the adoption process more efficient and less costly while reducing barriers to permanency. Additionally, the bill enhances protections for children from potentially unsafe placements and expands financial assistance options for children who are adopted or placed in permanent guardianships as younger teens.

The bill makes several changes to advance permanency by creating a legal process for orphaned children, requiring that a child knows the successor guardian, providing flexibility for service of process in termination of parental rights advisory hearings, ensuring safe and appropriate placements, and restricting access to the statewide adoption exchange.

The bill shifts judicial review of DCF's decision on an adoption application from a separate administrative process to the dependency court. The bill requires a presiding judge to issue a court order to authorize the payment of certain adoption fees, costs, and expenses that exceed certain statutory threshold amounts, including an explanation of why the payments are reasonable. The bill prohibits the placement of adoption-related paid advertisements by non-adoption entities through certain mediums in Florida if the advertisements lack the prerequisite licensing information. The bill also expands eligibility for adoption incentive awards and increases the award amounts.

The bill identifies DCF as the state agency responsible for conducting fingerprint-based background checks of out-of-home care household members and certain visitors to the home when DCF arranges an emergency placement in out-of-home care for a child.

The bill expands the criteria for Post-Secondary Education and Support (PESS) and Extended Guardianship and Adoption Assistance Programs to allow more young adults aged 18 to 23 who have been in the dependency system to receive benefits as they transition to independence.

The bill has a significant negative fiscal impact on DCF and no fiscal impact on local government.

The bill was approved by the Governor on May 10, 2024, ch. 2024-177, L.O.F., and will become effective on July 1, 2024.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

BACKGROUND

Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Florida Legislature has declared four main purposes of the dependency system:¹

- Provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- Ensure secure and safe custody;
- Promote the health and well-being of all children under the state's care; and
- Prevent the occurrence of child abuse, neglect, and abandonment.

Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) works with those families to address the problems endangering children, if possible. DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. If the problems are not addressed, the dependency system finds safe out-of-home placements for these children.

DCF contracts with community-based care lead agencies (CBCs) for case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs in turn contract with a number of subcontractors for case management and direct care services to children and their families. 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.² Ultimately, DCF is responsible for program oversight and the overall performance of the system.³

During Fiscal Year 2022-2023, there were a total of 339,728 child abuse reports and child special conditions contacts for potential child abuse and neglect, and 63% percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.⁴

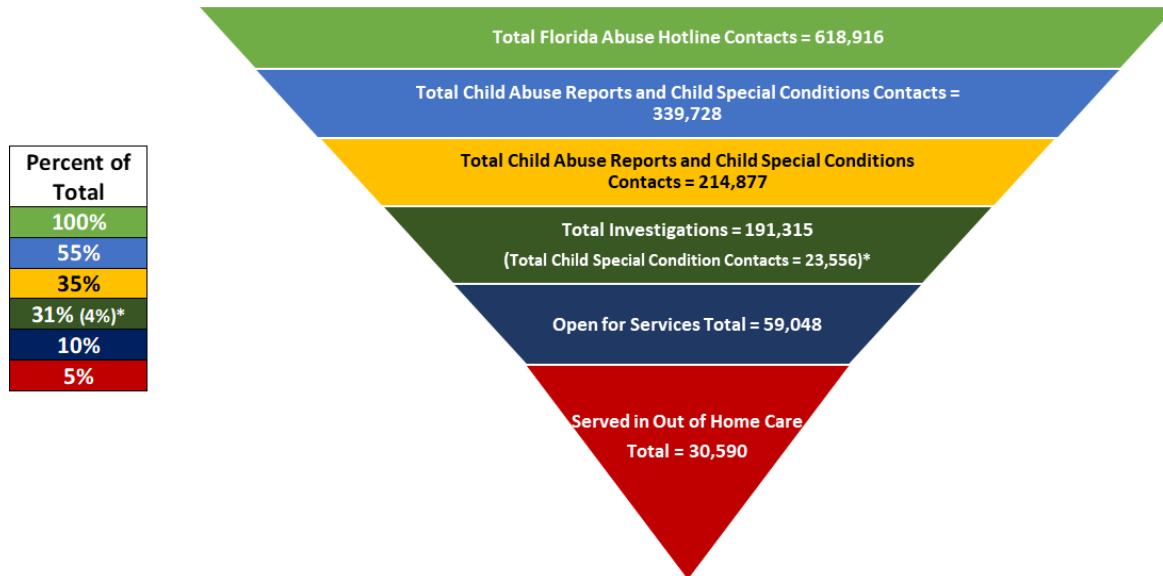
¹ S. 39.001(1)(a), F.S.

² S. 409.986, F.S.

³ *Id.*

⁴ Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report October 2023: A Results-Oriented Accountability Report*, Office of Child Welfare, p. 9 (Oct. 2023), https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last visited Mar. 6, 2024).

Florida Child Protection System Overview FY 2022-23



Dependency Court

When child welfare necessitates that DCF remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent and place that child in out-of-home care. Steps in the dependency process may include:

- A report to the central 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.⁵

Dependency Court Process

Proceeding	Description	Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.

⁵ 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(1), F.S.

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

The Supreme Court *Florida Rules of Juvenile Procedure* control procedural matters for Chapter 39 dependency proceedings unless otherwise provided by law.⁶ DCF personally serves the parent(s) with a physical copy of the petition of dependency. Service of process gives the opposing party notice of the proceedings so that the party may be given the opportunity to offer a defense.⁷ Without proper service of process, the court lacks personal jurisdiction over the opposing party.⁸

However, under s. 39.502(2), F.S., a personal appearance by any person in a dependency hearing before the court, such as an arraignment, excuses DCF from having to serve process on that person.⁹ Effective October 1, 2022, the Florida Supreme Court amended the Florida Rules of Juvenile Procedure to authorize personal appearances via audio-video communication technology in dependency hearings.¹⁰ Therefore, in dependency proceedings, a personal appearance, whether in-person or remote, waives the formal service of process.

However, these court amendments preserved the personal service requirement in hearings for the termination of parental rights (TPR),¹¹ and s. 39.801(3), F.S., still requires personal service upon a parent for a TPR advisory hearing.¹² Thus, even if a parent attends the TPR advisory hearing, the court cannot conduct the hearing until DCF personally serves that parent. Previously, when TPR advisory hearings were routinely held in person, this was resolved when DCF personally served the physically-present parent with a physical copy of the petition in the courtroom. However, TPR advisory are now routinely conducted remotely by audio-video communication technology. As a result, DCF staff are not physically present with the parent to serve him or her, and DCF must request continuances from the court until it can complete service by a formal process service—even if the parent is simultaneously attending that TPR hearing remotely.

Permanency Placements

⁶ S. 39.013(1), F.S.; Fla. R. Juv. P. 8.000.

⁷ *M.J.W. v. Fla. Dep't of Children and Families*, 825 So.2d 1038, 1041 (Fla. 1st DCA 2002).

⁸ *Id.*

⁹ S. 39.502(2), F.S.; Fla. R. Juv. P. 8225(a)(3)(C).

¹⁰ *In re Amendments to Florida Rules of Juvenile Procedure, Florida Family Law Rules of Procedure, and Florida Supreme Court Approved Family Law Forms*, 356 So.3d 685, 686 (Fla. 2022).

¹¹ *Id.* at Appendix, Rule 8.505. Process and Service.

¹² S. 39.801(3)(b), F.S.

Approximately 59,000 children statewide receive child welfare services. Of those children, roughly 48 percent are in in-home care and 52 percent are in out-of-home care.¹³ While these children receive in-home or out-of-home care, which are both temporary solutions by design, DCF develops a permanency plan for each child.

Current law specifies the following permanency goals, listed in order of preference:

- Reunification with the child's family;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship under s. 39.6221, F.S.;
- Permanent placement with a fit and willing relative under s. 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.¹⁴

During FY 2022-23, 10,686 children exited out-of-home care. The table below shows the number by placement type.

Permanency Placements FY 2022-23¹⁵

Reunification	Adoption	Permanent Guardianship	Permanent Placement with a Relative or Other Planned Arrangement
4,645	3,521	1,926	594

For FY 2022-23, DCF's permanency report describes Florida's performance for three cohorts of children who entered care (children in care less than 12 months; children in care 12-23 months; and children in care 24 months or longer).¹⁶ Florida's performance for each cohort generally declined over the past several years, with the state's performance in achieving permanency for children in care less than 12 months declining over 25%.¹⁷

Some children living in DCF licensed care do not receive a permanent placement and age out of the child welfare system. For a child living in DCF licensed care who reaches age 18 without achieving permanency, the current law gives these young adults the option to remain in DCF licensed care under judicial supervision. If these young adults decide not to continue receiving Extended Foster Care services, then these young adults must actively participate in any one of four self-sufficiency activities. These activities are:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment;
or
4. Being employed for at least 80 hours per month.

¹³ *Supra*, FN 4.

¹⁴ S. 39.621(3), F.S.

¹⁵ *Supra*, FN 4. DCF did not breakdown the numbers for permanent placement with a fit and willing relative or placement in another planned permanent living arrangement.

¹⁶ Florida Department of Children and Families, *Results-Oriented Accountability 2023 Annual Performance Report*, Office of Quality and Innovation, p. 26, (Nov. 21, 2023), <https://www.myflfamilies.com/sites/default/files/2023-11/ROA%20Annual%20Performance%20Report%202022-23.pdf> (last visited Mar. 6, 2024).

¹⁷ *Id.*

However, the young adult may be excused from the self-sufficiency activities if the young adult documents a physical, intellectual, emotional, or a psychiatric condition that limits the young adult's full-time participation.¹⁸

The young adult loses eligibility to remain in DCF licensed care on the young adult's 21st birthday (or 22nd for those with disabilities), or if the young adult leaves care to live in a permanent home consistent with the young adult's permanency plan or knowingly and voluntarily withdraws consent to participate in extended care.¹⁹

Background Checks

DCF may not place a child with a person, other than a parent, if the criminal history records check reveals that the person has certain felony convictions.²⁰ Additionally, DCF considers the criminal history of other individuals present in that person's home.

To determine whether any of these individuals have a disqualifying criminal history, DCF conducts a records check. The nature of the review and the standards for placement depend on the age of the individual and the nature of their presence in the home and whether they provide care to the child. These requirements are codified in statute and in rule.

When DCF scrutinizes a proposed placement of a child, under s. 39.0138(1), DCF must conduct a records check of household members.²¹ DCF makes this apply to anyone who resides in a household, including the caregiver, other family members residing in the home, and adult visitors to the home who provide care of the child outside the parent's sight or sound supervision.²²

At a minimum, DCF must conduct records checks for all household members 12 years of age and older through the State Automated Child Welfare Information System (SACWIS), a local law enforcement agency, and a statewide law enforcement agency.²³ For all household members age 18 or older, a name check through the National Crime Information Center must be performed when there are exigent circumstances which demand an emergency placement within 72 hours.²⁴ In addition, an out-of-state criminal history records check is mandatory for all household members 18 years of age and older who resided in another state.²⁵ At DCF's discretion, a criminal history records check may include a Level 2 screening and a local criminal records check through local law enforcement agencies of other visitors to the home of the proposed placement.²⁶

DCF must complete the records check with 14 business days after receiving a person's criminal history results, unless additional information is required to complete the processing.²⁷ Applicants must disclose to DCF any prior or pending local, state, or national criminal proceeding in they are or were involved.²⁸

¹⁸ S. 39.6251(1)-(4), F.S.

¹⁹ S. 39.6251(5), F.S.

²⁰ Child abuse, abandonment, neglect, domestic violence, child pornography or other felony in which a child was a victim of the offense, homicide, or sexual battery. Violent felonies are also automatically disqualifying offenses unless the violent felony was felony assault of an adult, felony battery of an adult, or resisting arrest with violence. For these violent felony exceptions, DCF may not place a child with that person, other than a parent, if the felony conviction was within the previous 5 years. Also, a drug-related felony conviction within the previous 5 years subjects the person convicted, other than a parent, to a moratorium on placement approvals. s. 39.0138(3)-(4), F.S.

²¹ S. 39.0138(1), F.S.

²² R. 65C-30.001(59), F.A.C.

²³ S. 39.0138(1), F.S.

²⁴ R. 65C-28.011(1)(e), F.A.C.

²⁵ S. 39.0138(1), F.S. The foreign state's jurisdiction may or may not allow the release of such records.

²⁶ *Id.*

²⁷ *Id.*

²⁸ S. 39.0138(6), F.S.

Florida statute authorizes DCF to place a child in a home that otherwise meets placement requirements if a name check of state and local criminal history records systems does not disqualify the applicant.²⁹ But first, DCF must submit fingerprints to FDLE for review by the Federal Bureau of Investigation (FBI) and must be awaiting the results of the state and national criminal history records check.³⁰

Federal law authorizes the FBI to exchange criminal history records information (CHRI) with officials of state and local government agencies for licensing and employment purposes. The FBI retains the right to grant and deny access to national criminal history record information and conditions access to its approval of any proposed and actual legislative changes to state law. Without a corresponding state law approved by the U.S. Attorney General that unequivocally designates a state government agency as the recipient of FBI criminal history records, the FBI must terminate further CHRI exchanges with that state government agency. The exchange must terminate because of the risk that CHRI falls outside authorized channels between federal and state governments.³¹

The FBI's Criminal Justice Information Law Unit (CJILU) previously authorized access for DCF to conduct fingerprint-based background checks for child placements. In 2020, sometime after Florida amended s. 39.0138, F.S., CJILU deemed s. 39.0138, F.S., inadequate because it found the term "visitor" in the definition of "household member" in DCF rule to be overly broad and the timeframes governing fingerprint-based background checks were not explicitly stated. In addition, CJILU specifically recommended that Florida identify DCF as the state agency responsible for conducting fingerprint-based background checks of out-of-home care household members because DCF arranges emergency placements in out-of-home care for sheltered children. While DCF retains temporary access to FBI CHRI because of a grace period, Florida law must be brought into compliance by January 1, 2025. Otherwise, DCF forfeits access to FBI CHRI for running necessary background checks that help DCF secure properly vetted emergency placements for sheltered children.³²

Emergency Postdisposition Modification of Placement

After the court adjudicates a child dependent, the court determines the most appropriate protections, services, and placement for the child in dependency cases at the disposition hearing.³³ However, these decisions may be changed at any time before the child begins residing at the approved permanent placement if DCF or another interested person petitions the court. If the motion made in the petition alleges a need for a change in the conditions of protective supervision or the placement, and if the interim caregiver denies the need for a change, then the court will hold a postdisposition hearing. If the court grants the postdisposition motion, the court will change the placement, modify the conditions of protective supervision, or continue the conditions of protective supervision.³⁴ In FY 2022-23, the court granted a postdisposition change in custody for 6,672 children.³⁵

However, emergency circumstances may require a child's removal more quickly than the petition process allows, and current law does not include an expedited emergency postdisposition process to modify a child's placement. When DCF assesses that the child is in danger of or has been subject to abuse, abandonment, or neglect in the current placement, DCF takes physical custody of the child.

²⁹ S. 39.0138(5), F.S.

³⁰ *Id.*

³¹ 34 U.S.C. § 40102; Federal Bureau of Investigation, *Testimony Before the United States House of Representatives Financial Services Committee: FBI's Perspective on Criminal History Record Information Checks on Individuals Conducting Insurance Business*, Dennis Lormel, Section Chief, Financial Crimes Section, Federal Bureau of Investigation, (Mar. 6, 2001)

<https://archives.fbi.gov/archives/news/testimony/fbis-perspective-on-criminal-history-record-information-checks-on-individuals-conducting-insurance-business#:~:text=Public%20law%20%28Pub.%20L.%29%2092-544%20authorizes%20the%20FBI,by%20the%20Attorney%20General%20of%20the%20United%20States> (last visited Mar. 6, 2024).

³² Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 3 (Dec. 15, 2023); Florida Department of Law Enforcement, Agency Analysis of 2024 House Bill 1083, pp. 2, 5 (Revised Jan. 25, 2024).

³³ See s. 39.01(24), F.S.

³⁴ S. 39.522(2), F.S. To evaluate arguments at a postdisposition hearing, the court uses the best interest of the child standard factors in s. 39.01375, F.S.

³⁵ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 6 (Dec. 15, 2023).

Without an emergency postdisposition process in current law, DCF can only petition the court for a shelter hearing, which is the initial stage of dependency and thus inappropriate given that the child is in the later stage of dependency proceedings, having already been sheltered and in DCF custody.³⁶

Permanent Guardianship

Permanent guardianships promote the child's best interests when the child needs a nurturing, stable environment outside the home of their parents. An alternative to adoption, permanent guardianships preserve the legal parent-child relationship while physical custody rights to the child transfer from DCF to a legal caregiver. This permanency option maintains the child's inheritance rights, the parents' right to consent to a child's adoption, and the parents' responsibilities to provide financial, medical, and other support to the child.³⁷

Guardianship Assistance Program

DCF operates the Guardianship Assistance Program to provide guardianship assistance payments to a child's permanent guardian. DCF establishes a permanent guardian's eligibility for guardianship assistance payments once all of the following requirements are met:

- The court approved the child's placement with the permanent guardian.
- The court granted legal custody to the permanent guardian.
- The permanent guardian is licensed to care for the child as a foster parent.
- The child retained eligibility for foster care room and board payments for at least 6 consecutive months while the child resided in the home of the permanent guardian so long as the permanent guardian is licensed to care for the child as a foster parent.³⁸

Once the permanent guardian formalizes a guardianship agreement with DCF for a child adjudicated dependent, the permanent guardian may also receive guardianship assistance payments for that child's sibling(s). The sibling(s) adjudicated dependent because of child abuse, neglect, or abandonment are covered so long as the sibling(s) are also placed with the permanent guardian.³⁹

Generally, DCF remits guardianship assistance payments in the default amount of \$4,000 annually, paid on a monthly basis. However, the permanent guardian and DCF may set a different amount memorialized in their Guardianship Assistance Agreement and adjust that amount from time to time based on changes in the needs of the child or the circumstances of the permanent guardian.⁴⁰

Current law extends guardianship assistance payments beyond the child's 18th birthday in certain situations. First, the child's permanent guardian needs to create an initial Guardianship Assistance Agreement with DCF during the period between the child's 16th birthday and 18th birthday. Second, the child must actively perform any one of four self-sufficiency activities until the child's 21st birthday. These four self-sufficiency activities are as follows:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment;
or
4. Being employed for at least 80 hours per month.

³⁶ *Id.*

³⁷ S. 39.6221(6), F.S.

³⁸ S. 39.6225(2), F.S.

³⁹ S. 39.6225(3), F.S.

⁴⁰ S. 39.6225(5)(d), F.S.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.⁴¹

Finally, a child or young adult receiving benefits through the guardianship assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S., postsecondary education services and supports under s. 409.1451, F.S., or Chapter 414 child-only cash assistance.⁴²

Successor Guardians

Subject to DCF approval, a permanent guardian may formally nominate a successor guardian to assume care and responsibility for the child if the permanent guardian can no longer do so.⁴³ The permanent guardian nominates a successor guardian on the written Guardianship Assistance Agreement with DCF.⁴⁴ As a prerequisite of nomination and approval, the successor guardian must successfully complete a number of criminal, delinquency, and abuse/neglect history checks.⁴⁵ Should events occur that activate the successor guardian, the successor guardian must have a home study completed and approved before the child's placement with the successor guardian.⁴⁶

If a permanent guardian named a DCF-approved successor guardian on the child's guardianship assistance agreement, current law states a court must let a 6-month interim period elapse before the child can be permanently placed with a successor guardian.⁴⁷ The successor guardian is not required to be a relative, fictive kin, or licensed caregiver.⁴⁸

Independent Living Programs

When children cannot safely remain at home with parents, Florida's child welfare system finds safe out-of-home placements for children.⁴⁹ As of December 31, 2023, DCF reports that 19,334 children and young adults were in out-of-home care in Florida.⁵⁰

A young person ages out of foster care upon that individual's 18th birthday. Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance. They have more mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence. These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.⁵¹

DCF contracts with community-based care lead agencies (CBCs) in part to help young persons who grew up in the child welfare system achieve self-sufficiency as competent adults through independent living programs.⁵²

⁴¹ S. 39.6225(9), F.S.

⁴² S. 39.6225(5)(a), F.S.

⁴³ R. 65C-44.001(6), 65C-44.0045, F.A.C.

⁴⁴ R. 65C-44.004, F.A.C.

⁴⁵ R. 65C-44.0045, F.A.C.

⁴⁶ *Id.*

⁴⁷ S. 39.6225, F.S.; R. 65C-44.0045, F.A.C.

⁴⁸ *Id.*

⁴⁹ Ss. 39.4022(6), 39.523(2), F.S.; After a placement assessment to determine the most appropriate out-of-home placement, a child may be placed in licensed care or with a relative or a non-related individual known to the child, termed "fictive kin". Licensed care includes licensed foster parents and group homes or other licensed residential setting.

⁵⁰ Office of Child and Family Well-Being, *Monthly Trends*, Florida Department of Children and Families, (last updated Jan. 10, 2024) <https://www.myflfamilies.com/ocfw-dashboard> (last visited Jan. 27, 2024).

⁵¹ Gypen, L., Vanderfaeillie, J., et al., "Outcomes of Children Who Grew Up in Foster Care: Systematic Review", *Children and Youth Services Review*, vol. 76, pp. 74-83, <https://www.sciencedirect.com/science/article/abs/pii/S019074091730213X?via%3Dihub> (last visited Mar. 7, 2024).

⁵² S. 409.986(1), (2), F.S.

The DCF Office of Continuing Care (OCC) helps individuals who have aged out of the child welfare system until age 26. OCC provides ongoing support and care coordination needed for young adults to achieve self-sufficiency through food assistance, behavioral health services, housing, Medicaid, educational services, and workforce development.⁵³

OCC uses federal funding and state General Revenue for independent living programs and services for youth aging out of foster care. One major independent living program is the Road-to-Independence Program under s. 409.1451, F.S.

Road-to-Independence Program

Postsecondary Education Services and Supports (PESS)

The PESS stipend helps eligible young adults seek higher education and self-sufficiency. A young adult age 18-22 becomes PESS eligible once seven other criteria are met. The young adult must have:

1. Turned 18 years of age while in the legal custody of DCF, was adopted from foster care after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the adoption, or was placed with a court-approved permanent guardian after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the permanent guardianship;
2. Spent at least 6 months in licensed care before reaching the young adult's 18th birthday;
3. Earned a standard high school diploma or its equivalent;
4. Admitted for enrollment as a full-time student⁵⁴ at an eligible Florida Bright Futures postsecondary educational institution.;
5. Applied for other grants and scholarships that the eligible young adult qualifies for;
6. Submitted a complete and error-proof Free Application for Federal Student Aid; and
7. Signed an agreement to allow DCF and the CBC lead agency access to school records.⁵⁵

After establishing eligibility, DCF determines the PESS stipend amount. Generally, the PESS stipend amount is \$1,720/month. However, if the young adult remains in foster care while attending a postsecondary school and resides in a licensed foster home, the monthly PESS stipend amount is the established room and board rate for foster parents. If the young adult remains in foster care while attending a postsecondary school and resides in a licensed group home, the monthly PESS stipend amount is negotiated between the CBC lead agency and the licensed group home provider.⁵⁶

Before an eligible young adult receives the PESS stipend, DCF or its contracted agency must assess the young adult's financial literacy and existing competencies necessary for successful independent living and the completion of postsecondary education.⁵⁷ Eligible young adults receive financial assistance during the months when they are enrolled in a postsecondary education institution.⁵⁸

Aftercare Services

⁵³ S. 414.56, F.S.

⁵⁴ Students may enroll part-time if they have a recognized disability or if they secure approval from their academic advisor relating to a challenge or circumstance preventing full-time enrollment. Otherwise, full-time enrollment requires 9 credit hours or the vocational school equivalent.

⁵⁵ S. 409.1451(2)(a), F.S.

⁵⁶ S. 409.1451(2)(b), F.S.

⁵⁷ S. 409.1451(2)(d), F.S.

⁵⁸ S. 409.1451(2)(b), F.S.

Aftercare services are intended to bridge gaps in an eligible young adult's progress towards self-sufficiency. A young adult is eligible for aftercare services if he or she reached the age of 18 while in licensed foster care and is under age 23, is not in Extended Foster Care pursuant to s. 39.6251, F.S., and temporarily⁵⁹ does not receiving a PESS stipend.⁶⁰

Aftercare services include, but are not limited to, the following:

- Mentoring and tutoring.
- Mental health services and substance abuse counseling.
- Life skills classes, including credit management and preventive health activities.
- Parenting classes.
- Job and career skills training.
- Counselor consultations.
- Temporary financial assistance for necessities.
- Temporary financial assistance for emergencies like automobile repairs or large medical expenses.
- Financial literacy skills training.⁶¹

DCF or a CBC lead agency determines the specific aftercare services provided to eligible young adults after an assessment.⁶² The resulting aftercare services plan is reassessed every 90 days.⁶³ Subject to available funding, aftercare services are available to PESS stipend grantees who experience an emergency situation and whose resources are insufficient to meet the emergency situation.⁶⁴

DCF reports that Florida experienced a 13% increase in the total number of young adults receiving independent living services for FY 2022-23 compared to FY 2021-22. The table below presents the number of young adults served in each Independent Living program by each CBC lead agency during the past two fiscal years.

⁵⁹ *Id.* A young adult is eligible to receive a PESS stipend during the months when he or she is enrolled in a postsecondary institution.

⁶⁰ S. 409.1451(3)(a), F.S.; R. 65C-42.003(1), F.A.C.

⁶¹ S. 409.1451(3)(b), F.S.

⁶² S. 409.1451(3)(b), F.S.

⁶³ R. 65C-42.003(8), F.A.C.

⁶⁴ S. 409.1451(3)(a), F.S.

Lead Agency	2021-2022			2022-2023		
	Aftercare	EFC	PESS	Aftercare	EFC	PESS
Brevard Family Partnership	28	33	14	27	104	11
ChildNet Inc	22	166	112	24	166	112
ChildNet Palm Beach	14	126	68	11	118	62
Children's Network of SW Florida	8	41	58	8	65	34
Citrus Health Network	39	229	198	48	269	186
Communities Connected for Kids	16	28	25	11	28	26
Community Partnership for Children	8	49	37	16	76	47
Family Support Services Suncoast	42	104	62	49	105	55
Children's Network Hillsborough	57	87	40	57	146	60
Embrace Families	32	117	58	38	145	57
Families First Network	12	98	28	11	100	19
St Johns County Commission	5	12	8	0	12	8
Family Support Services	36	97	33	23	107	31
Heartland for Children	32	79	23	37	91	29
Kids Central Inc	39	28	27	54	54	39
Kids First of Florida Inc	0	16	10	0	27	13
NWF Health Network-East	16	55	35	19	67	27
Partnership for Strong Families	10	16	12	6	16	5
Safe Children Coalition	17	37	16	29	37	16
Statewide	433	1,418	864	467	1,733	857

Independent Living Outcomes

The federal Children's Bureau within the United States Department of Health & Human Services measures outcomes on youth and young adults currently or formerly in foster care who received independent living services supported by federal funds.⁶⁵ To this end, the Children's Bureau's National Youth in Transition Database (NYTD) tracks the independent living services each state provides to foster youth in care and assesses each state's performance in providing independent living and transition services. The most recent Florida NYTD data available on DCF's website is the 2018 report.⁶⁶ The chart below documents the 2018 Florida NYTD outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections.⁶⁷

⁶⁵ Children's Bureau, *Data and Statistics: National Youth in Transition Database*, U.S. Department of Health & Human Services, https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL_26606 (last visited Mar. 7, 2024).

⁶⁶ Florida Department of Children and Families, *Annual Reports for Independent Living*, Child and Family Services, <https://www.myflfamilies.com/services/child-family/independent-living/annual-reports-for-independent-living> (last visited Mar. 7, 2024).

⁶⁷ Florida Department of Children and Families, *Florida National Youth in Transition Database, 2018 Survey Data Report*, <https://www.myflfamilies.com/sites/default/files/2023-06/2018%20Florida%20NYTD%20Statewide%20Report%20Final.pdf> (last visited Mar. 7, 2024).

Outcomes of Young Adults who Aged Out of Care	
Area	Outcome
Education	<ul style="list-style-type: none"> • 74% were enrolled in and attending high school, GED classes, post-high school vocational training, or college. • 12% experienced barriers that prevented them from continuing education. The top three reported barriers included the need to work full-time, not having transportation, and having academic difficulties.
Employment	<ul style="list-style-type: none"> • 15% were employed full-time (35 hours per week or more). • 26% were employed part-time. • 78% had a paid job over the last year. • 22% completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid.
Housing	<ul style="list-style-type: none"> • The top three current living situations included living in their own apartment, house, or trailer; living with friends or a roommate; and living in a group care setting (including a group home or residential care facility). • 41% had to couch surf or move from house to house because they did not have a permanent place to stay. • 27% experienced some type of homelessness in the past year.⁶⁸
Financial & Transportation	<ul style="list-style-type: none"> • 46% received public food assistance. • 10% received social security payments (Supplemental Security Income, Social Security Disability Insurance, or dependents' payments). • 83% had a reliable means of transportation to school/work. • 76% had an open bank account.
Health & Well-Being	<ul style="list-style-type: none"> • 85% were on Medicaid. • 18% had children. • 34% had not received medical care for a physical health problem, treatment for a mental health problem, or dental care in the past two years for some health problem needing to be addressed. • 24% were confined in a jail, prison, correctional facility, or juvenile detention facility within the past two years.
Connections	<ul style="list-style-type: none"> • 85% had at least one adult in their life, other than their case manager, to go to for advice or emotional support. • 67% had a close relationship with biological family members.

Adoptions

DCF Child Welfare Adoptions

DCF, a CBC lead agency, or the CBC's subcontracted agency may field an initial inquiry from a prospective adoptive parent who seeks to learn about the adoption of children adjudicated dependent. Upon initial inquiry, an agency must respond to the prospective adoptive parent within 7 business days with information about the adoption process and the requirements for adopting a child adjudicated dependent.⁶⁹

When the prospective adoptive parent articulates an interest in adopting a child adjudicated dependent, one of the agencies must refer the prospective adoptive parent to a DCF-approved adoptive parent

⁶⁸ *Id.*

⁶⁹ S. 63.093(1), F.S.

training program.⁷⁰ To adopt, the prospective adoptive parent must complete the training program,⁷¹ a DCF adoption application, and a home study.⁷² The home study component has two parts: the preliminary home study and the final home investigation. A favorable preliminary home study allows the child adjudicated dependent to be placed in the intended adoptive home, pending the trial court's entry of the judgment of adoption.⁷³ A preliminary home study must include, at a minimum, an interview, a records check, a physical home environment assessment, a financial security determination, and other required documentation.⁷⁴ The final home investigation must be conducted before the adoption becomes final.⁷⁵ The final home investigation determines the suitability of the adoptive placement through two scheduled visits and vets the applicant's social and medical history.⁷⁶

Afterwards, one of the agencies must evaluate the application through a process prescribed by rule⁷⁷ and must decide the applicant's appropriateness to adopt. This decision must reflect the final recommendation included in the adoptive home study and must be rendered within 14 business days after receipt of the final recommendation.⁷⁸

The average length of time from a child being sheltered to the termination of parental rights (TPR) is 18 months. The average length of time from TPR to finalizing an adoption is 12 months. Thus, a child adjudicated dependent spends an average of 2.5 years in the dependency court before exiting through adoption. In June 2023, approximately 4,700 children adjudicated dependent were available for adoption. By December 2023, 3,300 of those children were matched and/or placed with caregivers who wanted to adopt.⁷⁹

Statewide Adoption Exchange

The federal Social Security Act Title IV-E conditions federal payments for foster care, prevention, and permanency upon DCF demonstrating proof that they are meeting a variety of requirements. Regarding the permanency goal of adoption, DCF must document how it is attempting to find an adoptive family for a child. At a minimum, such documentation must include child-specific recruitment efforts through an electronic state, regional, or national adoption exchange that facilitates orderly and timely in-state and interstate placements.⁸⁰

The federal Child Abuse Prevention and Treatment and Adoption Reform Act (CAPTA) also reflects a focused effort, in part, to eliminate barriers to adoptions across jurisdictional boundaries. The HHS Secretary must award CAPTA grants to states that carry out initiatives to this end. These CAPTA grants supplement, and do not supplant, efforts to expand the capacity of all adoption exchanges to serve increasing numbers of children.⁸¹

In Florida, current law directs DCF to establish, directly or through purchase, a statewide adoption exchange. All DCF-licensed child placing agencies must receive access to the statewide adoption

⁷⁰ S. 63.093(2), F.S.

⁷¹ The following prospective adoptive parents are not required to complete the training program: a licensed foster parent or an eligible caregiver. An eligible caregiver attended a training program within the past 5 years, had the child for at least 6 months, and can demonstrate a determination to understand the challenges and parenting skills needed to successfully parent the child who is available for adoption. s. 63.093(2), F.S.

⁷² Ss. 63.093(2)-(4), F.S.

⁷³ S. 63.092(3), F.S.

⁷⁴ *Id.* A preliminary home study must document the counseling and education of the applicant(s) on adoptive parenting, that an agency provided the applicant(s) with information about the adoption process and community support services, and signed copies acknowledging receipt of required agency disclosures.

⁷⁵ S. 63.125(1), F.S.

⁷⁶ S. 63.125(5), F.S.

⁷⁷ R. 65C-16.005, F.A.C.

⁷⁸ S. 63.093(5), F.S.

⁷⁹ *Supra*, FN 35 at 11.

⁸⁰ 42 U.S.C. § 675(1)(E)

⁸¹ 42 U.S.C. § 5113(e)

exchange as a means to recruit adoptive families for children legally freed for adoption and who have been permanently placed with DCF or a DCF-licensed child placing agency.⁸²

Orphaned Children

A child adjudicated dependent under Chapter 39 can be a child who was abandoned because he or she lacks a parent or legal custodian capable of providing supervision and care.⁸³ When orphaned children are adjudicated dependent, there is no statutory mechanism to permanently commit those children to DCF for the purposes of adoption because the parent(s) of orphaned children did not abandon them.⁸⁴ As Chapter 39 defines abandonment, abandonment means the parent made “no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.”⁸⁵

Instead, dependency court judges rely on their inherent authority to enter any order in the child’s best interest to permanently commit the child for adoption.⁸⁶

A judgment of adoption relieves the birth parents of all parental rights and responsibilities, terminates all legal relationships between the adopted person and the person’s birth parents and relatives, and creates a familial and legal relationship between the adopted person, the adoptive parent, and the adoptive parent’s relatives.⁸⁷ Notably, the adopted person lacks intestate⁸⁸ inheritance rights to the petitioner’s estate.⁸⁹ Meanwhile, the Florida Probate Code may preserve the adopted person’s intestate inheritance rights to his or her birth parents’ estate.⁹⁰

For an orphaned child, a judgment of adoption may produce a different outcome. For example, if an orphaned child is adopted by a close relative, the child’s right of inheritance from or through the deceased parents is unaffected by the close relative adoption.⁹¹ However, in all other cases, current law requires a court order granting the termination of parental rights (TPR) as a requirement to non-close relative adoptions because the orphaned child is considered dependent for Chapter 39 purposes.⁹² Complicating matters, a TPR court order generally requires a judicial finding of harmful parental behavior towards the child.⁹³ Also, while living parents may voluntarily surrender their parental rights over a child by written consent,⁹⁴ deceased parents cannot consent. Furthermore, current law authorizes a court to waive the consent of certain individuals to an adoption, but none of those individuals include deceased parents.⁹⁵

This current technical shortcoming in Florida statute means DCF lacks statutory authorization to secure legal custody of an orphaned child for purposes of a permanent placement through a court order.⁹⁶

Legal Challenges to Denied Adoption Petitions

⁸² S. 409.167(1), F.S.

⁸³ S. 39.01(14)(e), F.S.

⁸⁴ *Supra*, FN 35 at 4; see s. 39.01(1), F.S.

⁸⁵ S. 39.01(1), F.S.

⁸⁶ *G.S. v. T.B.*, 985 So.2d 978, 982 (Fla. 2008).

⁸⁷ S. 63.172(1), F.S.

⁸⁸ When a person dies intestate, that person died without a valid will. When this happens, the state’s intestate law predetermines how the deceased person’s estate will be distributed. See Bryan Gardner, *Intestate Law*, Black’s Law Dictionary (11th ed. 2019) (Accessed Westlaw Dec. 22, 2023).

⁸⁹ S. 63.172(1)(c), F.S.

⁹⁰ S. 63.172(1)(b), F.S.

⁹¹ S. 63.172(2), F.S.

⁹² See s. 39.621(3)(b), F.S.

⁹³ S. 39.806(1), F.S.

⁹⁴ S. 39.806(1)(a), F.S.

⁹⁵ S. 63.064, F.S.

⁹⁶ *Supra*, FN 35 at 4.

When DCF receives the custodial rights of a child adjudicated dependent, DCF may seek an adoption placement for the child through its contracted CBCs if the court establishes adoption as the child's permanency goal. When there are two or more families with approved home studies, DCF's rules route these competing applications through a CBC's adoption applicant review committee (AARC) for a non-binding recommendation.⁹⁷ When a CBC's AARC offers the adoption recommendation to DCF, DCF reviews and issues its consent to one applicant while communicating its denial to the other applicant(s) through certified letter.⁹⁸

Unsuccessful applicants get an opportunity to challenge DCF's decision under Florida's Administrative Procedure Act (APA).⁹⁹ If an unsuccessful applicant only contests DCF's reasoning, the unsuccessful applicant may request an informal hearing with a designated hearing officer at the agency.¹⁰⁰ A final order is due within 90 days after the conclusion of an informal hearing.¹⁰¹ If an unsuccessful applicant contests a material fact underlying DCF's decision, the unsuccessful applicant may petition for a formal hearing before an administrative law judge (ALJ) assigned by the Division of Administrative Hearings (DOAH).¹⁰² The DOAH ALJ submits to DCF and all parties a non-binding, recommended order, complete with an established factual record, conclusions of law, and the suggested outcome.¹⁰³ Then, DCF may adopt the ALJ's recommended order as the final order or advance its own final order within 90 days.¹⁰⁴ From 2021 through 2022, the average length of time between the receipt of a hearing request and entry of a final order was 161 days.¹⁰⁵

A party who is adversely affected by final agency action is entitled to judicial review.¹⁰⁶ Generally, the unsuccessful applicant must appeal DCF's adoption decision to the First District Court of Appeal (DCA) (the appellate district where DCF maintains its headquarters) or the appellate district of the party's residence.¹⁰⁷ From 2021 through 2022, the average additional delay to a finalized adoption by another, successful, applicant because of an appeal was 323 days.¹⁰⁸

The chart below surveys administrative challenges to denied adoption petitions. From 2019 through 2023, less than 4.5% of DCF decisions made after APA review were appealed to the District Courts of Appeal (DCAs), and the DCAs overturned none of DCF's decisions.¹⁰⁹

⁹⁷ R. 65C-16.005(9), F.A.C.

⁹⁸ These certified letters represent final agency action for purposes of Florida's Administrative Procedure Act.

⁹⁹ *Fla. Dep't of Children and Family Services v. I.B. and D.B.*, 891 So.2d 1168, 1170 (Fla. 1st DCA 2005) (The Administrative Procedure Act confers an unsuccessful adoption applicant with the right to a hearing wherein they have an opportunity to change the agency's mind).

¹⁰⁰ S. 120.57(2), F.S.

¹⁰¹ S. 120.56(2)(l), F.S.

¹⁰² S. 120.57(1)(a), F.S.

¹⁰³ S. 120.57(1)(k), F.S.

¹⁰⁴ Ss. 120.56(2)(l), 120.57(1)(l), F.S.

¹⁰⁵ *Supra*, FN 35 at 10.

¹⁰⁶ S. 120.68(1)(a), F.S.

¹⁰⁷ S. 120.68(2)(a), F.S.

¹⁰⁸ *Supra*, FN 35 at 10.

¹⁰⁹ *Id.*

Year	DCF Decisions Made After APA Review	CBC Decisions Overturned by DCF	DCA Appeals	DCF Decisions Overturned by DCA
2019	58	0	2	0
2020	46	0	4	0
2021	42	1	2	0
2022	41	1	1	0
2023	41	1	1	0

Meanwhile, the original dependency trial court retains jurisdiction over a child adjudicated dependent until the child is adopted. This means the trial court can review the status of the child and the progress towards an adoption placement. In addition, for good cause shown by the guardian ad litem for the child, the trial court may review the appropriateness of a proposed adoptive placement for the child.¹¹⁰

Current law empowers a denied adoption applicant to file a petition with the court to argue DCF unreasonably withheld agency consent. Along with the petition, the applicant must also file a favorable preliminary adoptive home study. If the trial court agrees with the petitioner that DCF unreasonably withheld agency consent, then the court waives DCF consent.¹¹¹ Fundamentally, DCF's consent to an adoption is not a prerequisite to the trial court's authority to finalize an adoption.¹¹² Rather, the court's orders must advance the best interests of the child and the legislative goal of expeditiously providing a stable and permanent home for the child.¹¹³

Adoption Financial Assistance

Current law provides various forms of adoption assistance available to prospective adoptive parents to enable them to adopt children from the child welfare system.¹¹⁴ Adoption assistance may include a maintenance subsidy, medical assistance, Medicaid assistance, reimbursement of nonrecurring expenses associated with adoption, and a tuition exemption at a postsecondary education institution.¹¹⁵

Maintenance Adoption Subsidy

The maintenance adoption subsidy is a monthly subsidy for adoptive parents. DCF approves the maintenance adoption subsidy when all other resources available to a child were thoroughly explored, and it can be clearly established that the maintenance subsidy is the most acceptable plan for securing a permanent placement for the child.¹¹⁶ As a condition of receiving adoption assistance, the adoptive parents must have an approved adoption home study and an adoption assistance agreement with DCF before the adoption is finalized.¹¹⁷

Generally, the default maintenance subsidy is \$5,000/year, paid on a monthly basis, for the support and maintenance of a child until the child's 18th birthday. However, the adoptive parents and DCF may set a different amount memorialized in their Adoption Assistance Agreement and adjust that amount from time to time based on changes in the child's needs or the circumstances of the adoptive parents.¹¹⁸

¹¹⁰ S. 39.812(4), F.S.

¹¹¹ S. 63.062(7), F.S.

¹¹² *B. Y. v. Fla. Dep't of Children and Families*, 887 So.2d 1253, 1257 (Fla. 2004).

¹¹³ *Id.*

¹¹⁴ S. 409.166(1), F.S.

¹¹⁵ S. 409.166(2)(a), F.S.

¹¹⁶ S. 409.166(4)(b), F.S.

¹¹⁷ S. 409.166(5)(a), F.S.

¹¹⁸ S. 409.166(4)(c), F.S.

Current law extends maintenance subsidy payments beyond the child's 18th birthday in certain situations. First, the child's adoptive parents need to enter into an initial Adoption Assistance Agreement with DCF during the period between the child's 16th and 18th birthdays. Second, the child must actively be involved in any one of four self-sufficiency activities until the child's 21st birthday. These four self-sufficiency activities include:

- Completing secondary education or a program leading to an equivalent credential;
- Being enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment; or
- Being employed for at least 80 hours per month.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or psychiatric condition that limits the child's full-time participation.¹¹⁹

Finally, a child or young adult receiving benefits through the adoption assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S., or postsecondary education services and supports under s. 409.1451, F.S.

Adoption Benefit Program

Section 409.1664, F.S., provides one-time financial assistance to certain individuals to encourage the adoption of children from the child welfare system and those whom are generally difficult-to-place. A difficult-to-place child is a child:

- In the permanent custody of DCF of a licensed child-placing agency;
- Who has established significant emotional ties with the foster parents or is unlikely to be adopted for certain reasons;¹²⁰ and
- Except when the child is being adopted by the child's foster parents or relative caregivers, for whom a reasonable but unsuccessful effort was made to place that child without providing a maintenance subsidy.¹²¹

Initially, adoption benefit awards were available only to state employees, but the Legislature has since expanded eligibility to include veterans, law enforcement officers, and military servicemembers. The adoption benefits are provided as a lump-sum payment in various amounts depending upon whether or not the child is considered difficult-to-place.

For adoptions, generally:

- State employee, veteran or servicemember - \$5,000 per child.
- Law enforcement officer - \$10,000 per child.

For adoptions of difficult-to-place children:

- State employee, veteran or servicemember - \$10,000 per child.
- Law enforcement officer - \$25,000 per child.

¹¹⁹ S. 409.166(4)(d), F.S.

¹²⁰ These reasons could be that child is 8 years of age or older, developmentally disabled, physically or emotionally handicapped, a member of a racial group that is disproportionately represented among children adjudicated dependent, and/or a member of a sibling group of any age if two or more members of a sibling group remain together for purposes of adoption.

¹²¹ S. 409.166(2)(d), F.S.

The availability of adoption benefit awards is subject to legislative appropriations and are limited to one award per adopted child. During FY 2022-23, a total of 412 adoptions received an adoption benefit award for a total of \$4,345,000.¹²²

Public and Private Sector Adoptions

Advertisements

Current law prohibits the act of placing an advertisement or offering to the public that a minor is available for adoption or that someone is seeking a minor for adoption. Current law carves out a safe harbor provision only for adoption entities. As Florida heavily regulates adoption entities, the state possesses the means to hold adoption entities accountable in fulfilling the state's adoption permanency goal for children adjudicated dependent. For example, even if an adoption entity purchases advertising space or broadcast time to advertise adoption services, current law requires adoption entities to include their Florida license number in their advertisements (or the Florida Bar number if the advertising adoption entity is an attorney). If the adoption entity fails to disclose licensure information in the advertisement, the adoption entity commits an illegal act.¹²³

Fees

DCF licenses 64 private adoption agencies,¹²⁴ the state-certified Florida Association of Christian Child Caring Agencies registers one private adoption agency, and the Florida Bar licenses over 100,000 attorneys.¹²⁵ Current law authorizes all of these adoption entities¹²⁶ to assess fees for adoption services rendered.¹²⁷ When an adoption entity uses the services of a licensed child-placing agency, a professional, a preliminary home study investigator for at-risk placements, or DCF on behalf of the person seeking to adopt the child, the prospective adoptive parent must pay an amount equal to the cost of all services performed. Covered services include, but are not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation.¹²⁸

The table below categorizes the types of adoption entities, recoverable fees, approving authorities, and the threshold findings subject to court approval.

¹²² E-mail correspondence with the Department of Children and Families, dated February 15, 2024, and on file with the Health Care Appropriations Subcommittee.

¹²³ See s. 63.212(1)(g), F.S., generally.

¹²⁴ DCF's Office of Licensing within the Office of Quality and Innovation licenses Florida's child-placing agencies.

¹²⁵ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 13 (Dec. 15, 2023).

¹²⁶ In Chapter 63, an "adoption entity" means DCF, a residential child-caring agency or family foster home registered with an association certified by a Florida statewide child care organization, a Florida child-placing agency licensed by DCF, a child-placing agency licensed in another state and licensed by DCF, or an attorney licensed or authorized to practice in Florida. Ss. 63.03 2(3), (10), F.S.

¹²⁷ See s. 63.097, F.S. generally.

¹²⁸ S. 63.097(6), F.S.

Adoption Entity	Authorized Fees	DCF Approval Required	Court Approval Required
DCF-Licensed Child Placing Agencies ¹²⁹	<ul style="list-style-type: none"> Foster care expenses Preplacement social services Postplacement social services Agency facility and administrative costs 	Yes	Yes, based on a finding of extraordinary circumstances. ¹³⁰
DCF and DCF-Licensed Child Placing Agencies	<ul style="list-style-type: none"> Reasonable living expenses of the birth mother¹³¹ Reasonable and necessary medical expenses of the birth mother Necessary adoption expenses¹³² Court filing expenses, court costs, and other litigation expenses, birth certificate expenses, and medical record expenses Adoption advertising costs Certain professional fees¹³³ 	No	Yes, if: <ul style="list-style-type: none"> > \$5,000 in legal or other fees¹³⁴; > \$800 in court costs; or > \$5,000 in reasonable and necessary living and medical expenses
Private Adoption Attorneys			
Residential Child-Caring Agencies & Family Foster Homes			
All of the Above Entities	<ul style="list-style-type: none"> Other fees, costs, and expenses not listed in s. 63.097(2), F.S. Prohibited fees, costs, and expenses listed in s. 63.097(5), F.S.¹³⁵ 	No	Yes, based on a finding of extraordinary circumstances. ¹³⁶

¹²⁹ For Chapter 63 purposes, “agency” means any DCF-licensed child-placing agency that places minors for adoption. s. 63.032(6), F.S. DCF’s Office of Licensing within the Office of Quality and Innovation licenses Florida’s child-placing agency. The types of child-placing licenses include community-based care lead agencies (for child protection and child welfare services), case management organizations (for ongoing safety management and service provision), foster home maintenance (for home studies), and private adoption agencies who are authorized to recruit families, place minors for adoption, and provide post-adoption services. Florida Department of Children and Families, *Child-Placing Agency Licensing*, <https://www.myflfamilies.com/services/licensing/child-placing-agency-licensing> (last visited Mar. 6, 2024).

¹³⁰ Ss. 63.097(1), (4), F.S.

¹³¹ When the birth mother is unable to pay due to unemployment, underemployment, or disability, reasonable living expenses are rent, utilities, basic telephone service, food, toiletries, necessary clothing, transportation, insurance, and expenses found by the court to be necessary for the health and well-being of the birth mother and the unborn child. Such expenses may be paid during the pregnancy and for a period of up to 6 weeks postpartum. s. 63.097(2)(a), F.S.

¹³² Expenses necessary to comply with Chapter 63 include service of process, investigator fees, diligent searches, a preliminary home study, and a final home investigation.

¹³³ Allowable professional fees are legal representation, facilitating contact the birth parent, and counseling services provided to a birth parent or prospective adoptive parent by a licensed psychologist or other qualified licensed counselor. s. 63.097(2)(f), F.S.

¹³⁴ While “other fees” is not defined, traditional canons of statutory interpretation indicate a presiding would interpret the statute in context with its surrounding provisions. Therefore, “other fees” foreseeably refers to professional fees, expenses relating to Chapter 63 compliance, and an adoption entity’s placement of paid advertisements for adoption services.

¹³⁵ Current law prohibits any fee or expense that constitutes payment for locating a minor for adoption, payment which lacks support in the affidavit of receipts and expenses filed with the adoption court, payment for vague, undefined service fees (e.g., facilitation fee or acquisition fee), and payment for fees that lack the date on which the adoption entity rendered the service, the time required to render the service, the person or entity rendering the service, and the hourly fee charged.

¹³⁶ Ss. 63.097(4), (5), F.S.

EFFECT OF THE BILL

Child Welfare System

Dependency Court

For advisory proceedings for the termination of parental rights, the bill authorizes the court to waive service of process on any person if that person personally appears in court. The bill will enable the trial court to commence the TPR advisory proceeding without need for a continuance if the person for whom notice of process is required makes a personal appearance, whether that person is physically present or remotely present by audio-video communication technology.

Permanency Placements

Background Checks

For an emergency out-of-home care placement, the bill subjects certain persons who are not residents of an out-of-home care household to a background check. Specifically, the bill requires DCF to conduct a name-based criminal history background check for two classes of visitors who frequent the out-of-home care household with a sheltered child. First, DCF must screen visitors who provide care or supervision to another child in the household. Second, DCF must screen visitors who are at least age 12 and will be on site at least 5 consecutive days or at least 7 days or more in a month. These classes of visitors foreseeably cover all babysitters, nannies, or butlers already hired by the out-of-home care household to provide care or supervision for other children at the household. These classes of visitors also foreseeably cover all relatives, friends, and neighbors of the household members that provide care or supervision to at least one other child in that household or who meet the age and frequency criteria.

If no visitors are disqualified by the name-based background check, DCF must conduct a fingerprint-based background check of the visitors in collaboration with FDLE and the FBI. If a visitor fails to cooperate with DCF on the fingerprint-based background check, the bill requires DCF to seek a court order to immediately remove the child from the emergency placement.

The bill targets two problems with emergency placements, as recommended by the FBI. First, the bill unequivocally identifies DCF as the state agency responsible for conducting background checks of out-of-home care household members and certain visitors to the home whenever DCF arranges an emergency placement in out-of-home care for a sheltered child. Second, the bill classifies the visitors subject to a DCF-background check. With these legislative changes, the FBI is likely to preserve DCF's access to CHRI for running necessary background checks.

Separately, for non-emergency placements, the bill authorizes DCF to require a local criminal record check of all visitors to the home who are at least 18 years of age as an optional add-on component of the department's records check process. Current law does not set a minimum age for this purpose.

Emergency Modification of Placement

The bill establishes a process to make emergency changes of placement for children whom the dependency court initially transferred the physical custody rights to the child from DCF to the permanent placement.

Specifically, the bill establishes the following procedural process:

- A child's case manager, an authorized agent of DCF, and law enforcement officers may remove a child from a court-ordered placement at any time after the child's authorized caregiver requests the child's immediate removal from the placement.

- DCF and law enforcement officers may remove a child from a placement if they have probable cause:
 - That a placed child was abused, neglected, or abandoned, or
 - That a placed child currently suffers from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment.

The bill specifies how the court may render the appropriate court order based on the facts and circumstances of the case for the purpose of finding a new placement for the child.

Permanent Guardianship

Guardianship Assistance Program

The bill amends the age eligibility threshold for the extended guardianship assistance payment (EGAP) program by lowering the child’s minimum eligibility age from 16 to 14. As illustrated by the table below, DCF projects participation in EGAP will increase.

Program	Increased Eligible Population	Estimated Increase in Participation
EGAP	782	235

Successor Guardians

The bill lowers the minimum duration of the interim period before a child can be permanently placed with a successor guardian from 6 months to 3 months. The bill also requires the successor guardian to be known to the child.

Independent Living Programs

Road-to-Independence Program

Postsecondary Education Services and Supports (PESS)

The bill amends the age eligibility threshold for the PESS program by lowering the child’s minimum eligibility age from 16 to 14. As illustrated by the table below, DCF projects participation in PESS will increase.

Program	Increased Eligible Population	Estimated Increase in Participation
PESS	351	71

Adoptions

DCF Child Welfare Adoptions

Statewide Adoption Exchange

The bill restricts public access to the online profiles of children available for adoption. It allows only prospective adoptive parents who completed or are completing an adoptive home study to access these online profiles, and no other members of the public are afforded access.

Any child who is 12 years of age or older may request that a specific photo be used for that child's photo listing and must be consulted during the development of the child's description.

Orphaned Children

The bill creates a process to adjudicate as dependent orphaned children.

The bill authorizes an attorney for DCF, or any other person with factual or sourced knowledge of the allegations, and who believes those allegations, to commence a dependency proceeding if both parents of a child are deceased or the last known living parent of a child is deceased and the child did not receive an appointed legal custodian.

If a child previously adjudicated dependent later becomes an orphan, the bill allows an interested party to file a petition for permanent commitment.

The bill requires a petition for adjudication or permanent commitment of an orphaned child to identify the allegedly deceased parents, a factual basis that both parents are deceased or the last known living parent is deceased, and a factual basis that the child has not received an appointed legal custodian. The bill requires the petitioner to sign a petition under oath affirming he or she filed in good faith.

The bill prescribes the procedural process for scheduling hearings, noticing required parties, conducting hearings, ruling on evidence, finalizing court orders, and developing case plans.

These legislative changes authorize DCF to properly secure legal custody of an orphaned child through a court order for purposes of a permanent placement, such as adoption. DCF will no longer have to use existing ch. 39 procedures, such as TPR, that make little sense when the parents are deceased.

Legal Challenges to Denied Adoption Petitions

The bill restructures how the government resolves the competing claims of prospective adoptive parents who were denied petitions to adopt. When DCF denies an applicant, the bill authorizes applicants to pursue legal recourse at the dependency trial court. The bill grants the dependency trial court exclusive discretion to review DCF's decision, so denied applicants no longer have to exhaust administrative remedies under Chapter 120. Instead, the bill requires DCF to file written notification of the applicant's denied application with the dependency trial court within 10 business days after DCF's decision to deny. The bill authorizes the court to hold a hearing about DCF's decision to deny if the applicant requests judicial review.

If the applicant requests judicial review, the applicant must file two documents with the dependency trial court: a favorable preliminary adoptive home study and a copy of DCF's consent to adopt. The bill authorizes the presiding judge to waive the consent to adopt requirement if he or she finds DCF unreasonably withheld their consent to adopt. After a hearing, if the court preserves DCF's decision to deny, then the bill authorizes DCF to remove the child from the unsuccessful applicant's home.

DCF estimates these particular reforms will decrease the time to adopt a dependent child by an average of 116 days.

Adoption Financial Assistance

Maintenance Adoption Subsidy

The bill amends the age eligibility threshold for the extended maintenance adoption subsidy (EMAS), program by lowering the child's minimum eligibility age from 16 to 14. As illustrated by the table below, DCF projects participation in EMAS will increase.

Program	Increased Eligible Population	Estimated Increase in Participation
EMAS	550	165

Adoption Benefit Program

The bill expands the population eligible to receive an adoption benefit to include certain health care practitioners and county tax collector employees. To be eligible, the health care practitioner must be in one of the professions listed¹³⁷ in s. 456.001(4), F.S., hold an active license from the Department of Health, and have an annual gross income which does not exceed \$150,000.

The bill increases the benefit amount and makes benefit amounts equal between all populations.

For adoptions, generally, the bill raises the benefit amount for a state employee, veteran, military servicemember, health care practitioner, or county tax collector from \$5,000 to \$10,000 per child.

For adoptions of difficult-to-place children, the bill raises the benefit amount for a state employee, veteran, military servicemember, health care practitioner, or county tax collector from \$10,000 to \$25,000 per child.

Public and Private Sector Adoptions

Advertisements

Current law prohibits non-adoption entities from advertising adoption-related services in any medium. To this end, the bill specifies examples of the types of media covered by the prohibition: paid advertisements, articles, notices, or any paid communications published in any newspaper, magazine, on the Internet, on a billboard, over radio, over television, or over other similar media. The bill advises that the listing of these mediums does not exclude other media that were not identified on the list.

¹³⁷ This includes 35 professions regulated by DOH, such as acupuncturists, allopathic physicians, osteopathic physicians, chiropractic physicians, podiatrists, naturopaths, optometrists, nurses, nursing assistants, pharmacists, dentists, midwives, speech-language pathologists, audiologists, home nurse administrators, occupational therapists, respiratory therapists, athletic trainers, or thotists, prosthetists, electrologist, massage therapists, clinical laboratory personnel, medical physicists, genetic counselors, opticians, hearing aid specialists, physical therapists, psychologists, clinical social workers, marriage and family therapists, mental health counseling, radiation technologists, emergency medical technicians, and paramedics.

Fees

The bill requires a court order, as opposed to court approval, to authorize the payment of certain adoption fees, costs, and expenses that exceed certain statutory threshold amounts. Within the court order, the presiding judge must explain why he or she believes exceeding a statutory threshold amount is reasonable based on the case at bar. The bill expands the list of prohibited fees to include those fees listed on an affidavit that are not fees of an adoption entity and are not supported by a receipt.

In addition, beginning January 1, 2025, the bill requires adoption entities to submit quarterly reports to DCF that disclose certain demographic information as well as the fees, costs, and expenses for each adoption finalized. Specifically, the adoption entities must report the adopted child's age, race, ethnicity, sex, and Florida county of birth and the adoptive family's Florida county of residence.

The bill requires DCF to report quarterly, on its website, the reported demographic and financial information for each adoption finalized. While the bill advises that the confidentiality provisions of Chapter 63 do not apply to reporting requirements on fees, costs, and expenses, the bill requires DCF to redact any confidential identifying information concerning a child, the child's biological parents, and the child's adoptive parents.

The bill provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The General Appropriations Act for Fiscal Year (FY) 2024-2025 provides \$9,370,125 in general revenue to increase adoption incentives to \$10,000 for a child who is not considered difficult to place and to \$25,000 for a child who is considered difficult to place, and to expand these incentives to health care practitioners and tax collector employees who adopt a child from the child welfare system.¹³⁸

The General Appropriations Act also includes \$8,110,140 to fund the expanded eligibility of certain Independent Living Programs, which includes EMAS, EGAP, and PESS. These general revenue funds are provided to lower the age of eligibility from age 16 to age 14 for EMAS, EGAP, and PESS.¹³⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

¹³⁸ HB 5001, House General Appropriations Act, Specific Appropriation 326.

¹³⁹ *Id.* at Specific Appropriation 330.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.