



Children, Families & Seniors Subcommittee

**Wednesday, January 24, 2024
11:00 AM-1:00 PM
Reed Hall (102 HOB)**

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Children, Families & Seniors Subcommittee

Start Date and Time: Wednesday, January 24, 2024 11:00 am
End Date and Time: Wednesday, January 24, 2024 01:00 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 591 Hot Car Death Prevention by Brannan
HB 1267 Economic Self-sufficiency by Anderson
HB 1271 Individuals with Disabilities by Buchanan, Fine

Consideration of the following proposed committee substitute(s):

PCS for HB 1083 -- Permanency for Children

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Tuesday, January 23, 2024.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, January 23, 2024.

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 01/22/2024 4:06PM by Arnold.Sabrina

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 591 Hot Car Death Prevention

SPONSOR(S): Brannan

TIED BILLS: **IDEN./SIM. BILLS:** SB 554

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|------------|--|
| 1) Children, Families & Seniors Subcommittee | | DesRochers | Brazzell |
| 2) Transportation & Modals Subcommittee | | | |
| 3) Health & Human Services Committee | | | |

SUMMARY ANALYSIS

Heatstroke is a debilitating illness characterized clinically by the following conditions: severe hyperthermia (i.e., a core body temperature of 104°F or greater), profound central nervous system dysfunction (e.g., delirium, seizures, or coma), and additional organ and tissue damage. Vehicular heatstroke occurs when a person experiencing heatstroke cannot escape the vehicle in which the person is trapped.

Since 1998, Florida lost 110 children to vehicular heatstroke. In 2023, 7 children died in Florida from vehicular heatstroke. Florida's Uniform Traffic Control Law (ch. 316) includes a section about children left unattended or unsupervised in motor vehicles. A parent, legal guardian, or other person responsible for a child under 6 years of age (a U-6 child) may not leave that child unattended or unsupervised in a motor vehicle. If someone leaves a U-6 child unattended or unsupervised in a motor vehicle, current law imposes criminal or civil penalties. The Florida Department of Highway Safety and Motor Vehicles reports that law enforcement cited 1,282 people statewide for leaving a U-6 child unattended or unsupervised from 2012-2022.

Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means reasonably necessary to protect the minor child and to remove the child from the vehicle. When the law enforcement officer removes the child from the immediate area, notification that the law enforcement officer removed the child from the immediate area should be placed on the vehicle. If the law enforcement officer cannot locate the child's parents, legal guardian, or other person responsible for the child, the officer must deliver physical custody of the child to the Florida Department of Children and Families (DCF) for the purposes of a dependency court shelter hearing. In addition, anyone from the general public may rescue a vulnerable person by removing that person from a vehicle.

The bill is named "Ariya's Act" in memoriam of a 10-month-old infant who died of a heatstroke after being left in a vehicle. The bill designates April as "Hot Car Death Prevention Month" to raise the public's awareness of the dangers of leaving children unattended in motor vehicles and to educate the public on how to prevent children dying from vehicular heatstroke. The bill requires the educational component to include at least three parts: proper motor vehicle safety for children, the criminal penalties associated with leaving a child in a motor vehicle unattended or unsupervised, and the steps a bystander can take to rescue a vulnerable child in imminent danger.

The bill encourages DCF, the Florida Department of Health (DOH), local governments, and other agencies to sponsor events that promote awareness on the dangers of leaving a child unattended in a motor vehicle and methods to prevent hot car deaths of children.

The bill has no fiscal impact on state government and an indeterminate cost to local governments. See Fiscal Analysis and Economic Impact Statement.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Vehicular Heatstroke and Child Mortality

Heat illness occurs when the elevation of the core body temperature surpasses the compensatory limits of thermoregulation. Heat illness is the result of environmental heat stress or exertion, or both, and represents a set of conditions that exist along a continuum from less severe (heat exhaustion) to potentially life threatening (heatstroke).¹

Heatstroke is a debilitating illness characterized clinically by the following conditions:

- severe hyperthermia (i.e., a core body temperature of 104°F or greater),
- profound central nervous system dysfunction (e.g., delirium, seizures, or coma), and
- additional organ and tissue damage.

Even with medical intervention, heatstroke may have lasting effects, including damage to the nervous system and other vital organs and decreased heat tolerance, making an individual more susceptible to subsequent episodes of heat illness. Furthermore, the continued manifestation of multiorgan system dysfunction after heatstroke increases patients' risk of mortality during the ensuing months and years. Multiorgan system failure is the ultimate cause of mortality from heatstroke.²

Vehicular heatstroke occurs when a person experiencing heatstroke cannot escape the vehicle in which the person is trapped. Vehicular heatstroke can become fatal when the internal body core temperature reaches 107°F – the point when the body cannot cool itself down. A child's body temperature rises three to five times faster than an adult's body temperature.³

Since 1998, 969 children have died nationwide due to vehicular heatstroke. 505 of these children (52.17%) were forgotten by a caregiver, and another 237 children were knowingly left behind by a caregiver (20.66%). More than half of these deaths are children under 2 years of age. Since 1998, Florida lost 110 children to vehicular heatstroke.⁴

In 2023, 7 children died in Florida from vehicular heatstroke.⁵ In July 2023, 10-month-old Ariya Paige of Baker County died after her babysitter left her in a car for five hours during 95-degree weather.⁶ The Baker County Sheriff's Office subsequently arrested the babysitter and charged her with aggravated manslaughter of a child in violation of s. 782.07, F.S.⁷

¹ Armed Forces Health Surveillance Division, *Heat Illness, Active Component, U.S. Armed Forces, 2021*, The Military Health System and Defense Health Agency (Apr. 1, 2022) <https://health.mil/News/Articles/2022/04/01/Update-Ht-MSMR> (last visited Jan. 11, 2024).
² *Id.*

³ National Highway Traffic Safety Administration, *Child Heatstroke Prevention: Prevent Hot Car Deaths*, U.S. Department of Transportation, <https://www.nhtsa.gov/campaign/heatstroke> (last visited Jan. 11, 2024).

⁴ National Safety Council, *Hot Car Deaths: Heatstroke deaths of children in vehicles*, <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (last visited Jan 11, 2024).

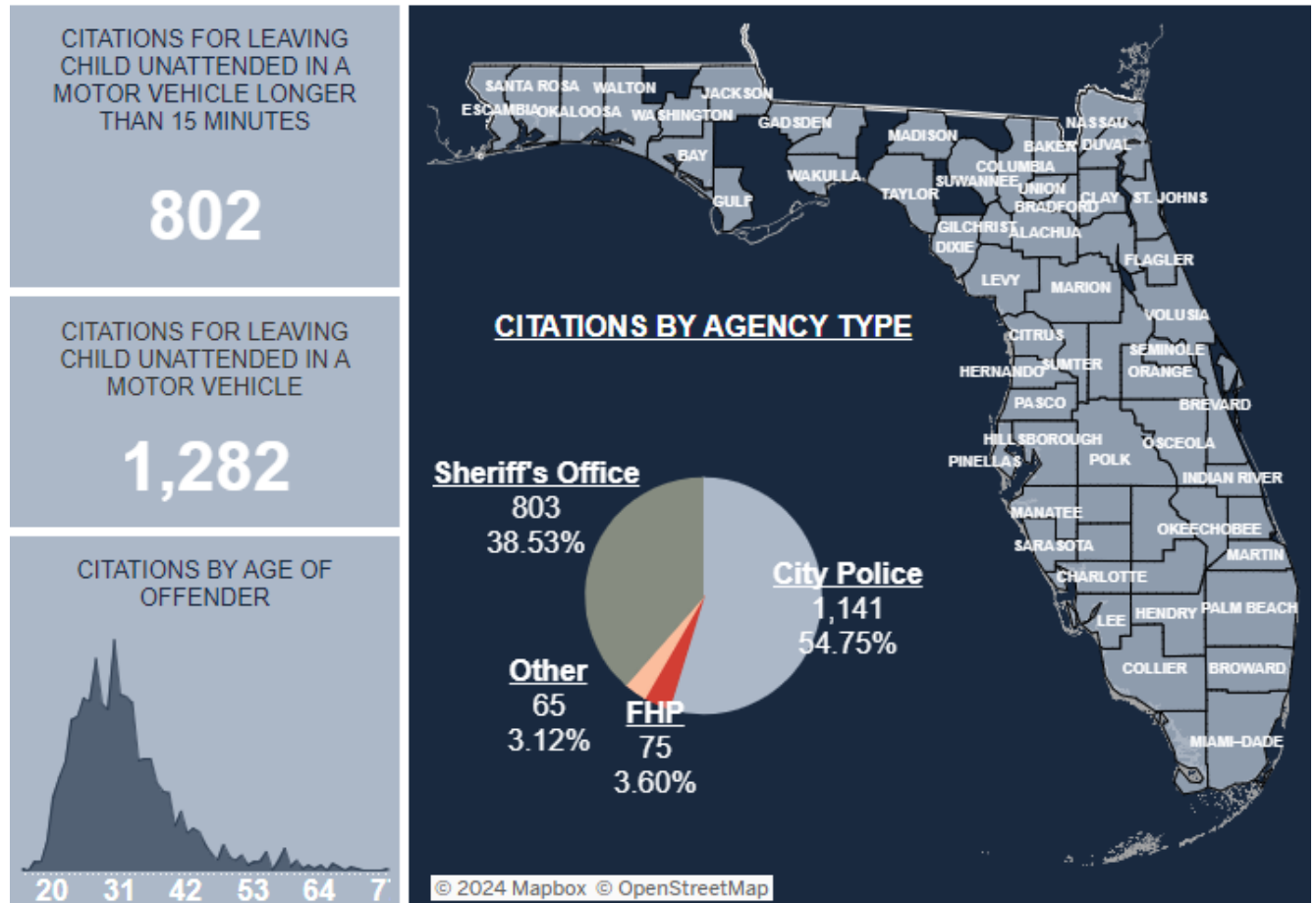
⁵ Jan Null, *Heatstroke Deaths of Children in Vehicles*, The San Jose State University Department of Meteorology & Climate Science (last updated Jan. 3, 2024) <https://www.noheatstroke.org/> (last visited Jan. 11, 2024). The National Weather Service of the National Oceanic and Atmospheric Administration sources its data from Jan Null's research.

⁶ Baker County Sheriff's Office, Arrest Report Number BCSO23CR00421S, (July 19, 2023) available at <https://s3.documentcloud.org/documents/23883703/23-1585-arrest-jewell.pdf> (last visited Jan. 11, 2024).

⁷ *Id.*

Certain Offenses, Corresponding Penalties, and Rescuer Actions

Florida's Uniform Traffic Control Law (ch. 316) includes a section about children left unattended or unsupervised in motor vehicles. A parent, legal guardian, or other person responsible for a child under 6 years of age (a U-6 child) may not leave that child unattended or unsupervised in a motor vehicle. As the following infographic illustrates, the Florida Department of Highway Safety and Motor Vehicles reports that law enforcement cited 1,282 people statewide for leaving a U-6 child unattended or unsupervised in Florida from 2012-2022.⁸



⁸ The Florida Department of Highway Safety and Motor Vehicles, *Child Safety: Car and Driveway Safety*, <https://www.flhsmv.gov/safety-center/child-safety/car-driveway-safety/> (last visited Jan. 11, 2024).

If someone leaves a U-6 child unattended or unsupervised in a motor vehicle in one of the three following situations, current law imposes corresponding penalties.⁹

| Offending Situation | Corresponding Penalty (No Serious Harm) | Corresponding Penalty (Great Bodily Harm, Permanent Disability, or Permanent Disfigurement) |
|--|---|---|
| U-6 child left in vehicle in excess of 15 minutes | Second degree misdemeanor ¹⁰ | Third degree felony ¹¹ |
| U-6 child left in running vehicle | Noncriminal traffic infraction (\$500 maximum fine) | Third degree felony |
| U-6 child left in vehicle and the child's health is in danger or child appears to be in distress | Noncriminal traffic infraction (\$500 maximum fine) | Third degree felony |

Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means reasonably necessary to protect the minor child and to remove the child from the vehicle.¹² When the law enforcement officer removes the child from the immediate area, notification that the law enforcement officer removed the child from the immediate area should be placed on the vehicle.¹³ If the law enforcement officer cannot locate the child's parents, legal guardian, or other person responsible for the child, the officer must deliver physical custody of the child to DCF for the purposes of a dependency court shelter hearing.¹⁴

In addition, anyone from the general public may rescue a vulnerable person by removing that person from a vehicle. The rescuer may acquire immunity from civil liability for vehicle damage during the rescue effort if all of the following criteria are met:

- The rescuer determines the motor vehicle is locked or there is otherwise no reasonable method for the vulnerable person to exit the vehicle without assistance.
- The rescuer has a good faith and reasonable belief, based upon the known circumstances, that entry into a motor vehicle is necessary because the vulnerable person is in imminent danger of suffering harm.
- The rescuer ensures that law enforcement is notified or 911 called before entering the motor vehicle or immediately thereafter.
- The rescuer uses no more force than is necessary to enter the vehicle.
- The rescuer remains with the vulnerable person in a safe location, in reasonable proximity to the motor vehicle, until law enforcement or other first responder arrives.¹⁵

In the event of death, government prosecutors might choose to pursue criminal charges for, at the very least depending on the facts, aggravated manslaughter¹⁶ or the family of the decedent minor child might seek legal advice on whether to sue in civil court for wrongful death.¹⁷

⁹ S. 316.6135(1)-(4), F.S.

¹⁰ A second-degree misdemeanor conviction generally carries a term of imprisonment not exceeding 60 days and, or a \$500 maximum fine. ss. 775.082(4)(b), 775.083(1)(e), F.S.

¹¹ A third-degree felony conviction generally carries a term of imprisonment not exceeding 5 years or a \$5,000 maximum fine. ss. 775.082(3)(e), 775.083(1)(c), F.S. (However, ordinarily, a person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree. s. 827.03(2)(b), F.S.).

¹² S. 316.6135(5), F.S.

¹³ S. 316.6135(6), F.S.

¹⁴ S. 316.6135(7), F.S.

¹⁵ S. 768.139(2), F.S.

¹⁶ A person who causes the death of any person under the age of 18 by culpable negligence commits aggravated manslaughter of a child, a felony of the first degree. s. 782.07(3), F.S.

Public Awareness Campaigns by the State of Florida

The Florida Department of Children and Families

The Florida Department of Children and Families (DCF) is responsible for providing services that support child and family well-being. DCF contracts with the Ounce of Prevention Fund of Florida, Inc. (Ounce)¹⁸ for various situational awareness campaigns throughout the year. The Ounce raises awareness in April for Child Abuse Prevention Month, in May for Water Safety Month, and October for Safe Sleep Month. The activities for these awareness months include public service announcements, radio and television advertisements, social media campaigns, media tool kits, and more.¹⁹

The Department pays for this contract using federal Community-Based Child Abuse Prevention grant dollars. On August 21st, 2023, DCF, the Florida Department of Health (DOH), Agency for Persons with Disabilities, and the Ounce held an event that called for a greater awareness of children left in hot cars.²⁰

The Florida Department of Health

The DOH's Injury Prevention Section collaborates with Safe Kids Florida²¹ to implement evidence-based programs that help parents and caregivers prevent childhood injuries.²² As of June 2023, 15 local Safe Kids coalitions cover 42 counties throughout Florida. These coalitions promote prevention efforts by hosting educational events for parents and caregivers.²³

The Florida Department of Highway Safety and Motor Vehicles

Current law authorizes the Florida Department of Highway Safety and Motor Vehicles (FLHSMV) to purchase educational items as part of the public information and educational campaigns promoting highway safety, awareness, and community-based initiatives.²⁴ FLHSMV's 2023 Safe Summer Travel campaign recently raised awareness of, among other topics, vehicular heatstroke prevention.²⁵

Effects of Proposed Changes

The bill allows the act to be cited as "Ariya's Act" in memoriam of a 10-month-old infant who died of heatstroke after being left in a vehicle.

The bill creates s. 638.336, F.S., to designate April as "Hot Car Death Prevention Month" for two purposes:

1. To raise the public's awareness of the dangers of leaving children unattended in motor vehicles, and
2. To educate the public on how to prevent children dying from vehicular heatstroke.

¹⁷ Ss. 768.16 – 768.26, F.S. The Florida Wrongful Death Act creates a civil cause of action when the death of a person is caused by the wrongful act or negligence (although the death was caused under circumstances constituting a felony) and the event would have entitled the person injured to maintain an action and recover damages if the death had not occurred.

¹⁸ The Ounce is a private, nonprofit corporation dedicated to shaping prevention policy and investing in innovative prevention programs that provide measurable benefits to Florida's children, families, and communities. The Ounce of Prevention of Florida, Home, <http://www.ounce.org> (last visited Jan. 11, 2024).

¹⁹ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 591, p. 2 (Dec. 27, 2023).

²⁰ *Id.*

²¹ Safe Kids is a 501(c)(3) non-profit organization located in the Washington, D.C. area with a mission of preventing unintentional childhood injury. Safe Kids was founded by Children's National Hospital (Washington D.C.) in 1988. Safe Kids Worldwide, *Who We Are*, <https://www.safekids.org/who-we-are> (last visited Jan. 11, 2024).

²² Safe Kids Worldwide, *Safe Kids Florida*, <https://www.safekids.org/coalition/safe-kids-florida> (last visited Jan. 11, 2024).

²³ Florida Department of Health, *Safe Kids Florida*, (last reviewed June 24, 2023) <https://www.floridahealth.gov/programs-and-services/safe-kids-florida/index.html> (last visited Jan. 11, 2024).

²⁴ Ss. 316.003(19), 316.6131, F.S.

²⁵ Florida Department of Highway Safety and Motor Vehicles, *Safe Summer Travel*, <https://www.flhsmv.gov/safety-center/driving-safety/safe-summer-travel/> (last visited Jan. 11, 2024).

The bill requires the educational component to include at least three parts:

1. Proper motor vehicle safety for children,
2. The criminal penalties associated with leaving a child in a motor vehicle unattended or unsupervised, and
3. The steps a bystander can take to rescue a vulnerable child in imminent danger, as set forth in s. 768.139.

The bill encourages DCF, DOH, local governments, and other agencies to sponsor events that promote awareness on the dangers of leaving a child unattended in a motor vehicle and methods to prevent hot car deaths of children.

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

B. SECTION DIRECTORY:

Section 1: Creating an unnumbered section of law.

Section 2: Creating s. 683.336, F.S., relating to hot car death prevention month.

Section 3: Providing an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. Any additional costs to state agencies can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill encourages local governments to sponsor events. Costs to local governments are indeterminate, but any costs due to actions under the bill are voluntarily incurred as the bill does not require local governments to undertake any action.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

State agencies have sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to hot car death prevention; providing
 3 a short title; creating s. 683.336, F.S.; designating
 4 the month of April as "Hot Car Death Prevention
 5 Month"; encouraging specified entities to sponsor
 6 events to promote public awareness on the dangers of
 7 leaving a child unattended in a motor vehicle;
 8 providing methods to prevent hot car deaths; providing
 9 an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. This act may be cited as "Ariya's Act."

14 Section 2. Section 683.336, Florida Statutes, is created
 15 to read:

16 683.336 Hot Car Death Prevention Month.-

17 (1) The month of April is designated as "Hot Car Death
 18 Prevention Month," to raise awareness of the dangers of leaving
 19 children in motor vehicles unattended and to educate the public
 20 in preventing hot car deaths of children.

21 (2) The Department of Children and Families, the
 22 Department of Health, local governments, and other agencies are
 23 encouraged to sponsor events that promote public awareness on
 24 the dangers of leaving a child unattended in a motor vehicle and
 25 methods to prevent hot car deaths of children, including

HB 591

2024

26 educating the public relating to:

27 (a) Proper motor vehicle safety for children;

28 (b) The criminal penalties associated with leaving a child

29 in a motor vehicle unattended or unsupervised; and

30 (c) Steps a bystander can take to rescue a vulnerable

31 child in imminent danger, as set forth in s. 768.139.

32 Section 3. This act shall take effect July 1, 2024.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 591 (2024)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Children, Families &
2 Seniors Subcommittee

3 Representative Brannan offered the following:

4

5 **Amendment**

6 Remove line 22 and insert:

7 Department of Health, the Department of Highway Safety and Motor
8 Vehicles, local governments, and other agencies are

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1083 Permanency for Children

SPONSOR(S): Children, Families & Seniors Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|--------|------------|--|
| Orig. Comm.: Children, Families & Seniors Subcommittee | | DesRochers | Brazzell |

SUMMARY ANALYSIS

When child welfare necessitates that the Florida 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 is available for a period of time or independent living programs are available to help the young adult transition into adulthood.

PCS for 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. PCS for HB 1083 addresses the following topics:

Permanency: Makes several changes to streamline permanency by creating a legal process for orphaned children, requiring that a child knows the successor guardian, provides flexibility for service of process in termination of parental rights advisory hearings, ensures safe and appropriate placements, and restricts access to the statewide adoption exchange.

Adoption Proceedings: Shifts judicial review of DCF's decision on an adoption application from a separate administrative process to the dependency court.

Criminal History Checks for Child Placements: Defines the scope of individuals subject to a fingerprint-based background records check for child placements, which will bring the state into compliance with Federal regulations and maintain DCF's expedited access to the Federal Bureau of Intelligence (FBI)'s criminal history records database.

Independent Living Expansion: Expands the criteria for Post-Secondary Education and Support (PESS), Aftercare, and Extended Guardianship and Adoption Assistance Programs, to make it easier for young adults aged 18 to 23 who have been in foster care system to receive benefits as they transition to independence.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida's 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

- to provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- to ensure secure and safe custody;
- to promote the health and well-being of all children under the state's care; and
- to 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 child welfare 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 child welfare system.³

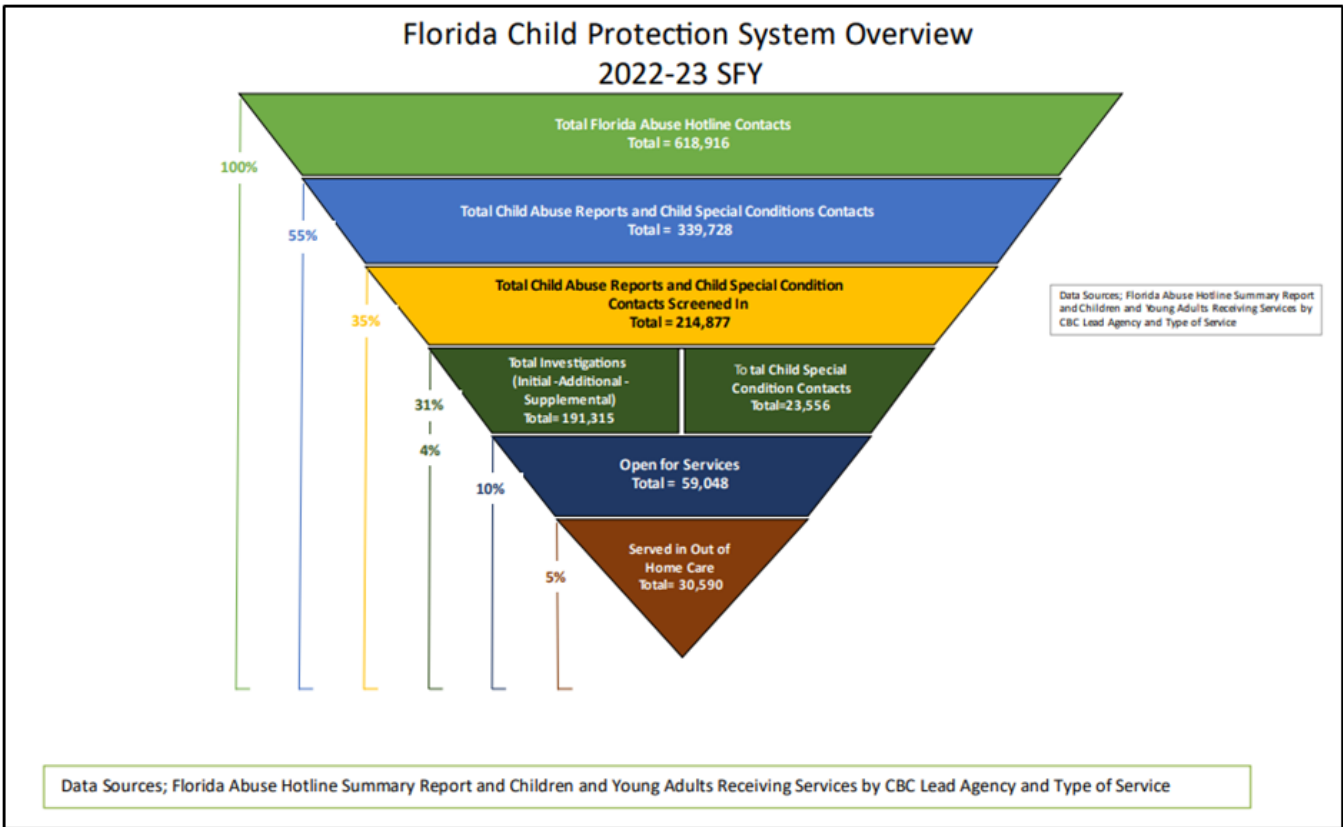
During state fiscal year (SFY) 2022-23, there were a total of 339,728 child abuse reports and child special conditions contacts for potential child abuse and neglect, and 63% percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.⁴

¹ S. 39.001(1)(a), F.S.

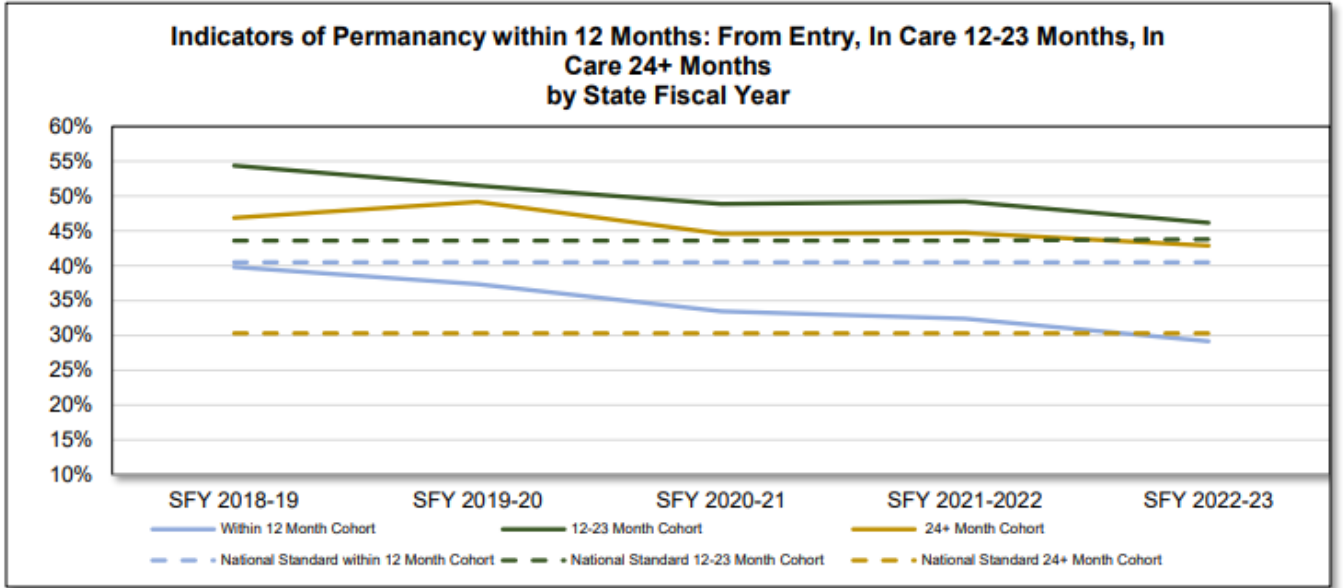
² OPPAGA, report 06-50.

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 Dec. 1, 2023).



Also for SFY 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).⁵ As the chart below illustrates, Florida’s performance for each cohort generally declined over the past several years, with state’s performance in achieving permanency for children in care less than 12 months declining over 25%.⁶



Dependency Case Process

⁵ 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 Dec. 1, 2023).

⁶ *Id.*
 STORAGE NAME: pcs1083.CFS
 DATE: 1/23/2024

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.⁷

The Dependency Court Process

| Dependency Proceeding | Description of Process | Controlling 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. |
| 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. |

⁷ 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.

| | | |
|----------------------|---|-----------------|
| 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 Florida Supreme Court’s *Florida Rules of Juvenile Procedure* control procedural matters for Chapter 39 dependency proceedings unless otherwise provided by law.⁸ 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 they may be given the opportunity to offer a defense.⁹ Without proper service of process, the court lacks personal jurisdiction over the opposing party.¹⁰

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.¹¹ 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.¹² 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),¹³ and s. 39.801(3), F.S., still requires personal service upon a parent in a TPR advisory hearing.¹⁴ 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

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.¹⁵ 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.¹⁶

During SFY 2022-2023, 10,686 children exited out-of-home care. The table below shows the number placement type.

Permanency Placements SFY 2022-2023¹⁷

⁸ S. 39.013(1), F.S.; Fla. R. Juv. P. 8.000.

⁹ *M.J.W. v. Fla. Dep’t of Children and Families*, 825 So.2d 1038, 1041 (Fla. 1st DCA 2002).

¹⁰ *Id.*

¹¹ S. 39.502(2), F.S.; Fla. R. Juv. P. 8.225(a)(3)(C).

¹² *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).

¹³ *Id.* at Appendix, Rule 8.505. Process and Service.

¹⁴ S. 39.801(3)(b), F.S.

¹⁵ *Supra*, FN 4.

¹⁶ S. 39.621(3), F.S.

| Reunification | Adoption | Permanent Guardianship | Permanent Placement with a fit and willing relative or in another planned permanent living arrangement |
|---------------|----------|------------------------|--|
| 4,645 | 3,521 | 1,926 | 594 |

Some children living in DCF licensed care do not receive a permanent placement and age out of the 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:

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.

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), leave 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 Prior to Child Placement

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 rule defines a "household member" as "any person 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 and/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

¹⁷ Office of Child Welfare Performance and Quality Improvement, *Child Welfare Key Indicators Monthly Report, October 2023*, Florida Department of Children and Families, (Oct. 2023) https://www.myffamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last visited Jan. 16, 2024). DCF did not breakdown the numbers for permanent placement with a fit and willing relative or placement in another planned permanent living arrangement.

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.

²¹ S. 39.0138(1), F.S.

²² 65C-30.001(59), F.A.C.

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 also disclose to DCF any prior or pending local, state, or national criminal proceeding in they are or were involved.²⁸

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 FBI review and must be awaiting the results of the state and national criminal history records check.³⁰

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, 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. While DCF retains temporary access to FBI criminal history record information because of a grace period, s. 39.0138, F.S., must be brought into compliance by January 1, 2025, or DCF risks losing access to FBI criminal history record information that is necessary to conduct these background checks.³¹

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.³² 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.³³ In FY 2022-23, the court granted a postdisposition change in custody for 6,672 children.³⁴

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 is abuse, abandonment, or neglect in the current placement, DCF takes physical custody of the child. Without an emergency postdisposition process in current law, DCF can only petition the court for a

²³ S. 39.0138(1), F.S.

²⁴ 65C-28.011(1)(e), F.A.C.

²⁵ *Id.* The foreign state's jurisdiction may or may not allow the release of such records.

²⁶ *Id.*

²⁷ *Id.*

²⁸ S. 39.1038(6), F.S.

²⁹ S. 39.0138(5), F.S.

³⁰ *Id.*

³¹ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 3 (Dec. 15, 2023).

³² *See* S. 39.01(24), F.S.

³³ 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.

³⁴ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 6 (Dec. 15, 2023).

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.³⁵

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.³⁶

Guardianship Assistance Program

DCF operates the Guardianship Assistance Program to provide guardianship assistance payments to the 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.³⁷

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.³⁸

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.³⁹

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.

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.⁴⁰

³⁵ *Id.*

³⁶ S. 39.6221(6), F.S.

³⁷ S. 39.6225(2), F.S.

³⁸ S. 39.6225(3), F.S.

³⁹ S. 39.6225(5)(d), F.S.

⁴⁰ S. 39.6225(9), F.S.

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 child-only cash assistance under Chapter 414.⁴¹

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.⁴²

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 child-only cash assistance under Chapter 414.⁴³

Successor Guardians

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.⁴⁴

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.⁴⁵ The permanent guardian nominates a successor guardian on the written Guardianship Assistance Agreement with DCF.⁴⁶ As a prerequisite of nomination and approval, the successor guardian must successfully complete a number of criminal, delinquency, and abuse/neglect history checks.⁴⁷ 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.⁴⁸

The successor guardian is not required to be a relative, fictive kin, or licensed caregiver.⁴⁹

Adoption of Children from the Child Welfare System

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.⁵⁰

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 training program.⁵¹ To adopt, the prospective adoptive parent must complete the training program,⁵² a DCF adoption application, and a home study.⁵³ The home study component is two parts: the preliminary home study and the final home investigation. A favorable preliminary home study allows

⁴¹ S. 39.6225(5)(a), F.S.

⁴² S. 39.6225(9), F.S.

⁴³ S. 39.6225(5)(a), F.S.

⁴⁴ S. 39.6221(1), F.S.

⁴⁵ R. 65C-44.001(6), 65C-44.0045, F.A.C.

⁴⁶ R. 65C-44.004, F.A.C.

⁴⁷ R. 65C-44.0045, F.A.C.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ S. 63.093(1), F.S.

⁵¹ S. 63.093(2), F.S.

⁵² 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.

⁵³ Ss. 63.093(2)-(4), F.S.

the child adjudicated dependent to be placed in the intended adoptive home – pending the trial court’s entry of the judgment of adoption.⁵⁴ A preliminary home study must include at a minimum an interview, a records checks, a physical home environment assessment, a financial security determination, and other required documentation.⁵⁵ The final home investigation must be conducted before the adoption becomes final.⁵⁶ The final home investigation determines the suitability of the adoptive placement with two scheduled visits and vets the applicant’s social and medical history.⁵⁷

Afterwards, one of the agencies must evaluate the applications through a preparation process prescribed by rule⁵⁸ and must decide the applicant’s appropriateness to adopt.⁵⁹ 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.⁶⁰

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.⁶¹

The 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.⁶²

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.⁶³

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 exchange as a means to recruit adoptive families for children legally freed for adoption and who have

Adoption of Orphaned Children

A child adjudicated dependent under Chapter 39 can be a child who was abandoned because they lack a parent or legal custodian capable of providing supervision and care.⁶⁴ When orphaned children are adjudicated dependent, there is no statutory mechanism to permanently commit the child to DCF for the purposes of adoption because an orphaned child’s parent(s) did not abandon them.⁶⁵ As Chapter 39 defines abandonment, abandonment means the parent made “no significant contribution to the

⁵⁴ S. 63.092(3), F.S.

⁵⁵ *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.

⁵⁶ S. 63.125(1), F.S.

⁵⁷ S. 63.125(5), F.S.

⁵⁸ R. 65C-16.005, F.A.C.

⁵⁹ S. 63.093(5), F.S.

⁶⁰ S. 63.093(5), F.S.

⁶¹ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 11 (Dec. 15, 2023).

⁶² 42 U.S.C. § 675(1)(E)

⁶³ 42 U.S.C. § 5113(e)

⁶⁴ S. 39.01(14)(e), F.S.

⁶⁵ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023); see s. 39.01(1), F.S.

child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both."⁶⁶

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.⁶⁷

A judgment of adoption relieves the birth parents of all parental rights and responsibilities, terminates all legal relationships between the adopted person and their birth parents and relatives, and creates a familial and legal relationship between the adopted person, the adoptive parent, and the adoptive parent's relatives.⁶⁸ Notably, the adopted person lacks intestate⁶⁹ inheritance rights to the petitioner's estate.⁷⁰ Meanwhile, the Florida Probate Code may preserve the adopted person's intestate inheritance rights to their birth parents' estate.⁷¹

For orphaned children, 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.⁷² 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.⁷³ Complicating matters, a TPR court order generally requires a judicial finding of harmful parental behavior towards the child.⁷⁴ Also, while living parents may voluntarily surrender their parental rights over a child by written consent,⁷⁵ 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.⁷⁶

This current technical shortcoming in Florida statute means DCF lacks statutory authorization to secure legal custody of orphaned children for purposes of a permanent placement through a court order.⁷⁷

Legal Challenges to Denied Adoption Petitions

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.⁷⁸ 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.⁷⁹

Unsuccessful applicants get an opportunity to challenge DCF's decision under Florida's Administrative Procedure Act (APA).⁸⁰ 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.⁸¹ A final

⁶⁶ S. 39.01(1), F.S.

⁶⁷ *G.S. v. T.B.*, 985 So.2d 978, 982 (Fla. 2008).

⁶⁸ S. 63.172(1), F.S.

⁶⁹ 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).

⁷⁰ S. 63.172(1)(c), F.S.

⁷¹ S. 63.172(1)(b), F.S.

⁷² S. 63.172(2), F.S.

⁷³ See s. 39.621(3)(b), F.S.

⁷⁴ S. 39.806(1), F.S.

⁷⁵ S. 39.806(1)(a), F.S.

⁷⁶ S. 63.064, F.S.

⁷⁷ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023).

⁷⁸ R. 65C-16.005(9), F.A.C.

⁷⁹ These certified letters represent final agency action for purposes of Florida's Administrative Procedure Act.

⁸⁰ *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).

⁸¹ S. 120.57(2), F.S.

order is due within 90 days after the conclusion of an informal hearing.⁸² 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).⁸³ 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.⁸⁴ Then, DCF may adopt the ALJ’s recommended order as the final order or advance its own final order within 90 days.⁸⁵

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.⁸⁶ The chart below surveys administrative challenges to denied adoption petitions:⁸⁷

| Year | DCF Decisions Made After APA Review | (CBC AARC Decisions Overturned by these DCF Decisions) | DCA Appeals | (DCF Decisions After APA Review Overturned through DCA Appeals) |
|------|-------------------------------------|--|-------------|---|
| 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 |

As the chart suggests, a party who is adversely affected by final agency action is entitled to judicial review.⁸⁸ Generally, the unsuccessful applicant must appeal DCF’s adoption decision to the First District Court of Appeals (the appellate district where DCF maintains its headquarters) or the appellate district of the party’s residence.⁸⁹ From 2021 through 2022, the average additional delay created when an unsuccessful applicant appeals a DCF adoption decision to the appellate court was 323 days.⁹⁰

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.⁹¹

Current law empowers a denied adoption applicant to file a petition with the court to argue DCF unreasonably withheld agency consent for the applicant to adopt the child. Along with the petition, the denied adoption applicant must also file a favorable preliminary adoptive home study. If the trial court agrees with the petitioner that DCF unreasonably withheld agency consent for the applicant to adopt the child, then the court waives DCF consent.⁹² Fundamentally, DCF’s consent to an adoption is not a prerequisite to the trial court’s authority to finalize an adoption.⁹³ 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.⁹⁴

State Adoption Subsidies

⁸² S. 120.56(2)(l), F.S.

⁸³ S. 120.57(1)(a), F.S.

⁸⁴ S. 120.57(1)(k), F.S.

⁸⁵ Ss. 120.56(2)(l), 120.57(1)(l), F.S.

⁸⁶ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).

⁸⁷ *Id.*

⁸⁸ S. 120.68(1)(a), F.S.

⁸⁹ S. 120.68(2)(a), F.S.

⁹⁰ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).

⁹¹ S. 39.812(4), F.S.

⁹² S. 63.062(7), F.S.

⁹³ *B.Y. v. Fla. Dep’t of Children and Families*, 887 So.2d 1253, 1257 (Fla. 2004).

⁹⁴ *Id.*

The Maintenance Adoption Subsidy

Current law makes adoption assistance available to prospective adoptive parents to enable them to adopt difficult-to-place children.⁹⁵ A difficult-to-place child is a child:

1. adjudicated dependent remaining in the permanent custody of DCF of a licensed child-placing agency;
2. adjudicated dependent who established significant emotional ties with the foster parents or is unlikely to be adopted for certain reasons;⁹⁶ or
3. for whom a reasonable but unsuccessful effort was made to place that child without providing a maintenance subsidy.⁹⁷

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.⁹⁸ As to the maintenance subsidy, DCF grants this monthly payment 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.⁹⁹

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.¹⁰⁰ 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 needs of the child or the circumstances of the adoptive parents.¹⁰¹

Current law extends maintenance subsidy payments beyond the child's 18th birthday in certain situations. First, the child's adoptive parents need to create an initial Adoption Assistance Agreement with DCF during the period between the child's 16th birthday and 18th birthday. 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:

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.

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.¹⁰²

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.

⁹⁵ S. 409.166(1), F.S.

⁹⁶ 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.

⁹⁷ S. 409.166(2)(d), F.S.

⁹⁸ S. 409.166(2)(a), F.S.

⁹⁹ S. 409.166(4)(b), F.S.

¹⁰⁰ S. 409.166(5)(a), F.S.

¹⁰¹ S. 409.166(4)(c), F.S.

¹⁰² S. 409.166(4)(d), F.S.

Transition to Adulthood

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.¹⁰³ 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.¹⁰⁴ These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.¹⁰⁵

In federal fiscal year 2021, the federal Children’s Bureau within the U.S. Department of Health & Human Services reported 46,694 teens and young adults entered foster care in the United States,¹⁰⁶ with 2,167 teens and young adults entering Florida’s foster care system.¹⁰⁷ The Children’s Bureau also collects information and outcomes on youth and young adults currently or formerly in foster care who received independent living services supported by federal funds.¹⁰⁸ To this end, the Children’s Bureau’s National Youth in Transition Database (NYTD) representation 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.

DCF will establish its fifth NYTD report (Oct. 2022 – Sept. 2023) that surveys youth in Florida’s foster care system beginning on their 17th birthday.¹⁰⁹ In the interim, the most recent Florida NYTD available on DCF’s website is the 2018 report.¹¹⁰ In the chart below, the 2018 Florida NYTD documented outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections:¹¹¹

| 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. |

¹⁰³ Gypen, L., Vanderfaillie, J., et al., “Outcomes of Children Who Grew Up in Foster Care: Systematic-Review”, *Children and Youth Services Review*, vol. 76, pp. 74-83, <http://dx.doi.org/10.1016/j.childyouth.2017.02.035> (last visited November 30, 2023).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data*, U.S. Department of Health and Human Services, p. 2, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf> (last accessed Dec. 3, 2023).

¹⁰⁷ Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data: Florida*, U.S. Department of Health and Human Services, p. 1, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-tar-fl-2021.pdf> (last accessed Dec. 3, 2023).

¹⁰⁸ 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 Dec. 3, 2023).

¹⁰⁹ Florida Department of Children and Families, *Independent Living Services Annual Report*, Office of Child Welfare, Feb. 2023, p. 15 https://www.myflfamilies.com/sites/default/files/2023-07/Independent_Living_Services_Report_2022.pdf (last visited Dec. 4, 2023).

¹¹⁰ 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 Dec. 4, 2023).

¹¹¹ 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 Dec. 4, 2023).

| | |
|--|--|
| <p>Housing</p> | <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.¹¹² |
| <p>Financial & Transportation</p> | <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. |
| <p>Health & Well-Being</p> | <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. |
| <p>Connections</p> | <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. |

Florida's Road-to-Independence Program

Current law offers financial assistance to eligible young adults who desire the acquisition of skills, education, and necessary support to become self-sufficient and exit foster care. Eligible young adults access financial assistance through postsecondary education services and support (PESS) or aftercare services.¹¹³

PESS

The PESS stipend helps eligible young adults seek higher education and self-sufficiency. A young adult becomes PESS eligible once eight criteria are met:

1. A former foster youth who is in one of three situations:
 - a. Turned 18 years of age while in the legal custody of DCF,
 - b. 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
 - c. 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 their 18th birthday.
3. Earned a standard high school diploma or its equivalent.
4. Admitted for enrollment as a full-time student¹¹⁴ at an eligible Florida Bright Futures postsecondary educational institution.
5. Reached the age of 18 but is not yet 23 years of age.
6. Applied for other grants and scholarships that the eligible young adult qualifies for.

¹¹² *Id.*

¹¹³ S. 409.1451(1)(c), F.S.

¹¹⁴ 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.

7. Submitted a complete and error-proof Free Application for Federal Student Aid.
8. Signed an agreement to allow DCF and the CBC lead agency access to school records.¹¹⁵

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.¹¹⁶

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.¹¹⁷ Eligible young adults receive financial assistance during the months when they are enrolled in a postsecondary education institution.¹¹⁸

¹¹⁵ S. 409.1451(2)(a), F.S.

¹¹⁶ S. 409.1451(2)(b), F.S.

¹¹⁷ S. 409.1451(2)(d), F.S.

¹¹⁸ S. 409.1451(2)(b), F.S.

Aftercare Services

Aftercare services are intended to bridge gaps in an eligible young adult's progress towards self-sufficiency. A young adult establishes eligibility for aftercare services if the young adult meets three criteria:

1. Reached the age of 18 while in licensed foster care, but is not yet 23 years of age.
2. Is not in Extended Foster Care pursuant to s. 39.6251, F.S.
3. Temporarily not receiving a PESS stipend.¹¹⁹

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

1. Mentoring and tutoring.
2. Mental health services and substance abuse counseling.
3. Life skills classes, including credit management and preventive health activities.
4. Parenting classes.
5. Job and career skills training.
6. Counselor consultations.
7. Temporary financial assistance for necessities.
8. Temporary financial assistance for emergencies like automobile repairs or large medical expenses.
9. Financial literacy skills training.¹²⁰

DCF or a CBC lead agency determines the specific aftercare services provided to eligible young adults after an assessment.¹²¹ The resulting aftercare services plan is reassessed every 90 days.¹²² 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.¹²³

DCF reports that Florida experienced a 13% increase in the total number of young adults receiving independent living services for state fiscal year (SFY) 2022-2023 compared to SFY 2021-2022. The table below itemizes the number of young adults served in each Independent Living program by each CBC Lead Agency during the past two state fiscal years (SFYs):

¹¹⁹ S. 409.1451(3)(a), F.S.; R. 65C-42.003(1), F.A.C.

¹²⁰ S. 409.1451(3)(b), F.S.

¹²¹ S. 409.1451(3)(b), F.S.

¹²² R. 65C-42.003(8), F.A.C.

¹²³ 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 |

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Effect of the Bill

Records Check Process

To preserve DCF's access to the FBI's criminal history records database, Florida must bring DCF's record checks process into federal compliance. PCS for HB 1083 requires the following:

- *Household Members:*
 - For emergency out-of-home care placements to benefit sheltered children, DCF to conduct a name-based criminal history records check of all adult members of a household.
 - Once DCF determines no household member is disqualified after the records check, the bill authorizes DCF to place the child in that household.
 - Unless an exemption applies, the bill requires all adult household members to subsequently submit a full set of fingerprints which the Florida Department of Law Enforcement (FDLE) must receive within 7 calendar days after the records check.
 - Then, the bill requires FDLE to forward the fingerprints to the Federal Bureau of Investigation for national processing within 15 calendar days after the records check.
 - Should an adult household member fail to submit their fingerprints within 15 calendar day after the records check, the bill requires DCF to seek a court order to immediately remove the child from the emergency out-of-home care placement.
- *Visitors to the Household:*

¹²⁴ Department of Children and Families, *Department of Children and Families Response to the Independent Living Services Advisory Council 2023 Annual Report*, p. 6 (Dec. 31, 2023) <https://www.myflfamilies.com/services/child-family/lmr> (last visited Jan. 4, 2023). EFC is the acronym for Extended Foster Care and is beyond the scope of this bill.

- The bill adds a chapter-wide definition of visitor in s. 39.01, F.S. For Chapter 39 purposes, the bill defines a “visitor” as a person who provides care or supervision to a child the home or is person 12 years of age or older who will be in the child’s home at least five consecutive days or a minimum of seven days total for any one-month period.
- With this new definition in mind, the bill requires DCF to conduct a name-based check of criminal history records of all visitors to the home.
- As a matter of discretion, 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.

The bill modernizes the name of DCF’s record checks system to the Comprehensive Child Welfare Information System.

Orphaned Children Adjudication Process

The bill creates a formal process to adjudicate orphaned children dependent tailored to their situation.

- 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 Chapter 39 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.
- In the event a child previously adjudicated dependent later becomes an orphan, the bill allows an interested party to file a petition for permanent commitment as a petition for adjudication is not necessary.
- The bill requires a petition for adjudication or permanent commitment of an orphaned child to include the following details in writing:
 - Identity of the allegedly deceased parents.
 - A factual basis that both parents are deceased or the last known living parent is deceased.
 - A factual basis that the child has not receive an appointed legal custodian.
- The bill requires the petitioner to sign a petition under oath affirming the petition was 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.

Emergency Process for Modifying a Child’s Permanent 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:

- The bill allows a child’s case manager, an authorized agent of DCF, and law enforcement officers to 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.
- Separately, the bill authorizes DCF and law enforcement officers to 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 prescribes the procedural process for the court to 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.

Changes a Placement with a Permanent Guardian

The bill cuts 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.

Age Eligibility Threshold Programs for Formerly Dependent Young Adults

The bill amends the age eligibility threshold for the extended guardianship assistance payment (EGAP), the extended maintenance adoption subsidy (EMAS), and the PESS programs by lowering the child's minimum eligibility age from 16 to 14. In addition, the bill allows young adults who qualify for, but do not participate in, the EGAP or EMAS programs to access aftercare services instead.

As illustrated by the table below, DCF projects participation in EGAP, EMAS, PESS, and aftercare services will increase as follows.

| Program | Increased Eligible Population | Estimated Increase in Participation |
|--------------------|--------------------------------------|--|
| EGAP | 782 | 235 |
| EMAS | 550 | 165 |
| PESS | 351 | 71 |
| Aftercare Services | 1,835 | 275 |
| Totals | 3,518 | 746 |

Service of Process Waiver in TPR Proceedings

In advisory proceedings for the termination of parental rights, the bill authorizes the court to waive the 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 on whom process is required makes a personal appearance, whether that person is physically present in the courtroom or remotely present in the courtroom by audio-video communication technology.

Adoption Appeal Process

The bill streamlines the process to resolve competing claims of prospective adoptive parents who were denied petitions to adopt. Specifically, the bill:

- grants the dependency trial court exclusive discretion to review DCF's denial of a petitioner's application to adopt a child.
- expressly eliminates the petitioner's access to administrative review under Chapter 120.
- prescribes the procedural process for the court to review a denied application to adopt.
 - While DCF must file a written notification of the denied application with the court and provide copies to all parties within 10 business days after DCF's decision, the court does not hold a hearing about the denial until the unsuccessful applicant files a motion to review.
 - If the court denies the unsuccessful applicant's motion to review, the bill authorizes DCF to remove the child from the unsuccessful applicant's home.
- requires the petition of adoption to include two items:
 - a favorable preliminary adoptive home study, and
 - an attached copy of DCF's consent to adopt unless the court waives the attached copy requirement upon a finding that DCF unreasonably withheld their consent to adopt.

DCF estimates these particular reforms will shave an average of 116 days of delay in the current permanency process.

Statewide Adoption Exchange Platform

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.

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

B. SECTION DIRECTORY:

Section 1: Amending s. 39.01, F.S., relating to definitions.

Section 2: Amending s. 39.0138, F.S., relating to criminal history and other records checks; limit on placement of a child.

Section 3: Creating s. 39.5035, F.S., relating to deceased parents; special procedures.

Section 4: Amending s. 39.522, F.S., relating to postdisposition change of custody.

Section 5: Amending s. 39.6221, F.S., relating to permanent guardianship of a dependent child.

Section 6: Amending s. 39.6225, F.S., relating to the guardianship assistance program.

Section 7: Amending s. 39.801, F.S., relating to procedures and jurisdiction; notice; service of process.

Section 8: Amending s. 39.812, F.S., relating to postdisposition relief; petition for adoption.

Section 9: Amending s. 63.062, F.S., relating to persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.

Section 10: Amending s. 63.093, F.S., relating to adoption of children from the child welfare system.

Section 11: Amending s. 409.1451, F.S., relating to the road-to-independence program.

Section 12: Amending s. 409.166, F.S., relating to children within the child welfare system; adoption assistance program.

Section 13: Amending s. 409.167, F.S., relating to statewide adoption exchange; establishment; responsibilities; registration requirements; rules.

Section 14: Providing an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DCF anticipates new expenditures to fund expansions of independent living programs in the amount of \$8,110,140.

- EMAS/EGAP expansion is \$3,216,000.
- PESS expansion is \$1,465,440.
- Aftercare services expansion is \$3,428,700.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DCF has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to permanency for children; amending
3 s. 39.01, F.S.; defining the term "visitor"; amending
4 s. 39.0138, F.S.; renaming the "State Automated Child
5 Welfare Information System" as the "Comprehensive
6 Child Welfare Information System"; requiring the
7 Department of Children and Families to conduct a
8 criminal history records check of certain
9 visitors to a home in which a child is placed;
10 requiring the department to conduct a name-based check
11 of criminal history records of all visitors to such
12 home and certain other persons in specified
13 circumstances; requiring certain persons to submit
14 their fingerprints to the department or other
15 specified entities; requiring the department or such
16 entities to submit such fingerprints to the Department
17 of Law Enforcement for state processing within a
18 specified timeframe; requiring the Department of Law
19 Enforcement to forward such fingerprints to the
20 Federal Bureau of Investigation within a specified
21 timeframe; requiring a child to be immediately removed
22 from a home if certain persons fail to provide their
23 fingerprints and are not otherwise exempt from a
24 criminal history records check; creating s. 39.5035,
25 F.S.; providing procedures and requirements relating

26 | to deceased parents of a dependent child; amending s.
27 | 39.522, F.S.; authorizing certain persons to remove a
28 | child from a court-ordered placement under certain
29 | circumstances; requiring the Department of Children
30 | and Families to file a specified motion, and the court
31 | to set a hearing, within specified timeframes under
32 | certain circumstances; requiring a certain
33 | determination by the court to support immediate
34 | removal of a child; authorizing the court to base its
35 | determination on certain evidence; requiring the court
36 | to enter certain orders and conduct certain hearings
37 | under certain circumstances; amending s. 39.6221,
38 | F.S.; revising a requisite condition for placing a
39 | child in a permanent guardianship; amending s.
40 | 39.6225, F.S.; revising eligibility for payments under
41 | the Guardianship Assistance Program; amending s.
42 | 39.801, F.S.; providing that service of process is not
43 | necessary under certain circumstances; amending s.
44 | 39.812, F.S.; authorizing the court to review the
45 | Department of Children and Families' denial of an
46 | application to adopt a child; requiring the department
47 | to file written notification of its denial with the
48 | court and provide copies to certain persons within a
49 | specified timeframe; authorizing a denied applicant to
50 | file a motion to review such denial within a specified

51 | timeframe; requiring the court to hold a hearing
52 | within a specified timeframe; providing standing to
53 | certain persons; authorizing certain persons to
54 | participate in the hearing under certain
55 | circumstances; requiring the court to enter an order
56 | within a specified timeframe; providing an exception
57 | to authorize the department to remove a child from his
58 | or her foster home or custodian; amending s. 63.062,
59 | F.S.; conforming provisions to changes made by the
60 | act; amending s. 63.093, F.S.; requiring an adoptive
61 | home study to be updated every 12 months after the
62 | date on which the first study was approved; requiring
63 | the department to adopt certain rules; amending s.
64 | 409.1451, F.S.; revising the age requirements for
65 | receiving postsecondary education services and
66 | support; revising the requirements for receiving
67 | aftercare services; amending s. 409.166, F.S.;
68 | revising the age requirements for receiving adoption
69 | assistance; repealing s. 409.1662, F.S., relating to
70 | children within the child welfare system and the
71 | adoption incentive program; amending s. 409.167, F.S.;
72 | providing requirements for the statewide adoption
73 | exchange and its photo listing component; authorizing
74 | only certain persons to access such photo listing
75 | component; conforming provisions to changes made by

76 | the act; providing an effective date.

77 |

78 | Be It Enacted by the Legislature of the State of Florida:

79 |

80 | Section 1. Subsection (88) is added to section 39.01,
81 | Florida Statutes, to read:

82 | 39.01 Definitions.—When used in this chapter, unless the
83 | context otherwise requires:

84 | (88) "Visitor" means a person who:

85 | (a) Provides care or supervision to a child in the home;

86 | or

87 | (b) Is 12 years of age or older, other than a child in
88 | care, and who will be in the child's home at least:

89 | 1. Five consecutive days; or

90 | 2. Seven days or more in 1 month.

91 | Section 2. Subsections (1) and (5) of section 39.0138,
92 | Florida Statutes, are amended to read:

93 | 39.0138 Criminal history and other records checks; limit
94 | on placement of a child.—

95 | (1) The department shall conduct a records check through
96 | the Comprehensive State Automated Child Welfare Information
97 | System ~~(SACWIS)~~ and a local and statewide criminal history
98 | records check on all persons, including parents, being
99 | considered by the department for placement of a child under this
100 | chapter, including all nonrelative placement decisions, and all

101 members of the household, 12 years of age and older, of the
102 person being considered. For purposes of this section, a
103 criminal history records check may include, but is not limited
104 to, submission of fingerprints to the Department of Law
105 Enforcement for processing and forwarding to the Federal Bureau
106 of Investigation for state and national criminal history
107 information, and local criminal records checks through local law
108 enforcement agencies of all household members 18 years of age
109 and older and other visitors 18 years of age and older to the
110 home. An out-of-state criminal history records check must be
111 initiated for any person 18 years of age or older who resided in
112 another state if that state allows the release of such records.
113 The department must complete the records check within 14
114 business days after receiving a person's criminal history
115 results, unless additional information is required to complete
116 the processing. The department shall establish by rule standards
117 for evaluating any information contained in the automated system
118 relating to a person who must be screened for purposes of making
119 a placement decision.

120 (5)(a) If a child has been sheltered pursuant to s. 39.402
121 and must be placed in out-of-home care due to an emergency, the
122 department must conduct a name-based check of criminal history
123 records to ascertain if the person with whom placement of the
124 child is being considered and any other adult household members
125 of such person are disqualified.

126 (b) The department may place a child in the a home if the
127 person with whom placement of the child is being considered and
128 any other adult household members or visitors of the home are
129 not disqualified by the name-based check, but, unless exempt,
130 such persons must submit a full set of fingerprints to the
131 department or to a vendor, an entity, or an agency authorized
132 under s. 943.053(13). Unless exempt, within 7 calendar days
133 after the name-based check, the department, vendor, entity, or
134 agency must submit the fingerprints to the Department of Law
135 Enforcement for state processing. Within 15 calendar days after
136 the name-based check was conducted, the Department of Law
137 Enforcement must forward the fingerprints to the Federal Bureau
138 of Investigation for national processing that otherwise meets
139 placement requirements if a name check of state and local
140 criminal history records systems does not disqualify the
141 applicant and if the department submits fingerprints to the
142 Department of Law Enforcement for forwarding to the Federal
143 Bureau of Investigation and is awaiting the results of the state
144 and national criminal history records check.

145 (c) The department shall seek a court order to immediately
146 remove the child from the home if the person with whom the child
147 was placed or any other adult household members or visitors of
148 the home fail to provide their fingerprints within 15 calendar
149 days after the name-based check is conducted and such persons
150 are not exempt from a criminal history records check.

151 Section 3. Section 39.5035, Florida Statutes, is created
152 to read:

153 39.5035 Deceased parents; special procedures.-

154 (1)(a)1. If both parents of a child are deceased or the
155 last known living parent of a child is deceased and a legal
156 custodian has not been appointed for the child through a probate
157 or guardianship proceeding, then an attorney for the department
158 or any other person who has knowledge of the facts alleged or is
159 informed of the alleged facts, and believes them to be true, may
160 initiate a proceeding by filing a petition for adjudication and
161 permanent commitment.

162 2. If a child has been placed in shelter status by order
163 of the court but has not yet been adjudicated, a petition for
164 adjudication and permanent commitment must be filed within 21
165 days after the shelter hearing. In all other cases, the petition
166 must be filed within a reasonable time after the date the
167 petitioner first becomes aware of the facts that support the
168 petition for adjudication and permanent commitment.

169 (b) If both parents die or the last known living parent
170 dies after a child has already been adjudicated dependent, an
171 attorney for the department or any other person who has
172 knowledge of the facts alleged or is informed of the alleged
173 facts, and believes them to be true, may file a petition for
174 permanent commitment. The petition must be filed within a
175 reasonable time after the petitioner first becomes aware of the

176 facts that support the petition for permanent commitment.

177 (2) The petition must be:

178 (a) In writing, identify the alleged deceased parents, and
179 provide facts that establish that both parents of the child are
180 deceased or the last known living parent is deceased and that a
181 legal custodian has not been appointed for the child through a
182 probate or guardianship proceeding.

183 (b) Signed by the petitioner under oath stating the
184 petitioner's good faith in filing the petition.

185 (3) When a petition for adjudication and permanent
186 commitment or a petition for permanent commitment has been
187 filed, the clerk of court must set the case before the court for
188 an adjudicatory hearing. The adjudicatory hearing must be held
189 as soon as practicable after the petition is filed, but no later
190 than 30 days after the filing date.

191 (4) Notice of the date, time, and place of the
192 adjudicatory hearing and a copy of the petition must be served
193 on the following persons:

194 (a) Any person who has physical custody of the child.

195 (b) A living relative of each parent of the child, unless
196 a living relative cannot be found after a diligent search or
197 inquiry.

198 (c) The guardian ad litem for the child or the
199 representative of the guardian ad litem program, if the program
200 has been appointed.

201 (5) The court shall conduct adjudicatory hearings without
202 a jury and apply the rules of evidence in use in civil cases,
203 adjourning the hearings as necessary. The court must determine
204 whether the petitioner has established by clear and convincing
205 evidence that both parents of the child are deceased, or that
206 the last known living parent is deceased and the other parent
207 cannot be found after a diligent search or inquiry, and that a
208 legal custodian has not been appointed for the child through a
209 probate or guardianship proceeding. A certified copy of the
210 death certificate for each parent is sufficient evidence of the
211 parents' deaths.

212 (6) Within 30 days after an adjudicatory hearing on a
213 petition for adjudication and permanent commitment:

214 (a) If the court finds that the petitioner has met the
215 clear and convincing standard, the court must enter a written
216 order adjudicating the child dependent and permanently
217 committing the child to the custody of the department for the
218 purpose of adoption. A disposition hearing must be scheduled no
219 later than 30 days after the entry of the order, in which the
220 department must provide a case plan that identifies the
221 permanency goal for the child to the court. Reasonable efforts
222 must be made to place the child in a timely manner in accordance
223 with the permanency plan and to complete all steps necessary to
224 finalize the permanent placement of the child. Thereafter, until
225 the adoption of the child is finalized or the child reaches the

226 age of 18 years, whichever occurs first, the court must hold
227 hearings every 6 months to review the progress being made toward
228 permanency for the child.

229 (b) If the court finds that clear and convincing evidence
230 does not establish that both parents of a child are deceased, or
231 that the last known living parent is deceased and the other
232 parent cannot be found after a diligent search or inquiry, and
233 that a legal custodian has not been appointed for the child
234 through a probate or guardianship proceeding, but that a
235 preponderance of the evidence establishes that the child does
236 not have a parent or legal custodian capable of providing
237 supervision or care, the court must enter a written order
238 adjudicating the child dependent. A disposition hearing must be
239 scheduled no later than 30 days after the entry of the order as
240 provided in s. 39.521.

241 (c) If the court finds that the petitioner has not met the
242 clear and convincing standard and that a preponderance of the
243 evidence does not establish that the child does not have a
244 parent or legal custodian capable of providing supervision or
245 care, the court must enter a written order so finding and
246 dismiss the petition.

247 (7) Within 30 days after an adjudicatory hearing on a
248 petition for permanent commitment:

249 (a) If the court finds that the petitioner has met the
250 clear and convincing standard, the court must enter a written

251 order permanently committing the child to the custody of the
252 department for purposes of adoption. A disposition hearing must
253 be scheduled no later than 30 days after the entry of the order,
254 in which the department must provide an amended case plan that
255 identifies the permanency goal for the child to the court.
256 Reasonable efforts must be made to place the child in a timely
257 manner in accordance with the permanency plan and to complete
258 all steps necessary to finalize the permanent placement of the
259 child. Thereafter, until the adoption of the child is finalized
260 or the child reaches the age of 18 years, whichever occurs
261 first, the court must hold hearings every 6 months to review the
262 progress being made toward permanency for the child.

263 (b) If the court finds that clear and convincing evidence
264 does not establish that both parents of a child are deceased or
265 that the last known living parent is deceased and the other
266 parent cannot be found after a diligent search or inquiry, the
267 court must enter a written order denying the petition. The order
268 has no effect on the child's prior adjudication. The order does
269 not bar the petitioner from filing a subsequent petition for
270 permanent commitment based on newly discovered evidence that
271 establishes that both parents of a child are deceased, or that
272 the last known living parent is deceased, and that a legal
273 custodian has not been appointed for the child through a probate
274 or guardianship proceeding.

275 Section 4. Subsection (7) is added to section 39.522,

276 Florida Statutes, to read:

277 39.522 Postdisposition change of custody.—

278 (7) Notwithstanding any other provision of this section, a
 279 child's case manager, an authorized agent of the department, or
 280 a law enforcement officer may, at any time, remove a child from
 281 a court-ordered placement and take the child into custody if the
 282 court-ordered caregiver of the child requests immediate removal
 283 of the child from the home. Additionally, an authorized agent of
 284 the department or a law enforcement officer may, at any time,
 285 remove a child from a court-ordered placement and take the child
 286 into custody if there is probable cause as required under s.
 287 39.401(1)(b).

288 (a) If, at the time of the removal, the child was not
 289 placed in licensed care in the department's custody, the
 290 department must file a motion to modify placement within 1
 291 business day after the child is taken into custody. The court
 292 must then set a hearing within 24 hours after the motion is
 293 filed unless all of the parties and the current caregiver agree
 294 to the change of placement. At the hearing, the court must
 295 determine if the department has established probable cause to
 296 support the immediate removal of the child from his or her
 297 current placement. The court may base its determination on a
 298 sworn petition or affidavit or on testimony and may hear all
 299 relevant and material evidence, including oral or written
 300 reports, to the extent of their probative value, even if such

301 evidence would not be competent evidence at an adjudicatory
 302 hearing.

303 (b) If the court finds that the department did not
 304 establish probable cause to support the removal of the child
 305 from his or her current placement, the court must enter an order
 306 that the child be returned to such placement. An order by the
 307 court to return the child to his or her current placement does
 308 not preclude a party from filing a subsequent motion pursuant to
 309 subsection (2).

310 (c) If the current caregiver admits that a change of
 311 placement is needed or the department establishes probable cause
 312 to support removal of the child, the court must enter an order
 313 changing the placement of the child. The new placement for the
 314 child must meet the home study criteria in this chapter if the
 315 child is not placed in foster care.

316 (d) If the court finds probable cause and modifies the
 317 child's placement, the court must conduct a hearing pursuant to
 318 subsection (2) or subsection (3), unless such hearing is waived
 319 by all parties and the caregiver.

320 Section 5. Paragraph (a) of subsection (1) of section
 321 39.6221, Florida Statutes, is amended to read:

322 39.6221 Permanent guardianship of a dependent child.—

323 (1) If a court determines that reunification or adoption
 324 is not in the best interest of the child, the court may place
 325 the child in a permanent guardianship with a relative or other

326 adult approved by the court if all of the following conditions
 327 are met:

328 (a) The child has been in the placement for not less than
 329 the preceding 6 months, or the preceding 3 months if the
 330 caregiver is already known by the child and caregiver has been
 331 named as the successor guardian on the child's guardianship
 332 assistance agreement.

333 Section 6. Subsection (9) of section 39.6225, Florida
 334 Statutes, is amended to read:

335 39.6225 Guardianship Assistance Program.—

336 (9) Guardianship assistance payments may not ~~shall only~~ be
 337 made for a young adult unless the young adult's ~~whose~~ permanent
 338 guardian entered into a guardianship assistance agreement after
 339 the child attained 14 ~~16~~ years of age but before the child
 340 attained 18 years of age and if the child is:

341 (a) Completing secondary education or a program leading to
 342 an equivalent credential;

343 (b) Enrolled in an institution that provides postsecondary
 344 or vocational education;

345 (c) Participating in a program or activity designed to
 346 promote or eliminate barriers to employment;

347 (d) Employed for at least 80 hours per month; or

348 (e) Unable to participate in programs or activities listed
 349 in paragraphs (a)-(d) full time due to a physical, intellectual,
 350 emotional, or psychiatric condition that limits participation.

351 Any such barrier to participation must be supported by
352 documentation in the child's case file or school or medical
353 records of a physical, intellectual, emotional, or psychiatric
354 condition that impairs the child's ability to perform one or
355 more life activities.

356 Section 7. Paragraph (d) of subsection (3) of section
357 39.801, Florida Statutes, is redesignated as paragraph (e), and
358 a new paragraph (d) is added to that subsection to read:

359 39.801 Procedures and jurisdiction; notice; service of
360 process.—

361 (3) Before the court may terminate parental rights, in
362 addition to the other requirements set forth in this part, the
363 following requirements must be met:

364 (d) Personal appearance of a person at the advisory
365 hearing as provided in s. 39.013(13) obviates the necessity of
366 serving process on that person and the court may proceed with
367 the advisory hearing and any subsequently noticed hearing.

368 Section 8. Subsections (4), (5), and (6) of section
369 39.812, Florida Statutes, are amended to read:

370 39.812 Postdisposition relief; petition for adoption.—

371 (4) The court shall retain jurisdiction over any child
372 placed in the custody of the department until the child is
373 adopted. After custody of a child for subsequent adoption has
374 been given to the department, the court has jurisdiction for the
375 purpose of reviewing the status of the child and the progress

376 being made toward permanent adoptive placement. As part of this
377 continuing jurisdiction, ~~for good cause shown by the guardian ad~~
378 ~~litem for the child,~~ the court may:

379 (a) Review the appropriateness of the adoptive placement
380 of the child if good cause is shown by the guardian ad litem for
381 the child.

382 (b) Review the department's denial of an application to
383 adopt a child. The department's decision to deny an application
384 to adopt a child is only reviewable under this section and is
385 not subject to chapter 120.

386 1. If the department denies an application to adopt a
387 child, the department must file written notification of the
388 denial with the court and provide copies to all parties within
389 10 business days after the department's decision.

390 2. A denied applicant may file a motion to have the court
391 review the department's denial within 30 business days after the
392 issuance of the department's written notification of its
393 decision to deny the application to adopt a child. The motion to
394 review must allege that the department unreasonably denied the
395 application to adopt and request that the court allow the denied
396 applicant to file a petition to adopt the child under chapter 63
397 without the department's consent.

398 3. A denied applicant only has standing under this chapter
399 to file a motion to review the department's denial and to
400 present evidence in support of such motion. Such standing is

401 terminated upon the entry of the court's order.

402 4. The court shall hold a hearing within 30 business days
403 after the denied applicant files the motion to review. The court
404 may only consider whether the department's denial of the
405 application is consistent with its policies and if the
406 department made such decision in an expeditious manner. The
407 standard of review is whether the department's denial of the
408 application is an abuse of discretion.

409 5. If the department selected a different applicant to
410 adopt the child, the selected applicant may participate in the
411 hearing as a participant, as defined in s. 39.01, and may be
412 granted leave by the court to be heard without the need to file
413 a motion to intervene.

414 6. Within 15 business days after the conclusion of the
415 hearing, the court must enter a written order denying the motion
416 to review or finding that the department unreasonably denied the
417 application to adopt and authorizing the denied applicant to
418 file a petition to adopt the child under chapter 63 without the
419 department's consent.

420 (5) When a licensed foster parent or court-ordered
421 custodian has applied to adopt a child who has resided with the
422 foster parent or custodian for at least 6 months and who has
423 previously been permanently committed to the legal custody of
424 the department and the department does not grant the application
425 to adopt, the department may not, in the absence of a prior

426 court order authorizing it to do so, remove the child from the
427 foster home or custodian, except when:

428 (a) There is probable cause to believe that the child is
429 at imminent risk of abuse or neglect;

430 (b) Thirty business days have expired following written
431 notice to the foster parent or custodian of the denial of the
432 application to adopt, within which period no formal challenge of
433 the department's decision has been filed;

434 (c) A motion to review the department's denial of an
435 application to adopt a child under paragraph (4) (b) has been
436 denied; or

437 (d)-(e) The foster parent or custodian agrees to the
438 child's removal.

439 (6)-(5) The petition for adoption must be filed in the
440 division of the circuit court which entered the judgment
441 terminating parental rights, unless a motion for change of venue
442 is granted pursuant to s. 47.122. A copy of the consent to
443 adoption executed by the department must be attached to the
444 petition, unless such consent is waived under ~~pursuant to~~ s.
445 63.062(7). The petition must be accompanied by a statement,
446 signed by the prospective adoptive parents, acknowledging
447 receipt of all information required to be disclosed under s.
448 63.085 and a form provided by the department which details the
449 social and medical history of the child and each parent and
450 includes the social security number and date of birth for each

451 parent, if such information is available or readily obtainable.
452 The prospective adoptive parents may not file a petition for
453 adoption until the judgment terminating parental rights becomes
454 final. An adoption proceeding under this subsection is governed
455 by chapter 63.

456 (7) (a) ~~(6) (a)~~ Once a child's adoption is finalized, the
457 community-based care lead agency must make a reasonable effort
458 to contact the adoptive family by telephone 1 year after the
459 date of finalization of the adoption as a postadoption service.
460 For purposes of this subsection, the term "reasonable effort"
461 means the exercise of reasonable diligence and care by the
462 community-based care lead agency to make contact with the
463 adoptive family. At a minimum, the agency must document all of
464 the following:

465 1. The number of attempts made by the community-based care
466 lead agency to contact the adoptive family and whether those
467 attempts were successful.

468 2. The types of postadoption services that were requested
469 by the adoptive family and whether those services were provided
470 by the community-based care lead agency; and

471 3. Any feedback received by the community-based care lead
472 agency from the adoptive family relating to the quality or
473 effectiveness of the services provided.

474 (b) The community-based care lead agency must report
475 annually to the department on the outcomes achieved and

476 recommendations for improvement under this subsection.

477 Section 9. Subsection (7) of section 63.062, Florida
478 Statutes, is amended to read:

479 63.062 Persons required to consent to adoption; affidavit
480 of nonpaternity; waiver of venue.—

481 (7) If parental rights to the minor have previously been
482 terminated, the adoption entity with which the minor has been
483 placed for subsequent adoption may provide consent to the
484 adoption. In such case, no other consent is required. If the
485 minor has been permanently committed to the department for
486 subsequent adoption, the department must consent to the adoption
487 or the court order finding that the department unreasonably
488 denied the application to adopt entered under s. 39.812(4) must
489 be attached to the petition to adopt, and ~~The consent of the~~
490 ~~department shall be waived upon a determination by the court~~
491 ~~that such consent is being unreasonably withheld and if the~~
492 petitioner must file ~~has filed~~ with the court a favorable
493 preliminary adoptive home study as required under s. 63.092.

494 Section 10. Section 63.093, Florida Statutes, is amended
495 to read:

496 63.093 Adoption of children from the child welfare
497 system.—

498 (1) The department or community-based care lead agency as
499 defined in s. 409.986(3), or its subcontracted agency, must
500 respond to an initial inquiry from a prospective adoptive parent

501 within 7 business days after receipt of the inquiry. The
502 response must inform the prospective adoptive parent of the
503 adoption process and the requirements for adopting a child from
504 the child welfare system.

505 (2) The department or community-based care lead agency, or
506 its subcontracted agency, must refer a prospective adoptive
507 parent who is interested in adopting a child in the custody of
508 the department to a department-approved adoptive parent training
509 program. A prospective adoptive parent must successfully
510 complete the training program, unless the prospective adoptive
511 parent is a licensed foster parent or a relative or nonrelative
512 caregiver who has:

513 (a) Attended the training program within the last 5 years;
514 or

515 (b) Had the child who is available for adoption placed in
516 their home for 6 months or longer and has been determined to
517 understand the challenges and parenting skills needed to
518 successfully parent the child who is available for adoption.

519 (3) A prospective adoptive parent must complete an
520 adoption application created by the department.

521 (4) Before a child is placed in an adoptive home, the
522 community-based care lead agency or its subcontracted agency
523 must complete an adoptive home study of a prospective adoptive
524 parent that includes observation, screening, and evaluation of
525 the child and the prospective adoptive parent. An adoptive home

526 | study must be updated every ~~is valid for~~ 12 months after the
527 | date on which the first study was approved. If the child was
528 | placed before the termination of parental rights, the updated
529 | placement or licensing home study may serve as the adoption home
530 | study. In addition, the community-based care lead agency or its
531 | subcontracted agency must complete a preparation process, as
532 | established by department rule, with the prospective adoptive
533 | parent.

534 | (5) At the conclusion of the adoptive home study and
535 | preparation process, a decision must ~~shall~~ be made about the
536 | prospective adoptive parent's appropriateness to adopt. This
537 | decision must ~~shall~~ be reflected in the final recommendation
538 | included in the adoptive home study. If the recommendation is
539 | for approval, the adoptive parent application file must be
540 | submitted to the community-based care lead agency or its
541 | subcontracted agency for approval. The community-based care lead
542 | agency or its subcontracted agency must approve or deny the home
543 | study within 14 business days after receipt of the
544 | recommendation.

545 | (6) The department shall adopt rules to eliminate
546 | duplicative practices and delays in the adoption home study
547 | process for a member of a uniformed service on active duty
548 | seeking to adopt in the state, including, but not limited to,
549 | providing a credit for adoption classes that have been taken in
550 | another state which substantially cover the preservice training

551 required under s. 409.175(14)(b).

552

553 Notwithstanding subsections (1) and (2), this section does not
 554 apply to a child adopted through the process provided in s.
 555 63.082(6).

556 Section 11. Paragraph (a) of subsection (2) and paragraph
 557 (a) of subsection (3) of section 409.1451, Florida Statutes, are
 558 amended to read:

559 409.1451 The Road-to-Independence Program.—

560 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

561 (a) A young adult is eligible for services and support
 562 under this subsection if he or she:

563 1. Was living in licensed care on his or her 18th birthday
 564 or is currently living in licensed care; or was at least 14 ~~16~~
 565 years of age and was adopted from foster care or placed with a
 566 court-approved dependency guardian after spending at least 6
 567 months in licensed care within the 12 months immediately
 568 preceding such placement or adoption;

569 2. Spent at least 6 months in licensed care before
 570 reaching his or her 18th birthday;

571 3. Earned a standard high school diploma pursuant to s.
 572 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent
 573 pursuant to s. 1003.435;

574 4. Has been admitted for enrollment as a full-time student
 575 or its equivalent in an eligible postsecondary educational

576 institution as provided in s. 1009.533. For purposes of this
 577 section, the term "full-time" means 9 credit hours or the
 578 vocational school equivalent. A student may enroll part-time if
 579 he or she has a recognized disability or is faced with another
 580 challenge or circumstance that would prevent full-time
 581 attendance. A student needing to enroll part-time for any reason
 582 other than having a recognized disability must get approval from
 583 his or her academic advisor;

584 5. Has reached 18 years of age but is not yet 23 years of
 585 age;

586 6. Has applied, with assistance from the young adult's
 587 caregiver and the community-based lead agency, for any other
 588 grants and scholarships for which he or she may qualify;

589 7. Submitted a Free Application for Federal Student Aid
 590 which is complete and error free; and

591 8. Signed an agreement to allow the department and the
 592 community-based care lead agency access to school records.

593 (3) AFTERCARE SERVICES.—

594 (a)1. Aftercare services are available to a young adult
 595 who has reached 18 years of age but is not yet 23 years of age
 596 and is:

597 a. Not in foster care.

598 b. Temporarily not receiving financial assistance under
 599 subsection (2) to pursue postsecondary education.

600 c. Eligible for the Extended Guardianship Assistance

601 Program under s. 39.6225(9) or the extended adoption assistance
 602 program under s. 409.166(4), but is not participating in either
 603 program.

604 2. Subject to available funding, aftercare services as
 605 specified in subparagraph (b)8. are also available to a young
 606 adult who is between the ages of 18 and 22, is receiving
 607 financial assistance under subsection (2), is experiencing an
 608 emergency situation, and whose resources are insufficient to
 609 meet the emergency situation. Such assistance shall be in
 610 addition to any amount specified in paragraph (2)(b).

611 Section 12. Paragraph (d) of subsection (4) of section
 612 409.166, Florida Statutes, is amended to read:

613 409.166 Children within the child welfare system; adoption
 614 assistance program.—

615 (4) ADOPTION ASSISTANCE.—

616 (d) Effective January 1, 2019, adoption assistance
 617 payments may be made for a child whose adoptive parent entered
 618 into an initial adoption assistance agreement after the child
 619 reached 14 ~~16~~ years of age but before the child reached 18 years
 620 of age. Such payments may be made until the child reaches age 21
 621 if the child is:

622 1. Completing secondary education or a program leading to
 623 an equivalent credential;

624 2. Enrolled in an institution that provides postsecondary
 625 or vocational education;

- 626 3. Participating in a program or activity designed to
 627 promote or eliminate barriers to employment;
 628 4. Employed for at least 80 hours per month; or
 629 5. Unable to participate in programs or activities listed
 630 in subparagraphs 1.-4. full time due to a physical, an
 631 intellectual, an emotional, or a psychiatric condition that
 632 limits participation. Any such barrier to participation must be
 633 supported by documentation in the child's case file or school or
 634 medical records of a physical, an intellectual, an emotional, or
 635 a psychiatric condition that impairs the child's ability to
 636 perform one or more life activities.

637 Section 13. Subsections (1) through (4) of section
 638 409.167, Florida Statutes, are amended to read:

639 409.167 Statewide adoption exchange; establishment;
 640 responsibilities; registration requirements; rules.—

641 (1) The Department of Children and Families shall
 642 establish, either directly or through purchase, a statewide
 643 adoption exchange, with a photo listing component, which serves
 644 ~~shall serve~~ all authorized licensed child-placing agencies in
 645 the state as a means of recruiting adoptive families for
 646 children who have been legally freed for adoption and who have
 647 been permanently placed with the department or a licensed child-
 648 placing agency. The statewide adoption exchange must ~~shall~~
 649 provide, in accordance with rules adopted by the department,
 650 descriptions and photographs of such children, as well as any

651 other information deemed useful in the recruitment of adoptive
652 families for each child. The photo listing component of the
653 statewide adoption exchange must be updated monthly and may not
654 be accessible to the public, except to persons who have
655 completed or are in the process of completing an adoption home
656 study.

657 (2)(a) Each district of the department shall refer each
658 child in its care who has been legally freed for adoption to the
659 statewide adoption exchange no later than 30 days after the date
660 of acceptance by the department for permanent placement. The
661 referral must be accompanied by a photo listing ~~photograph~~ and
662 description of the child. Any child who is 12 years of age or
663 older may request that a specific photo be used for that child's
664 photo listing and must be consulted during the development of
665 the child's description.

666 (b) The department shall establish criteria by which a
667 district may determine that a child need not be registered with
668 the statewide adoption exchange. Within 30 days after the date
669 of acceptance by the department for permanent placement, the
670 name of the child accepted for permanent placement must be
671 forwarded to the statewide adoption exchange by the district
672 together with reference to the specific reason why the child
673 should not be placed on the statewide adoption exchange. If the
674 child has not been placed for adoption within 3 months after the
675 date of acceptance by the department for permanent placement,

676 the district must ~~shall~~ provide the statewide adoption exchange
677 with the necessary photograph and information for registration
678 of the child with the statewide adoption exchange and the child
679 must ~~shall~~ be placed on the statewide adoption exchange. The
680 department shall establish procedures for monitoring the status
681 of children who are not placed on the statewide adoption
682 exchange within 30 days after the date of acceptance by the
683 department for permanent placement.

684 (3) In accordance with rules established by the
685 department, the statewide adoption exchange may accept, from
686 licensed child-placing agencies, information pertaining to
687 children meeting the criteria of this section, and to
688 prospective adoptive families, for registration with the
689 statewide adoption exchange.

690 (4) For purposes of facilitating family-matching between
691 children and prospective adoptive parents, the statewide
692 adoption exchange must shall provide the photo listing component
693 service to all licensed child-placing agencies and, in
694 accordance with rules adopted ~~established~~ by the department, to
695 all appropriate citizen groups and other organizations and
696 associations interested in children's services. The photo
697 listing component of the statewide adoption exchange may not be
698 accessible to the public, except to persons who have completed
699 or are in the process of completing an adoption home study.

700 Section 14. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1267 Economic Self-sufficiency

SPONSOR(S): Anderson

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|---------|---|
| 1) Children, Families & Seniors Subcommittee | | Osborne | Brazzell |
| 2) Appropriations Committee | | | |
| 3) Health & Human Services Committee | | | |

SUMMARY ANALYSIS

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities. The most commonly utilized public assistance programs in Florida include Medicaid, the Supplemental Nutrition Assistance Program (SNAP) or food assistance, and the Temporary Assistance for Needy Families (TANF) Temporary Cash Assistance (TCA) program. In Florida, the majority of the participants in these programs are children.

While the goal of public assistance programs is, generally, to ensure that a family's basic needs are met and facilitate economic advancement, families often exit programs before they are truly capable of maintaining self-sufficiency. A benefit cliff occurs when a modest increase in wages results in a net loss of income due to the reduction in or loss of public benefits that follows. Benefit cliffs create a financial disincentive for low-income individuals to earn more income due to the destabilization and uncertainty that often results from a loss in benefits, especially when the benefit lost was essential to a parent's ability to reliably work, such as child care.

The most significant benefit cliffs occur when a family loses housing or child care assistance. While a family is receiving housing and/or child care benefits, the costs for these necessities are a defined, affordable share of the family's income, but those expenses can skyrocket when the family enters the private market where there are no controls on prices

HB 1267 revises various components of the TANF, SNAP, and SR programs. The bill creates case management as a transitional benefit for families transitioning off of TCA. The bill requires CareerSource Florida to use a tool to demonstrate future financial impacts of changes to benefits and income and local workforce boards to administer and analyze and use data from intake and exit surveys of TCA recipients.

The bill requires the Department of Children and Families to request federal approval to expand mandatory SNAP E&T participation to include adults ages 18-59.

The bill extends eligibility for the SR program beyond the current 85% state median income, to a localized standard determined by the Department of Education, which will address the benefit cliff faced by families when they exceed the current state median income criteria.

The bill has a significant negative fiscal impact on state government, and no fiscal impact on local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Assistance Programs

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities.¹ The social safety net for American families depends on the coordination of a complex patchwork of federal, state, and local funding and program administration.² Through various programs, public assistance is capable of helping families to keep children in their family home through economic difficulties³ and reducing the material hardship that has been linked to negative outcomes in children;⁴ as well as driving the economy in times of market downturns⁵ and supporting the career advancement of low-income adults striving to break the cycle of intergenerational poverty.⁶ But while these outcomes have been shown to be feasible, the positive impact of public assistance programs can be inhibited by incongruent policies and the intricacies of overlapping federal programs.

The process of facilitating the broad, conceptual goals of public assistance programs involves several federal programs with different levels of flexibility for states to tailor the programs to their own populations. The specific eligibility criteria and participation requirements vary by program through complementary state and federal policy.

The most commonly utilized public assistance programs in Florida include Medicaid, the Supplemental Nutrition Assistance Program (SNAP) or food assistance, and the Temporary Assistance for Needy Families (TANF) Temporary Cash Assistance (TCA) program. In Florida, the majority of the participants in one or more of these programs are children; in May 2021, children accounted for roughly 60 percent of the total participants in any of these three programs. At that time, 54 percent of children in Florida were participating in at least one of these public assistance programs.⁷

Barriers to Economic Self-Sufficiency

¹ National Conference of State Legislatures, *Introduction to Benefits Cliffs and Public Assistance Programs* (2023). Available at <https://www.ncsl.org/human-services/introduction-to-benefits-cliffs-and-public-assistance-programs> (last visited January 17, 2024).

² Brookings Institute, *State Social Safety Net Policy: How are States Addressing Economic Need?* (2023). Available at <https://www.brookings.edu/events/state-social-safety-net-policy-how-are-states-addressing-economic-need/> (last visited January 17, 2024).

³ Providing assistance to needy families so that children can be cared for in their own homes is one of the four purposes of the TANF program. See, Office of Family Assistance, *About TANF* (2022). Available at <https://www.acf.hhs.gov/ofa/programs/tanf/about> (last visited January 17, 2024). See also, Gennetian, L. & Magnuson, K., *Three Reasons Why Providing Cash to Families with Children is a Sound Policy Investment* (2022). Center on Budget and Policy Priorities. Available at <https://www.cbpp.org/research/income-security/three-reasons-why-providing-cash-to-families-with-children-is-a-sound> (last visited January 17, 2024).

⁴ Karpman, M., Gonzalez, D., Zuckerman, S., & Adams, G., *What Explains the Widespread Material Hardships among Low-Income Families with Children?* (2018). Urban Institute. Available at https://www.urban.org/sites/default/files/publication/99521/what_explains_the_widespread_material_hardship_among_low-income_families_with_children_0.pdf (last visited January 17, 2024).

⁵ Vogel, S., Miller, C., & Ralston, K., *Impact of USDA's Supplemental Nutrition Assistance Program (SNAP) on Rural and Urban Economies in the Aftermath of the Great Recession* (2021). USDA, Economic Research Service Economic Research Report Number 296. Available at <https://ssrn.com/abstract=3938336> (last visited January 17, 2024).

⁶ Duncan, G. & Holzer, H., *Policies that Reduce Intergenerational Poverty* (2023). The Brookings Institute. Available at <https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/> (last visited January 17, 2024).

⁷ Office of Program Policy Analysis and Government Accountability (OPPAGA). *Research Memorandum: Economic Self-Sufficiency*, Research Product 10. On file with the Children, Families & Seniors Subcommittee.

Benefit Cliffs

While the goal of public assistance programs is, generally, to ensure that a family's basic needs are met and facilitate economic advancement, families often exit programs before they are truly capable of maintaining self-sufficiency. A benefit cliff occurs when a modest increase in wages results in a net loss of income due to the reduction in or loss of public benefits that follows.⁸

Benefit cliffs create a financial disincentive for low-income individuals to earn more income due to the destabilization and uncertainty that often results from a loss in benefits, especially when the benefit lost was essential to a parent's ability to reliably work, such as child care.⁹ The fear of an impending benefit cliff can be sufficient to discourage career advancement. The complex nature of public assistance programs contributes to workers struggling to understand the timing and magnitude of benefits loss. This uncertainty, paired with economic insecurity, can prevent individuals from seeking or accepting opportunities for career advancement.¹⁰

The most significant benefit cliffs occur when a family loses housing or child care assistance. While a family is receiving housing and/or child care benefits, the costs for these necessities are a defined, affordable share of the family's income, but those expenses can skyrocket when the family enters the private market where there are no controls on prices.¹¹

The chart below reflects an example of a family's possible financial situation. A family receiving cash assistance and a child care subsidy can experience a sudden, significant drop in net resources when their income makes them ineligible for these benefits.

FAMILY NET FINANCIAL RESOURCES (INCOME + PUBLIC ASSISTANCE - TAXES - EXPENSES)

The chart below shows how changes in income affect family net financial resources. As income increases, the programs shown in the chart above phase out. As a result, the net financial resources may flatten (reflecting a *benefits plateau*) or even dip (reflecting a *benefits cliff*) as income increases.



⁸ Altig, D., Ilin, E., Ruder, A., Terry, E., *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of the Health Care Services Career Pathway* (2020). The Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement> (last visited January 16, 2024).

⁹ Altig, D., Ilin, E., Ruder, A., & Terry, E., *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of the Health Care Services Career Pathway* (2020). The Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement> (last visited January 16, 2024).

¹⁰ Federal Reserve Bank of Atlanta, *Career Ladder Identifier and Financial Forecaster (CLIFF)*. Available at <https://www.atlantafed.org/economic-mobility-and-resilience/advancing-careers-for-low-income-families/cliff-tool> (last visited January 19, 2024).

¹¹ Ettinger de Cuba, S., *Cliff Effects and the Supplemental Nutritional Assistance Program* (2017), Federal Reserve Bank of Boston. Available at <https://www.bostonfed.org/publications/communities-and-banking/2017/winter/cliff-effects-and-the-supplemental-nutrition-assistance-program.aspx#ft7> (last visited January 16, 2024).

Recidivism

Recidivism occurs when a family leaves an assistance program due to increased income and then returns to the program within two calendar years.¹² Some degree of recidivism is expected; assistance programs exist to support families through financial hardship and, regardless of personal planning, unanticipated events can cause families to find themselves financially unstable once again. A high rate of recidivism, however, indicates that families are not exiting a program at a point where they are able to maintain self-sufficiency. Due to the structure of some public benefits programs, families may be exiting the program into financially tenuous situations and without a clear path for upward mobility.¹³

Program recidivism is exacerbated by factors like the benefits cliff, where families are exiting a program with fewer net resources, and persistent barriers to employment that were not sufficiently addressed before the family exited the program.

Child Care

The lack of child care services presents a significant barrier to employment for the parents of small children. Rather than a personal, individual barrier to employment, the inaccessibility of child care is a structural problem that influences the behavior and economic outcomes for a broad swath of Americans. It is estimated that only 44 percent of US families with children under the age of 13 can afford the full price of childcare without having to sacrifice other basic needs such as housing, food, health care, and transportation.¹⁴

The unavailability of appropriate, high quality child care affects both how parents participate in the workforce and children's development. Parents who want to work may have to work fewer hours or turn down higher-paying jobs in order to remain eligible for child care assistance programs.¹⁵ There is a significant economic impact associated with parents opting out of the workforce, or choosing to remain in lower-paying jobs, due to the inaccessibility of quality, affordable child care.¹⁶

For parents who choose to remain in the workforce, the inability to afford quality child care can have negative effects on children's development. Parents may have to reduce their standard of living in order to afford child care and continue to work; if this results in the sacrifice of adequate housing and health care, this can adversely affect parents as well as children and lead to financial and psychological

¹² CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study*. (2023). On file with the Children, Families & Seniors Subcommittee.

¹³ Bourdeaux C. & Pandey, L. *Report on the Outcomes and Characteristics of TANF Leavers* (2017). Georgia State University, Center for State and Local Finance. Available at <https://cslf.gsu.edu/download/outcomes-and-characteristics-of-tanf-leavers/?wpdmdl=6494571&refresh=5f7852f89a8bc1601721080> (last visited January 9, 2024).

¹⁴ Birken, B., Ilin, E., Ruder, A., & Terry, E. *Restructuring the Eligibility Policies of the Child Care and Development Fund to Address Benefit Cliffs and Affordability: Florida As a Case Study* (2021). Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/-/media/documents/community-development/publications/discussion-papers/2021/01-restructuring-the-eligibility-policies-of-the-child-care-and-development-fund-to-address-benefit-cliffs-and-affordability-2021-06-18.pdf>

¹⁵ Morrissey, T.W. *Child care and parent labor force participation: a review of the research literature* (2017). *Rev Econ Household* **15**, 1–24. <https://doi.org/10.1007/s11150-016-9331-3>

¹⁶ For more information on this economic impact, see, Altig, D., Ilin, E., Ruder, A., & Terry, E. *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of a Health Care Career Pathway*. (2020). Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement> (last visited January 16, 2024); and Council of Economic Advisers, *The Role of Affordable Child Care in Promoting Work Outside the Home*. (2019). Available at <https://trumpwhitehouse.archives.gov/wpcontent/uploads/2019/12/The-Role-of-Affordable-Child-Care-in-Promoting-Work-Outsidethe-Home-1.pdf>. (last visited January 19, 2024).

stress.¹⁷ Alternatively, parents may choose lower-quality child care that is more affordable. The quality of child care, however, matters for the healthy development of children at early ages.¹⁸ Low-quality child care can adversely affect children’s task attentiveness and emotional regulation,¹⁹ whereas high-quality child care has been associated with positive outcomes such as fewer reports of problem behaviors, higher cognitive performance, and higher language skills.²⁰

Education

A person’s level of educational attainment has a significant impact on the employment opportunities available to that person and on his or her capacity for upward economic mobility over time. A person who attained at least a high school credential, or the equivalent,²¹ has access to further education and professional development that are not available to individuals who did not complete high school. Higher levels of educational attainment are associated with higher employment rates and higher median earnings.²² For example, in 2022 the employment rate for adults ages 25 to 34 ranged from 61 percent among individuals who had not completed high school²³ to 87 percent for those with a bachelor’s degree or higher.²⁴

The lack of a high school diploma, or the equivalent, complicates the transition to adulthood. Among youth who do not pursue post-secondary education, having a high school diploma leads to significantly more time employed during the early years of adulthood.²⁵ The top risk factor for homelessness among young adults is the lack of a high school diploma or an equivalent credential.²⁶ There are a variety of other long-term negative outcomes associated with dropping out of high school, such as lower median income,²⁷ higher rates of criminal activity, higher rates of unemployment and incarceration, and poorer health.²⁸

Personal, social, and economic reasons may lead an individual to not complete high school; however, generally, people who did not complete high school are more likely to have grown up in low-income,

¹⁷ *Supra*, note 14.

¹⁸ *Id.*

¹⁹ Gialamas, A., Mittinty, M., Sawyer, M., Zubrick, S., & Lynch, J. *Child Care Quality and Children's Cognitive and Socio-Emotional Development: an Australian Longitudinal Study* (2014). *Early Child Development and Care* 184 (7): 977–997.

²⁰ National Institute of Child Health and Human Development (NICHD). Early Child Care Research Network. *The NICHD Study of Early Child Care and Youth Development* (2005). Available at https://www.nichd.nih.gov/sites/default/files/publications/pubs/documents/seccyd_06.pdf (last visited January 19, 2024).

²¹ The most commonly recognized high school equivalent is the General Educational Development (GED) credential. GED credentials are an alternative credential for individuals who did not complete high school. The GED is accepted by most colleges and universities that require a high school diploma for admission, and most companies that have positions requiring a high school diploma accept the GED as an alternative credential. For more information see, Stark, P. & Noel, A. *Trends in High School Dropout and Completion Rates in the United States: 1972-2012*. (2015). US Department of Education, National Center for Education Statistics. Available at <https://eric.ed.gov/?id=ED557576> (last visited January 19, 2024).

²² US Department of Education, *Report on the Condition of Education 2023* (2023). Available at <https://nces.ed.gov/pubs2023/2023144rev.pdf> (last visited January 7, 2023).

²³ “High school completion” includes those who graduated from high school with a diploma, as well as those who completed a high school equivalency program, such as obtaining GED credentials.

²⁴ *Supra*, note 22.; see also, Stark, P. & Noel, A. *Trends in High School Dropout and Completion Rates in the United States: 1972-2012*. (2015). US Department of Education, National Center for Education Statistics. Available at <https://eric.ed.gov/?id=ED557576> (last visited January 19, 2024).

²⁵ McDaniel, M. & Kuehn, D. *What Does a High School Diploma Get You? Employment, Race, and the Transition to Adulthood* (2013). *The Review of Black Political Economy*. 40, 371-399. <https://doi.org/10.1007/s12114-012-9147-1>

²⁶ Morton, M.H., Dworsky, A., & Samuels, G.M. *Missed opportunities: Youth homelessness in America. National estimates* (2017). Chicago, IL: Chapin Hall at the University of Chicago. Available at https://www.chapinhall.org/wp-content/uploads/ChapinHall_VoYC_NationalReport_Final.pdf (last visited January 9, 2024).

²⁷ Stark, P. & Noel, A. *Trends in High School Dropout and Completion Rates in the United States: 1972-2012*. (2015). US Department of Education, National Center for Education Statistics. Available at <https://eric.ed.gov/?id=ED557576> (last visited January 19, 2024).

²⁸ Lansford, J., Dodge, K., Pettit, G., & Bates, J. *A Public Health Perspective on School Dropout and Adult Outcomes: A Prospective Study of Risk and Protective Factors from Age 5 to 27 Years* (2016). *Journal of Adolescent Health*. 58. 652-658.

<http://dx.doi.org/10.1016/j.jadohealth.2016.01.014>

single-parent households and lived in distressed communities than their counterparts who complete high school.²⁹ For low-income youths living in areas with high rates of income inequality, this has been tied to a perceived lower rate of return on investment for continuing high school.³⁰ This phenomena is consistent with the patterns of intergenerational poverty in the US.

Intergenerational Poverty

Intergenerational poverty occurs when individuals who grew up in families with incomes below the poverty line are themselves poor as adults. Children living in families with low incomes face an array of challenges that place them at a much higher risk of experiencing poverty in adulthood compared with other children.³¹ As a result, roughly one-third of children who grow up poor in the US will also experience poverty as adults.³²

There are numerous social and cultural factors that contribute to intergenerational poverty, but key drivers influencing intergenerational mobility include:³³

- Education, spanning early education to career training;
- Children's health and access to health care;
- Family employment, income, and wealth; and
- Crime and involvement with the criminal justice system.

Temporary Assistance for Needy Families (TANF)

The Temporary Assistance for Needy Families (TANF) system was established at the federal level in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.³⁴ PRWORA ended the Aid to Families with Dependent Children (AFDC) program, a federal program which provided dedicated funding for cash assistance to needy families with children, and alternatively created the broad-purpose TANF block grant.³⁵ TANF became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005.

The TANF block grant annually distributes federal funds to states, territories, and tribes to accomplish four federally defined purposes:³⁶

²⁹ *Supra*, note 25.

³⁰ Kearney, M. & Levine, P. *Income Inequality, Social Mobility, and the Decision to Drop Out of High School*. (2016). Brookings Papers on Economic Activity. Available at <https://www.brookings.edu/wp-content/uploads/2016/03/kearneytextspring16bpea.pdf> (last visited January 10, 2024).

³¹ National Academies of Sciences, Engineering, and Medicine. *Reducing Intergenerational Poverty* (2023). Washington, DC: The National Academies Press. <https://doi.org/10.7226/27058>.

³² *Id.* For comparison, 17% of people who did not grow up in low-income environments will experience poverty as adults.

³³ *Id.* See also, Duncan, G. & Holzer, H., *Policies that Reduce Intergenerational Poverty* (2023). Brookings Institute. Available at <https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/> (last visited January 19, 2024).

³⁴ Center on Budget and Policy Priorities. *Policy Basics: Temporary Assistance for Needy Families* (2022). Available at [https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf#:~:text=States%20can%20use%20federal%20TANF,%2C%20and%20marriage%3B%20\(3\)](https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf#:~:text=States%20can%20use%20federal%20TANF,%2C%20and%20marriage%3B%20(3)) (last visited December 27, 2023). See also, US Department of Health & Human Services, Office of Family Assistance, *Major Provisions of the Welfare Law* (1997). Available at <https://www.acf.hhs.gov/ofa/policy-guidance/major-provisions-welfare-law> (last visited December 27, 2023), for more information on PRWORA.

³⁵ Congressional Research Service. *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals* (2023). Available at <https://crsreports.congress.gov/product/pdf/R/R47503> (last visited December 27, 2023).

³⁶ US Department of Health & Human Services. *About TANF* (2022). Available at <https://www.acf.hhs.gov/ofa/programs/tanf/about> (last visited December 27, 2023).

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies; and
- Encourage the formation and maintenance of two-parent families.

TANF itself is not a single cohesive program; rather, it is a system of funding streams used at the state and local level to provide a wide range of benefits, services, and activities with the general aim of minimizing the effects, or addressing the root causes, of childhood economic disadvantage.³⁷ States use TANF funds to operate state-designed and state-administered programs with significant discretion in how the funds are used to achieve the statutory goals of TANF.³⁸ Most federal regulation of TANF-funded state programs relate to funding spent on direct cash assistance and the recipients of such assistance.³⁹

TANF is funded through both federal and state dollars. The basic federal grant amount and minimum state amounts are set by law, based on expenditures in the pre-TANF programs in the early- to mid-1990s, and have not been adjusted for inflation or other changes in circumstances. States are required to contribute nonfederal “maintenance of effort” (MOE) funds based on state spending in the pre-TANF welfare programs. A state’s required MOE contribution is lowered for states who have met the federal work participation standard for TANF recipients.⁴⁰

Florida’s Temporary Cash Assistance (TCA) Program

Direct cash assistance to needy families is the foundation of public welfare in the US.⁴¹ Prior to the establishment of TANF in 1996, direct cash assistance to needy families was the primary method of providing support to low-income families with children. Since the transition to the TANF block grant system, the number of families receiving direct cash assistance has waned significantly, even among eligible populations, and the majority of TANF funds are allocated for indirect methods of assisting families.⁴²

The Temporary Cash Assistance (TCA) Program is Florida’s direct cash assistance program for needy families. The TCA program is one of several Florida programs funded with the TANF block grant. Through the TCA program, families who meet specific technical, income, and asset requirements⁴³ may

³⁷ Congressional Research Service. *The Temporary Assistance for Needy Families (TANF) Block Grant: A Primer on TANF Financing and Federal Requirements* (2023). Available at <https://crsreports.congress.gov/product/pdf/RL/RL32748> (last visited December 27, 2023).

³⁸ *Supra*, note 36.

³⁹ *Supra*, note 37.

⁴⁰ *Supra*, note 37.

⁴¹ Public cash assistance to needy families has its origin in the early 1900s; state and local entities financed “mother’s pension” programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be institutionalized. See, Congressional Research Service, *The Temporary Assistance for Needy Families (TANF) Block Grant: A Legislative History* (2023). Available at <https://crsreports.congress.gov/product/pdf/R/R44668> (last visited December 27, 2023).

⁴² *Supra*, note 35.

⁴³ Children must be under the age of 18, or under age 19 if they are full time secondary school students. Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited December 27, 2023).

receive cash assistance in the form of monthly payments deposited into an electronic benefits transfer (EBT) account.⁴⁴

The TCA program is administered by several state agencies through a series of contracts and memoranda of understanding. The Department of Children and Families (DCF) receives the federal TANF block grant funds, processes applications, determines initial eligibility, monitors ongoing eligibility, and disburses benefits to recipients. The Department of Commerce⁴⁵ (Florida Commerce) is responsible for financial and performance reporting to ensure compliance with federal and state measures and for providing training and technical assistance to Local Workforce Development Boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.⁴⁶ CareerSource Florida has planning and oversight responsibilities for all workforce-related programs and contracts with the LWDBs on a performance-basis.⁴⁷

The number of families receiving TCA dramatically increased during the COVID-19 pandemic, peaking at more than 50,000 families receiving TCA payments in July of 2020.⁴⁸ While TCA caseloads have not yet returned to pre-pandemic levels, they have decreased steadily since July 2020. In November 2023, 34,015 families, including 44,309 children, received TCA.⁴⁹ Since 2016, Florida's recidivism rate for the TCA program has averaged 30 percent; approximately one third of families exiting TCA due to earned income were not successful in maintaining self-sufficiency.⁵⁰

TCA Eligibility

States have broad discretion in determining who is eligible for cash assistance. Florida's TCA program requires applicants to meet all of the following criteria in order to be eligible:⁵¹

- Be a U.S. citizen or qualified noncitizen in accordance with federal and state law;
- Be a legal resident of Florida;
- Have a minor child residing with a custodial parent or relative caregiver, or be a pregnant woman in the 9th month of pregnancy;
- Have a gross income of 185 percent or less of the federal poverty level;⁵²

⁴⁴ Florida Department of Children and Families. *Temporary Cash Assistance Fact Sheet* (2019). Available at https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf (last visited December 27, 2023).

⁴⁵ The Department of Commerce, formerly known as the Department of Economic Opportunity, was renamed as such in the 2023 Legislative session. See, Governor DeSantis Signs Legislation to Streamline Economic Development in Florida (2023). Available at <https://www.flgov.com/2023/05/31/governor-desantis-signs-legislation-to-streamline-economic-development-in-florida/> (last visited December 27, 2023).

⁴⁶ Florida Department of Commerce, CareerSource Florida, *Workforce Innovation and Opportunity Act Annual Statewide Performance Report* (2023). Available at <https://careersourceflorida.com/wp-content/uploads/2023/12/2022-23-WIOA-Annual-Performance-Report.pdf> (last visited December 27, 2023).

⁴⁷ *Id.*

⁴⁸ Florida Department of Children and Families. *ESS Standard Reports: Caseload Report*. Available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited January 5, 2024).

⁴⁹ Florida Department of Children and Families. *ESS Standard Reports: Flash Points*. Available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited January 5, 2024).

⁵⁰ CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study*. (2023). On file with the Children, Families & Seniors Subcommittee.

⁵¹ Florida Department of Children and Families. *Temporary Assistance for Needy Families – State Plan Renewal, October 1, 2020 – September 30, 2023*. Available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited January 5, 2024).

⁵² Gross income cannot exceed 185% FPL, and a family's countable income cannot exceed the payment standard for the family size. There is a \$90 deduction on earned income per individual. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 22, 2024).

- Have liquid or nonliquid resources, of all members of the family, valued at less than \$2,000.⁵³
- Register for work with the Local Workforce Development Board (LWDB), unless an applicant qualifies for an exemption.

In Florida, TCA eligible families fall into one of two case categories: work-eligible or child-only.⁵⁴ Work-eligible cases generally include adult or teenaged heads of household who are subject to work requirements and qualify for benefits based on the needs of the full family so long as work requirements are met. Child-only cases make up roughly half of TCA cases and include households wherein there is no work-eligible adult, such as participants in the Relative Caregiver Program;⁵⁵ such cases receive TCA benefits based only on the needs of the child rather than the full-family. As of November 2023, there were 16,425 child-only TCA cases and 17,590 TCA cases including an adult.⁵⁶

Florida imposes a lifetime limit of 48 cumulative months for an adult to be eligible for and receive cash assistance. Current law outlines specific, limited circumstances under which a person may be exempt from the time limitation. LWDBs are required to interview and assess the employment prospects and barriers of each participant who is within six months of reaching the 48-month time limit;⁵⁷ however, few families exit TCA due to the time limit. Most households receive TCA for fewer than six months.⁵⁸

TCA Monthly Payment Maximums⁵⁹

| Family Size | Shelter Obligation ⁶⁰ | | |
|--------------------------|----------------------------------|------------------|------------------|
| | \$50.01 and up | \$0.01-50.00 | \$0 |
| | Payment Standard | Payment Standard | Payment Standard |
| 1 | \$180 | \$153 | \$95 |
| 2 | \$241 | \$205 | \$158 |
| 3 | \$303 | \$258 | \$198 |
| 4 | \$364 | \$309 | \$254 |
| 5 | \$426 | \$362 | \$289 |
| 6 | \$487 | \$414 | \$346 |
| 7 | \$549 | \$467 | \$392 |
| 8 | \$610 | \$519 | \$438 |
| Additional Person | +\$62 | +\$52 | +\$48 |

TCA Work Requirement

To be eligible for full-family TCA, work-eligible adult family members must participate in work activities in accordance with s. 445.024, F.S., unless they qualify for an exemption.⁶¹ Individuals who fail to

⁵³ Licensed vehicles with a combined value of not more than \$8,500 are excluded if a family includes individuals subject to the work requirement, or if the vehicle is necessary to transport a disabled family member and the vehicle has been specially equipped to transport the disabled person. See, s. 414.075, F.S.

⁵⁴ S. 414.045, F.S.

⁵⁵ The Relative Caregiver Program provides financial assistance to relatives who are caring full-time for an eligible child as an alternative to the child being placed in foster care. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 5, 2024).

⁵⁶ *Supra*, note 49.

⁵⁷ S. 414.105, F.S.

⁵⁸ CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study*. (2023). On file with the Children, Families & Seniors Subcommittee.

⁵⁹ Florida Department of Children and Families. *Temporary Cash Assistance Fact Sheet* (2019). Available at https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf (last visited January 20, 2024).

⁶⁰ "Shelter obligation," reflects housing expenses, such as rent payments.

⁶¹ S. 414.095(1), F.S. A person may be exempt from the work requirement if they receive benefits under the Supplemental Security Income Program or the Security Disability Program, is a single parent of a child under three months of age (parenting preparation activities may be alternatively required), is exempt from the TCA time limitation due to hardship, or not considered work-eligible under

comply with the work requirements may be sanctioned.⁶² TCA applicants who are determined by DCF to not be exempt from the work requirement are referred by DCF to Florida Commerce for work registration and intake processing. DCF does not disburse benefits until Florida Commerce, or the LWDB, if applicable, has confirmed that the participant has registered for and attended orientation.

Upon referral, the participant must complete an intake application and undergo assessment by LWDB staff which includes:⁶³

- Identifying barriers to employment.
- Identifying the participant’s skills that will translate into employment and training opportunities.
- Reviewing the participant’s work history.
- Identifying whether a participant needs alternative requirements due to domestic violence, substance abuse, medical problems, mental health issues, hidden disabilities, learning disabilities or other problems which prevent the participant from engaging in full-time employment or activities.

Once the assessment is complete, the staff member and participant create an individual responsibility plan (IRP). The IRP includes:⁶⁴

- The participant’s employment goal;
- The participant’s assigned activities;
- Services provided through program partners, community agencies and the workforce system;
- The weekly number of hours the participant is expected to complete; and
- Completion dates and deadlines for particular activities.

If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be exempted from the activity for a specific period of time.⁶⁵ To be excused from the work activity requirements, the participant’s medical incapacity must be verified by a physician, in accordance with the procedures established by DCF.⁶⁶

Qualifying Work Activities

Pursuant to state and federal law, there are 12 distinct types of work activities which can be used to satisfy a TCA recipient’s work requirement.⁶⁷ The 12 activities are categorized as either “core” and “supplemental” activities; such categorization impacts how the activity is counted toward a TCA recipient’s work requirement.

| Work Activities | |
|--------------------------|----------------------------------|
| “Core” Activities | “Supplemental” Activities |

federal policy. See also, Florida Department of Children and Families. *Temporary Assistance for Needy Families – State Plan Renewal, October 1, 2020 – September 30, 2023*. Available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited January 5, 2024).

⁶² S. 414.065, F.S.

⁶³ *Supra*, note 51.

⁶⁴ *Id.*

⁶⁵ S. 414.065(4)(d), F.S.

⁶⁶ Rule 65A-4.206(2),(3), F.A.C.

⁶⁷ 45 CFR 261.30; S. 445.024(1), F.S.; See also, Florida Department of Children and Families, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016). Available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf (last visited January 6, 2024).

| | |
|---|--|
| <ul style="list-style-type: none"> • Unsubsidized employment • Subsidized private-sector employment • Subsidized public-sector employment • Work experience • On-the-job training • Job search and job readiness assistance • Community service programs • Vocational educational training • Providing child care services to an individual participating in a community service program | <ul style="list-style-type: none"> • Job skills training directly related to employment • Education directly related to employment • Completion of a secondary school program |
|---|--|

While each of these activities may contribute toward a TCA recipient’s work requirement, federal policy limits the extent to which certain activities may satisfy the work requirement. Federal and state law further limits how the different work activities may count toward a person’s work requirement based on the characteristics of the individual and the length of time in which the individual engages in the activity.⁶⁸

The number of required work participation hours and the ratio of “core” to “supplemental” work activities is determined by the structure of the recipient family. “Core” activities can contribute to the entirety of a TCA recipient’s required work activity hours, while “supplemental” activities may only contribute after a recipient has completed the required hours of “core” activities. The number of work-eligible adults and the age of children in the family impact the required work participation hours.⁶⁹ For example, education directly related to employment includes activities such as GED examination prep courses, but these activities only count toward the full work participation hours of parents under the age of 20; once a parent is over 20 years of age, they can no longer count GED prep courses toward their total required work activity hours.

| Work Participation Requirements | |
|--|---|
| Family Composition | Required Work Participation Hours |
| Single parent with a child under age 6 | 20 hours weekly of “core” work activities |
| Single parent with a child over 6, or two-parent families where one parent is disabled | 30 hours weekly with at least 20 hours of “core” work activities |
| Married teen or teen head of household under age 20 | Maintains satisfactory attendance at secondary school or the equivalent, or participates in education related directly to employment for at least 20 hours weekly |
| Two-parent families who do not receive subsidized child care | 35 hours weekly with at least 30 hours of “core” work activities, combined between both parents |
| Two-parent families who receive subsidized child care | 55 hours weekly with at least 50 hours in “core” activities, combined between both parents |

⁶⁸ 45 CFR § 261.31; S. 445.024, F.S.; See also, Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities* (2017). Available at <https://crsreports.congress.gov/product/pdf/R/R44751> (last visited January 10, 2023).

⁶⁹ Florida Department of Children and Families, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016). Available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf (last visited January 6, 2024).

Sanctions for Noncompliance

TCA recipients who fail to comply with work requirements may be sanctioned by the LWDBs. Sanctions result in cash assistance being withheld for a specified period of time, the length of which increases with repeated lack of compliance.⁷⁰ The process for imposing sanctions involves coordination between agencies; the LWDB first becomes aware of the noncompliance, Florida Commerce tracks compliance and notifies recipients of possible adverse action, and DCF applies the sanctions.⁷¹

When a participant fails to comply with a mandatory work activity, the LWDB records the non-compliance in Florida Commerce's tracking system and sends the recipient a notice of adverse action; the recipient then has 10 days to contact Florida Commerce to show good cause⁷² for missing the requirement.⁷³ During the 10-day period, the LWDB must make both oral and written attempts to contact the participant to:⁷⁴

- Determine if the participant had good cause for failing to meet the work requirement;
- Refer to or provide services to the participant, if appropriate, to assist with the removal of barriers to participation;
- Counsel the participant on the consequences for failure to comply with work or alternative requirement plan activity requirements without good cause;
- Provide information on transitional benefits if the participant subsequently obtained employment; and
- Make sure the participant understands that compliance with work activity requirements⁷⁵ during the 10-day period will avoid the imposition of a sanction.

If the recipient complies within 10 days, the LWDB does not request a sanction. However, if the recipient does not show good cause to the LWDB and does not comply, the LWDB sends DCF a sanction request.⁷⁶ Once DCF receives the sanction request from the LWDB, it then sends the recipient a notice of intent to sanction.⁷⁷ If the recipient does not show good cause within 10 days, the recipient is sanctioned by DCF, and DCF notifies Florida Commerce.⁷⁸

Section 414.065(4), F.S., allows for noncompliance related to the following to constitute exceptions to the penalties for noncompliance with work participation requirements:

- Unavailability of child care in certain circumstances;⁷⁹
- Treatment or remediation of past effects of domestic violence;

⁷⁰ S. 414.065, F.S.

⁷¹ Office of Program Policy Analysis & Government Accountability, *Mandatory Work Requirements for Recipients of the Food Assistance and Cash Assistance Programs*, p. 4, (2018). On file with the Children, Families & Seniors Subcommittee.

⁷² *Id.* DCF captures limited information regarding good-cause for noncompliance in three categories: temporary illness, household emergency, and temporary transportation unavailable.

⁷³ *Id.* at 11, *see also* rule 65A-4.205(3), F.A.C.

⁷⁴ Rule 65A-4.205(3), F.A.C.

⁷⁵ The LWDB designee must provide the participant with another work activity within the 10-day period if it is impossible for the participant to comply with the original assigned activity.

⁷⁶ *Supra*, note 71. DCF only receives a request for sanction and not the reasons for the sanction. *See also* rule 65A-4.205(4), F.A.C.

⁷⁷ *Id.*

⁷⁸ *Id.*, *see also* rule 65A-4.205(4), F.A.C

⁷⁹ Specifically, if the individual is a single parent caring for a child who has not attained 6 years of age, and the adult proves to the LWDB an inability to obtain needed child care for one or more of the following reasons, as defined in the Child Care and Development Fund State Plan required by 45 C.F.R. part 98: (1) the unavailability of appropriate child care within a reasonable distance from the individual's home or worksite; (2) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (3) the unavailability of appropriate and affordable formal child care arrangements. S. 414.065(4)(a), F.S.

- Medical incapacity;
- Outpatient mental health or substance abuse treatment; and
- Decision pending for Supplemental Security Income or Social Security Disability Income.

Section 414.065(4)(g), F.S., grants rulemaking authority to DCF to determine other situations that would constitute good cause for noncompliance with work participation requirements. It specifies that these situations must include caring for a disabled family member when the need for the care has been verified and alternate care is not available.⁸⁰

Florida Commerce classifies reasons for sanctions for noncompliance in the following categories:⁸¹

- Failure to respond to a mandatory letter.⁸² Typically, this is the letter recipients receive from Florida Commerce upon referral from DCF requiring them to register with Florida Commerce.
- Failure to attend a work activity.
- Failure to turn in a timesheet.
- Failure to attend training.
- Failure to turn in necessary documentation.

Consequences of sanctions are as follows:⁸³

- First noncompliance - cash assistance is terminated for the full-family for a minimum of 10 days or until the individual complies.
- Second noncompliance - cash assistance is terminated for the full-family for one month or until the individual complies, whichever is later.
- Third noncompliance - cash assistance is terminated for the full-family for three months or until the individual complies, whichever is later.

For the second and subsequent instances of noncompliance, the TCA for the child or children in a family who are under age 16 may be continued (i.e. the case becomes a child-only case). Any such payments must be made through a protective payee, and under no circumstances may temporary cash assistance or food assistance be paid to an individual who has not complied with program requirements.⁸⁴ If a previously sanctioned participant fully complies with work activity requirements for at least six months, then the participant can be reinstated as being in full compliance with program requirements and TCA payments can resume.⁸⁵

Federal Work Participation Standard

The federal government sets a minimum work participation standard which states must meet as a part of the conditions of receiving TANF funding. The work participation standard is intended to measure how a state is performing in engaging TANF recipients in work or work activities and reinforce the programmatic goal of transitioning families from welfare to work.⁸⁶ Federal law stipulates that 50

⁸⁰ S. 414.065(4)(g), F.S.,

⁸¹ *Supra*, note 71.

⁸² *Id.* For work-eligible individuals with at least one sanction in FFY 2017, over half the sanctions were for failure to respond to a mandatory letter in 14 of 24 LWDBs.

⁸³ S. 414.065(1), F.S.

⁸⁴ S. 414.065(2), F.S.

⁸⁵ S. 414.065, F.S.

⁸⁶ Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities* (2017). Available at <https://crsreports.congress.gov/product/pdf/R/R44751> (last visited January 10, 2023).

percent of all families and 90 percent of two-parent families must be engaged in work in order to meet the standard;⁸⁷ however, in practice the minimum standard varies by state due to caseload reduction credits a state can earn. For the 2022 fiscal year, Florida’s adjusted standard was 12.3% for “all families” and 52.3% for two parent-families.⁸⁸ States may be subject to penalties if the federal minimum work participation rates are not met, though the federal government may reduce or waive these penalties in negotiation with states.⁸⁹

TANF Transitional Benefits

One of the express goals of the TANF Block Grant program is to end family dependence on public benefits by promoting job preparation and work; this is foundational to the welfare-to-work concept on which the TANF Block Grant is based.⁹⁰ Most parents who receive temporary cash assistance benefits work both before and after leaving the program; however, they are predominantly employed in low-wage jobs with few options for advancement.⁹¹ TANF transitional benefits help families navigate this period when they become ineligible for TCA but are not yet self-sufficient.

TCA recipients who become ineligible due to reasons other than noncompliance with work requirements, such as time limits or earned income, are eligible for transitional benefits intended to reduce the unintended negative effects of the lost benefits. Transitional benefits are designed to support work retention and advancement and assist individuals in achieving economic self-sufficiency.

Families generally become ineligible for TCA when their income reaches 185 percent of the federal poverty level (FPL), at which point they become eligible for transitional benefits.⁹² Current law outlines four types of transitional benefits which are available to qualifying former TCA recipients.

| Transitional Benefits | | |
|---|--|--|
| Benefit Type | Description | Eligibility Requirements |
| Transitional Child Care ⁹³ | Provides subsidized child care vouchers to families | Available for up to 24 months, with an income cap of 200% FPL |
| Transitional Medical ⁹⁴ | Allows families to remain eligible for Medicaid | Available for up to 12 months, with an income cap of 185% FPL after 6 months |
| Transitional Education and Training ⁹⁵ | Job-related education and training | Available for up to 24 months, with an income cap of 200% FPL |
| Transitional Transportation ⁹⁶ | Support typically provided to families in the form of payment for public transportation or gas | Available for up to 24 months, with an income cap of 200% FPL |

⁸⁷ 45 CFR § 261.20

⁸⁸ US Department of Health & Human Services, Administration for Children and Families, *Temporary Assistance for Needy Families (TANF) and Separate State Programs Maintenance of Effort (SSP-MOE): Work Participation Rates and Engagement in Work Activities Fiscal Year 2022*. On file with the Children, Families & Seniors Subcommittee.

⁸⁹ 45 CFR § 261.50

⁹⁰ *Supra*, note 86.

⁹¹ Safawi, A. & Pavetti, L. *Most Parents Leaving TANF Work, But in Low-Paying, Unstable Jobs, Recent Studies Find* (2020). Center on Budget and Policy Priorities. Available at <https://www.cbpp.org/research/family-income-support/most-parents-leaving-tanf-work-but-in-low-paying-unstable-jobs> (last visited January 9, 2024).

⁹² See, Florida Department of Children and Families, Temporary Cash Assistance (TCA). Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 22, 2024). To be eligible, a family’s gross income must be less than 185% FPL, and countable income cannot exceed the payment standard for the family size. There is a \$90 deduction from each individual’s gross earned income.

⁹³ S. 445.032, F.S.

⁹⁴ S. 445.029, F.S.

⁹⁵ S. 445.030, F.S.

⁹⁶ S. 445.031, F.S.

CareerSource Florida, Inc., administers transitional benefits through the LWDBs. The provision of transitional benefits depends on the LWDBs available resources and funding, as well as the availability of appropriate services locally.⁹⁷

Supplemental Nutrition Assistance Program (SNAP)

Program Overview

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).⁹⁸ SNAP is the nation's largest domestic food and nutrition program for low-income Americans, offering nutritional assistance to millions of individuals and families each year through the provision of funds that can be used to purchase eligible foods.⁹⁹ In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the US.¹⁰⁰ SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities, as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.¹⁰¹

SNAP is a federal program administered at the state level in Florida by DCF.¹⁰² DCF determines and monitors eligibility and disburses benefits to SNAP participants. The state and federal governments share the administrative costs of the program, while the federal government funds 100% of the benefit amount received by participants.¹⁰³ Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.¹⁰⁴

The Thrifty Food Plan, a minimal cost food plan reflects current nutrition standards and guidance, the nutrient content and cost of food, and consumption patterns of low-income households, was developed by the USDA to serve as the basis for the determination of SNAP benefits.¹⁰⁵ SNAP benefits are intended to supplement food purchases made with a household's own income; as such, the formula

⁹⁷ CareerSource Florida, Inc. *Legislative Inquiry Response* (2024). On file with the Children, Families & Seniors Subcommittee.

⁹⁸ The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity; simplify program administration; maintain states' flexibility in how they administer their programs; and improve access to SNAP. See, US Department of Agriculture, Food and Nutrition Service, *Short History of SNAP*. Available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited February 24, 2023).

⁹⁹ US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Overview*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited February 24, 2023).

¹⁰⁰ US Department of Agriculture, Food and Nutrition Service, *Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households*, available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited February 24, 2023).

¹⁰¹ US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Economic Linkages*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited February 24, 2023).

¹⁰² S. 414.31, F.S.

¹⁰³ Center on Budget and Policy Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*. Available at <https://www.cbpp.org/research/food-assistance/the-supplemental-nutrition-assistance-program-snap#:~:text=The%20federal%20government%20pays%20the,the%20states%2C%20which%20operate%20it.> (last visited February 24, 2023).

¹⁰⁴ US Department of Agriculture, Food and Nutrition Service, *State Options Report*. Available at <https://www.fns.usda.gov/snap/waivers/state-options-report> (last visited February 24, 2023).

¹⁰⁵ US Department of Agriculture, Food and Nutrition Service, *Nutrition Assistance Program Report: Barriers That Constrain the Adequacy of Supplemental Nutrition Assistance Program Allotments: Survey Findings*, p. 9. Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-Barriers-SurveyFindings.pdf> (last visited March 1, 2023).

used to determine SNAP benefits assumes that a household will spend 30 percent of their net income on food purchases.¹⁰⁶ The benefit allotted to SNAP households is equal to the difference between the maximum allotment for their household size and 30 percent of their net income.¹⁰⁷ The structure of this formula ensures that the lowest income households receive the most benefits.

As of January 2023, 3,220,757 individuals, including 1,262,174 children and 1,017,860 elderly or disabled individuals, were receiving SNAP benefits in Florida.¹⁰⁸

SNAP Eligibility & Work Requirements

To be eligible for SNAP, households must meet the following criteria: (1) gross monthly income must be at or below 130 percent of the poverty level; (2) net income must be equal to or less than the poverty level; and (3) assets must be below the limits set based on household composition.¹⁰⁹

Individuals may be deemed ineligible for SNAP due to any of the following:¹¹⁰

- Conviction of drug trafficking;
- Fleeing a felony warrant;
- Breaking SNAP or TANF program rules;
- Failure to cooperate with the child support enforcement agency; or
- Being a noncitizen without qualified status.

Able-bodied, non-elderly adults are generally required to participate in work activities in order to be eligible for SNAP. Federal policy outlines two tiers of work requirements for SNAP recipients: the general work requirement and the Able-Bodied Adult Without Dependents (ABAWD) work requirement.

The general work requirement applies to all recipients between 16 and 59 years of age, unless they qualify for an exemption.¹¹¹ The general work requirements include requiring a recipient register for work, participating in SNAP Employment and Training (E&T) or workfare if assigned, taking a suitable job if offered, and not voluntarily quitting a job or reducing work hours below 30 a week without a good reason.¹¹²

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Email from Chad Corcoran, Deputy Director of Legislative Affairs, Department of Children and Families, *Re: SNAP Participants* (March 2, 2023). On file with the Children, Families & Seniors Subcommittee.

¹⁰⁹ US Department of Agriculture, *Indicators of Diet Quality, Nutrition, and Health for Americans by Program Participation Status, 2011-2016: SNAP Report. Final Report* (2021). Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/Indicators-Diet-QualitySNAP.pdf> (last visited January 16, 2024).

¹¹⁰ Florida Department of Children and Families, *SNAP Eligibility*. Available at <https://www.myffamilies.com/services/public-assistance/supplemental-nutrition-assistance-program-snap/snap-eligibility> (last visited January 16, 2024). See also, s. 414.32, F.S.

¹¹¹ A person may be excused from the general work requirement if they are already working at least 30 hours per week, meeting the work requirements for another program, taking care of a child under 6 or an incapacitated person, unable to work due to a physical or mental limitation, participating regularly in an alcohol or drug treatment program, or studying in school or a training program at least half-time. See, US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*. Available at <https://www.fns.usda.gov/snap/work-requirements> (last visited January 10, 2024).

¹¹² US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*. Available at <https://www.fns.usda.gov/snap/work-requirements> (last visited January 10, 2024).

Adults between age 18 and 52, able-bodied, and without dependents are subject to the ABAWD work requirement and time limit, unless otherwise exempt.¹¹³ ABAWDs are required to work or participate in a qualifying work program for a combined total of at least 80 hours per month. ABAWDs who fail to comply with the ABAWD work requirement for three months in a 36-month period will lose their SNAP benefits.¹¹⁴

SNAP Mandatory Employment and Training

SNAP Employment and Training (SNAP E&T) is intended to help SNAP recipients gain skills, training, work, or experience that will help them obtain regular employment. States are required to operate a SNAP E&T program which includes case management and at least one of the following components:

- Supervised job search;
- Job search training;
- Workfare;
- Work experience;
- Education; or
- Self-employment.

Beyond simply requiring a state to operate a SNAP E&T program and setting the minimum components, states have significant flexibility in how they design their SNAP E&T programs in order to meet the needs of SNAP participants and address local workforce needs.¹¹⁵

Florida operates a mandatory SNAP E&T program for adults between the ages of 18 and 59¹¹⁶ without dependents who are not exempt from the general or ABAWD work requirements. SNAP E&T components that are available to mandatory E&T participants include supervised job search, job search training, work experience, education, vocational training, and job retention services. If DCF determines there is not an appropriate and available SNAP E&T component for an individual, the participant will be exempt from mandatory SNAP E&T participation.¹¹⁷

Currently, when ABAWDs are determined eligible for benefits, DCF refers these clients to Florida Commerce and the CareerSource Florida network to engage in a comprehensive assessment to identify barriers to employment, training needs, and professional opportunities. Florida Commerce and

¹¹³ *Id.* Adults who are unable to work due to a physical or mental limitation, are pregnant, have someone under 18 in their SNAP household, are excused from the general work requirement (see *also*, note 111), are a veteran, experiencing homelessness, or were in foster care on their 18th birthday and are under age 24 are exempt from the ABAWD requirements.

¹¹⁴ US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program (SNAP) ABAWD Policy Guide* (2023). Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-ABAWD-Policy-Guide-September-2023.pdf> (last visited January 10, 2024).

¹¹⁵ *Supra*, note 114.

¹¹⁶ In 2024 Florida expanded the definition of mandatory E&T participants to include ABAWDs and work registrants between the ages of 18 and 59 who do not have children in the household. See, Florida Department of Children and Families, *Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) State Plan – Federal Fiscal Year 2024*. Available at https://www.floridajobs.org/docs/default-source/lwdb-resources/programs-and-resources/snap/florida-fy2024-snap-et-state-plan-final_10-31-2023.pdf?sfvrsn=96c95db0_2 (last visited January 16, 2024).

¹¹⁷ *Id.*

CareerSource Florida utilize relationships with educational institutions, private sector employers and programs like apprenticeships to assist Floridians in achieving meaningful employment.¹¹⁸

DCF is required to reimburse SNAP E&T participants for all reasonable, allowable, and necessary expenses related to program participation. This may include but is not limited to childcare, tuition, books, and work uniforms. If DCF is unable to reimburse the participant, the individual must be exempted from mandatory participation in the SNAP E&T program.¹¹⁹

School Readiness Program

Program Overview

The School Readiness (SR) program is a state-federal partnership between Florida's Division of Early Learning (DEL) within the Florida Department of Education and the Office of Child Care of the United States Department of Health and Human Services.¹²⁰ The SR program is administered by DEL at the state level and early learning coalitions (ELC) at the county and regional levels.¹²¹ The DEL partners with 30 local ELCs and the Redlands Christian Migrant Association to deliver comprehensive early childhood care and education services statewide.¹²² The SR Program is one of three main early learning programs overseen by DEL.¹²³

Established in 1999¹²⁴, the SR Program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, abandonment, or homelessness; foster children; and children with disabilities.¹²⁵ The SR Program offers financial assistance for child care to families while supporting children in the development of skills for success in school. Additionally, the program provides developmental screenings and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Child Care Resource and Referral and the Voluntary Prekindergarten Program.¹²⁶

The DCF Office of Child Care Regulation, as the regulatory agency over child care providers, inspects all child care providers that provide the School Readiness services for compliance with specified health and safety standards.¹²⁷ In lieu of DCF regulation, counties may designate a local licensing agency to license providers if its licensing standards meet or exceed DCF's standards.¹²⁸ Five counties have done

¹¹⁸ Florida Department of Children and Families, *Economic Self-Sufficiency – SNAP Work Requirements Memo* (2023). On File with the Children, Families & Seniors Subcommittee.

¹¹⁹ *Id.*

¹²⁰ U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*. Available at https://www.acf.hhs.gov/sites/default/files/documents/occ/factsheets_occ.pdf (last visited January 9, 2024).

¹²¹ S. 1002.83, F.S.; see also, Florida Department of Education, Division of Early Learning Annual Report 2022-2023. Available at <https://www.fldoe.org/core/fileparse.php/20628/urlt/2223-DEL-AnnualReport.pdf> (last visited January 8, 2024).

¹²² *Id.*

¹²³ The DEL also oversees the Voluntary Prekindergarten Program and the Child Care Resource & Referral Programs. See also, Florida Department of Education, Division of Early Learning, *Early Learning*. Available at <http://www.floridaearlylearning.com/school-readiness> (last visited January 9, 2024).

¹²⁴ Ch. 99-357, L.O.F., Section 1.

¹²⁵ Ss. 1002.81 and 1002.87, F.S.

¹²⁶ Florida Department of Education, Division of Early Learning, *Early Learning*. Available at <http://www.floridaearlylearning.com/school-readiness> (last visited January 9, 2024).

¹²⁷ Ss. 402.306-402.319 and 1002.88, F.S.

¹²⁸ S. 402.306(1), F.S.

this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. In these five counties the local licensing agency, not the DCF, inspects child care providers that provide the School Readiness services for compliance with health and safety standards.¹²⁹

School Readiness Program Funding

The SR Program is primarily funded through the federal Child Care and Development Fund (CCD) Block Grant. The regulations governing the use of CCD funds authorizes states to use grant funds for child care services if:¹³⁰

- the child is under 13 years of age, or at the state’s option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision;
- the child’s family income does not exceed 85 percent of the state’s median income (SMI) for a family of the same size; and
- the child:
 - resides with a parent or parents who work or attend job training or educational programs; or
 - receives, or needs to receive, protective services.

In addition to the CCD Block Grant, the SR program receives additional funding through the Federal TANF Block Grant, Federal Social Services Block Grant, and the State General Revenue Fund.¹³¹

The Legislature appropriates the SR program funds to the ELCs and the Redlands Christian Migrant Association, with participating providers receiving their funding primarily from reimbursements from the ELCs and tuition payments by enrolled families.¹³² ELCs reimburse participating providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.¹³³ Provider reimbursement rates are based on provider type and the level of care a child receives with consideration of the market rate schedule set by DOE.¹³⁴ The reimbursement rate schedules are set locally by the ELC and must be approved by the DEL.¹³⁵

School Readiness Program Participation & Eligibility

There were 209,986 children enrolled with 6,790 providers in the SR program during the 2022-2023 fiscal year.¹³⁶

Early learning coalitions are required by statute to prioritize the following groups for participation in the SR Program:¹³⁷

- Children younger than 13 with a parent receiving temporary cash assistance under Ch. 414 and subject to the federal TANF work requirements or a parent who has an Intensive Service Account or an Individual Training Account under s. 445.009, F.S.; and

¹²⁹ See, Florida Department of Education, *Child Care Development Fund (CCDF) Plan for Florida: FFY 2022-2024*, p. 240. Available at <https://www.fldoe.org/core/fileparse.php/20628/urlt/2022-2024-CCDF-State-Plan.pdf> (last visited January 16, 2024).

¹³⁰ 45 C.F.R. § 98.20(a).

¹³¹ Florida Department of Education, Division of Early Learning Annual Report 2022-2023 (2023), p. 4. Available at <https://www.fldoe.org/core/fileparse.php/20628/urlt/2223-DEL-AnnualReport.pdf> (last visited January 8, 2024).

¹³² Ss. 1002.84(9) and 1002.89, F.S.

¹³³ Rule 6M-4.500(1), F.A.C.

¹³⁴ Rule 6M-4.500(1), F.A.C.; *See also*, s. 1002.895, F.S.

¹³⁵ Rule 6M-4.500(1), F.A.C.

¹³⁶ *Supra*, note 131.

¹³⁷ S. 1002.87, F.S.

- At-risk children¹³⁸ younger than 9.

Subsequent enrollment in the program is to be prioritized according to the ELC's local priorities determined by an assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.¹³⁹ Based on the ELCs local priorities, enrollment in the SR Program can be made available to children meeting at least one of the following criteria:¹⁴⁰

- Economically disadvantaged¹⁴¹ children until eligible to enter kindergarten. Their older siblings up to the age they are eligible to enter 6th grade may also be served.
- Children from birth to kindergarten whose parents are transitioning from the TCA work program to employment.
- At-risk children who are at least age 9 but younger than 13. Those with siblings in priority groups 1-3 are higher priority than other children ages 9-13 in this priority group.
- Economically disadvantaged children younger than 13. Priority in this category is given to children who have a younger sibling in the School Readiness Program under priority 3.
- Children younger than 13 whose parents are transitioning from the TCA work program to employment.
- Children who have special needs and current individual educational plans from age 3 until they are eligible to enter kindergarten.
- Children concurrently enrolled in the federal Head Start Program and VPK, regardless of priorities 1-4.

Due to the high need for services, the SR Program maintains a waiting list, which for fiscal year 2022-2023 had a monthly average of more than 5,000 children.¹⁴²

School Readiness Copayments and Fees

Parents of children enrolled in a SR program are responsible for paying a copayment directly to the child care provider. Copayments are based on a sliding fee scale set by the ELCs and approved by the DEL.¹⁴³ Families receiving SR pay a copayment based on the ELC's sliding fee scale rather than a full tuition amount with the intention of eliminating cost as a barrier to services.¹⁴⁴ An ELC's sliding fee scale must be set such that economically disadvantaged families have equal access to the care available to families whose income makes them ineligible for school readiness services.¹⁴⁵ Parent

¹³⁸ "At-risk child" is defined under s. 1002.81, F.S., as a child meeting one of the following criteria: from a family under investigation or supervision by the Department of Children and Families (DCF) or a designated sheriff's office for child abuse, neglect, abandonment, or exploitation; in a diversion program provided by DCF or its contracted provider and who is from a family that is actively participating and complying in department-prescribed activities, including education, health services, or work; placed in court-ordered, long-term custody or under the guardianship of a relative or nonrelative after termination of supervision by DCF or its contracted provider; in the custody of a parent who is considered a victim of domestic violence and is receiving services through a certified domestic violence center; in the custody of a parent who is considered homeless as verified by a DCF certified homeless shelter.

¹³⁹ S. 1002.85(2)(i), F.S.

¹⁴⁰ S. 1002.87(1), F.S.

¹⁴¹ "Economically disadvantaged" is defined under s. 1002.81, F.S., as having a family income that does not exceed 150 percent of the federal poverty level and includes being a child of a working migratory family as defined by 34 C.F.R. s. 200.81(d) or (f) or an agricultural worker who is employed by more than one agricultural employer during the course of a year, and whose income varies according to weather conditions and market stability.

¹⁴² *Supra*, note 131 at p. 8

¹⁴³ Rule 6M-4.400, F.A.C.

¹⁴⁴ S. 1002.84(9), F.S.

¹⁴⁵ Rule 6M-4.400, F.A.C.

copayments may not exceed 10 percent of a family's income unless the ELC provides justification of how the sliding fee scale meets the federal requirement that the copayment be affordable. In addition to the copayment, families may be subject to additional fees, such as a registration fee. The ELC may pay for a participant's registration fees up to \$75 in certain circumstances.¹⁴⁶

The current copay schedule is not established with a smooth transition toward the end of the eligibility threshold. Instead, copays tend to remain relatively low, which means that when a family's income reaches 85 percent of SMI, the cost increase is very high when the family must absorb the full cost of child care. This transition creates a significant benefit cliff for families participating in the SR program if their income level upon exiting the program is insufficient to afford the full cost of child care. In some cases, families may attempt to "park" their income below the eligibility threshold in order to not lose access to the child care benefit.¹⁴⁷

Career Ladder Identifier and Financial Forecaster (CLIFF)

The Career Ladder Identifier and Financial Forecaster (CLIFF) navigator is a suite of tools developed by the Federal Reserve Bank of Atlanta to model the interaction of public benefits, taxes, and tax credits with career advancement. The tool is used to help working families navigate the complex system of public assistance, stabilize their financial situation in the short term, and plan long term career paths.¹⁴⁸

CareerSource Florida, Inc. partnered with the Federal Reserve Bank of Atlanta to incorporate the CLIFF tool into state workforce programs. A Florida-specific suite of CLIFF tools has been developed and is being introduced into the local workforce development boards' processes, and staff at both CareerSource, Florida, Inc. and DCF have received training on the suite of CLIFF tools. The goal of this program is to assist Floridians in identifying career strategies and achieving economic stability while minimizing the negative impacts of losing public assistance.¹⁴⁹

Effect of The Bill

Temporary Assistance for Needy Families (TANF)

Qualifying Work Activities

HB 1267 allows adults who have not attained a high school diploma, or its equivalent, to satisfy their TCA work activity requirement through participating in adult basic education or high school equivalency examination preparation for at least 20 hours per week.

The bill includes a mechanism by which this provision may be suspended if the state's work participation rate falls below the federally required minimum rate. If the state's work participation rate (WPR) does not exceed the federal minimum WPR by more than 10 percent, then Florida Commerce must suspend the provision until the state has again exceeded the federal minimum WPR by 10 percent for three consecutive months. If the provision is suspended, Florida Commerce issues notice to the affected TCA recipients within 5 days of the policy's suspension.

¹⁴⁶ Rule 6M-4.500, F.A.C.

¹⁴⁷ *Supra*, note 14.

¹⁴⁸ Federal Reserve Bank of Atlanta, *Career Ladder Identifier and Financial Forecaster (CLIFF)*. Available at <https://www.atlantafed.org/economic-mobility-and-resilience/advancing-careers-for-low-income-families/cliff-tool> (last visited January 19, 2024).

¹⁴⁹ CareerSource Florida. *2022-2023 Annual Report (2023)*. Available at https://careersourceflorida.com/wp-content/uploads/2023/12/CAREERSOURCE-FLORIDA-FY-22-23-ANNUAL-REPORT_DIGITAL.pdf (last visited January 19, 2024).

Under the bill, if the provision allowing adult basic education or high school equivalency examination preparation as a work activity is suspended, individuals whose work requirements are impacted are protected from being sanctioned as a result of the state's action: impacted TCA recipients are considered to have good cause for noncompliance for up to six weeks after the change in the participants' work requirements.

Transitional Case Management

HB 1267 creates transitional case management as a service available to families who have transitioned off of cash assistance. Under the bill, individuals who have been determined ineligible for cash assistance for a reason other than noncompliance with work activity requirements are eligible for voluntary case management services administered by the local workforce development board.

Case management shall include career planning, job search assistance, resume building, basic financial planning, connection to support services, and guidance using a tool to demonstrate the financial impacts of changes in income and benefits over time. Case managers are directed to connect recipients of this service to other transitional benefits as needed.

The bill directs Florida Commerce to develop training for the local workforce development boards relating to case management methods and the provision of welfare transition services generally.

Data Collection

HB 1267 directs CareerSource Florida, Inc., in collaboration with the Florida Commerce and DCF, to develop standardized surveys for TCA recipients to be administered by the LWDBs. The bill requires CareerSource Florida, Inc., to develop an intake survey to collect baseline information as a person is entering the program, and an exit survey to collect information which can be used to discern programmatic impacts on individuals over time. The stated purpose of the surveys is to monitor program effectiveness, inform program improvements, and effectively allocate resources.

The bill requires that the intake surveys collect, at a minimum, information relating to perceived barriers to employment, reasons for past separation from employment, stated goals for employment or professional development, the highest level of education or training the individual has attained, and awareness of non-cash assistance transitional services. The bill directs the LWDBs to administer the intake survey in conjunction with the diversion screening process required under s. 445.017, F.S., or in case of administrative oversight, the bill generally requires the survey be completed by each new TCA recipient who has not otherwise completed the survey.

The bill requires that the exit surveys collect, at a minimum, information on the recipient's enrollment in other benefits programs, long-term career plan, credentials, education, or training received during enrollment, barriers to employment addressed, and remaining barriers to employment. The bill directs the LWDBs to administer the exit survey at the points of contact required in current law¹⁵⁰ when a TCA recipient becomes, or is anticipated to become, ineligible for TCA.

The bill directs the local workforce development boards to submit the completed surveys to CareerSource Florida, Inc., and disseminate anonymized data to Florida Commerce and DCF on a

¹⁵⁰ S. 414.105, F.S., requires TCA recipients to be interviewed when they near the 48-month lifetime limit on TCA. S. 445.028, F.S., requires TCA recipients be contacted when they are determined ineligible for cash assistance.

quarterly basis. The bill requires Florida Commerce, in consultation with CareerSource Florida, Inc., and DCF, to prepare and submit a report to the Legislature annually. The report is required to include survey results, an analysis of the barriers to employment faced by survey respondents, and recommendations for legislative and administrative changes to mitigate such barriers and improve the effective use of transitional benefits.

Supplemental Nutritional Assistance Program (SNAP)

HB 1267 requires DCF seek approval from the federal government in order to require SNAP recipients between 18 and 59 years of age to be assigned to SNAP E&T unless the person otherwise qualifies for an exemption. This is similar to Florida's current SNAP E&T plan which has been approved by federal government, except that Florida's plan does not require such individuals with dependents to be assigned.

School Readiness Program

HB 1267 revises the definition of "economically disadvantaged" for the purpose of determining eligibility for the School Readiness program. Under the bill, the income level for initial eligibility remains consistent with current law but adjusts continued eligibility to be based upon a county-level standard. Through restructuring the program's criteria for continued eligibility, the bill mitigates the benefit cliff phenomena experienced by families when they suddenly lose the child care subsidy.

The bill directs the Department of Education (DOE) to establish the county-level standard reflecting the amount of income required for a family living in the specified county to meet basic needs at a minimally adequate level, considering, at a minimum, the family composition, the ages of the children, and the geographic differences in cost. The use of a localized standard allows DOE the flexibility to tailor the program to the varied costs of living across the state and assist families based on the environment they are living in, rather than the comparatively arbitrary federal standard. By tying program eligibility to a local standard, a family's eligibility should be extended to a point at which they are financially capable of paying the market rate for child care, thus avoiding a benefit cliff.

Career Ladder Identifier and Financial Forecaster (CLIFF)

The bill requires the use of a tool "to demonstrate future financial impacts" (tool) relating to a person's change in income and benefits in several settings. The CLIFF suite of tools developed with the Federal Reserve Bank of Atlanta is currently used for this purpose.

The bill requires that the tool be implemented during the interview process that occurs when a TCA-recipient is approaching the 48-month time limit on TCA. The tool is also included in the required elements of transitional case management.

The bill requires Florida Commerce to integrate the tool into the workforce service delivery system, and requires Florida Commerce to develop training for the local workforce development boards, and other workforce system partners, on the use of the tool.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 414.065, F.S., relating to noncompliance with work requirements.

- Section 2:** Amends s. 414.105, F.S., relating to time limitations of temporary cash assistance.
- Section 3:** Amends s. 414.455, F.S., relating to Supplemental Nutrition Assistance Program; legislative authorization.
- Section 4:** Amends s. 445.009, F.S., relating to one-stop delivery system.
- Section 5:** Amends s. 445.011, F.S., relating to consumer-first workforce system.
- Section 6:** Amends s. 445.017, F.S., relating to diversion.
- Section 7:** Amends s. 445.024, F.S., relating to work requirements.
- Section 8:** Amends s. 445.028, F.S., relating to transitional benefits and services.
- Section 9:** Creates s. 445.0281, F.S., relating to transitional case management.
- Section 10:** Amends s. 445.035, F.S., relating to data collection and reporting.
- Section 11:** Amends s. 1002.81, F.S., relating to definitions.
- Section 12:** 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:

Services for current and former TCA recipients: Both Florida Commerce and CareerSource Florida will experience a workload increase to implement the new requirements for data collection. Depending on the degree to which former TCA recipients use the new transitional case management services, CareerSource Florida may also see a workload increase from providing that service. The total fiscal impact is indeterminate.

New School Readiness subsidy: The Department of Education will have increased recurring General Revenue expenditures for the new subsidy for families who have exceeded the current eligibility limit of 85% of state median income. There may also be costs to modify DOE's information technology system to administer the new subsidy. The impact of this is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Families who become able to continue receiving subsidies under the School Readiness program will have increased household resources. These resources may enable them to increase the hours they work, further benefitting those households economically.

Child care providers may experience increased enrollment from the expanded eligibility criteria allowing children to remain eligible for services.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Sufficient rule-making authority exists to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

26 the department to issue notice to participants under
27 certain circumstances; amending s. 445.028, F.S.;
28 requiring the Department of Children and Families to
29 administer an exit survey; creating s. 445.0281, F.S.;
30 providing voluntary case management services to
31 certain persons for specified purposes; providing
32 requirements for such case management services and
33 case managers; amending s. 445.035, F.S.; requiring
34 CareerSource Florida, Inc., in collaboration with
35 other entities, to develop standardized intake and
36 exit surveys for specified purposes; specifying when
37 such surveys must be administered; providing
38 requirements for such surveys; requiring completed
39 surveys to be submitted to CareerSource Florida, Inc.,
40 and disseminated quarterly to certain departments;
41 requiring the Department of Commerce, in consultation
42 with other entities, to prepare and submit an annual
43 report to the Legislature; providing requirements for
44 such report; amending s. 1002.81, F.S.; revising the
45 definition of the term "economically disadvantaged";
46 providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsection (1) of section 414.065, Florida

51 Statutes, is amended to read:

52 414.065 Noncompliance with work requirements.—

53 (1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS
54 AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The
55 department shall establish procedures for administering
56 penalties for nonparticipation in work requirements and failure
57 to comply with the alternative requirement plan. If an
58 individual in a family receiving temporary cash assistance fails
59 to engage in work activities required in accordance with s.
60 445.024, the following penalties shall apply. Before ~~Prior to~~
61 the imposition of a sanction, the participant must ~~shall~~ be
62 notified orally or in writing that the participant is subject to
63 sanction and that action will be taken to impose the sanction
64 unless the participant complies with the work activity
65 requirements. The participant must ~~shall~~ be counseled as to the
66 consequences of noncompliance and, if appropriate, ~~shall be~~
67 referred for services that could assist the participant to fully
68 comply with program requirements. If the participant has good
69 cause for noncompliance or demonstrates satisfactory compliance,
70 the sanction may ~~shall~~ not be imposed. If the requirements of s.
71 445.024(2)(a)1. are suspended pursuant to s. 445.024(2)(a)2., a
72 participant in noncompliance because of such suspension is
73 considered to have good cause for noncompliance for up to 6
74 weeks after the change in the participant's work requirements.
75 If the participant has subsequently obtained employment, the

76 participant must ~~shall~~ be counseled regarding the transitional
 77 benefits that may be available and provided information about
 78 how to access such benefits. The department shall administer
 79 sanctions related to food assistance consistent with federal
 80 regulations.

81 (a)1. First noncompliance: temporary cash assistance is
 82 ~~shall be~~ terminated for the family for a minimum of 10 days or
 83 until the individual who failed to comply does so.

84 2. Second noncompliance: temporary cash assistance is
 85 ~~shall be~~ terminated for the family for 1 month or until the
 86 individual who failed to comply does so, whichever is later.
 87 Upon meeting this requirement, temporary cash assistance must
 88 ~~shall~~ be reinstated to the date of compliance or the first day
 89 of the month following the penalty period, whichever is later.

90 3. Third noncompliance: temporary cash assistance is ~~shall~~
 91 ~~be~~ terminated for the family for 3 months or until the
 92 individual who failed to comply does so, whichever is later. The
 93 individual must ~~shall be required to~~ comply with the required
 94 work activity upon completion of the 3-month penalty period,
 95 before reinstatement of temporary cash assistance. Upon meeting
 96 this requirement, temporary cash assistance must ~~shall~~ be
 97 reinstated to the date of compliance or the first day of the
 98 month following the penalty period, whichever is later.

99 (b) If a participant receiving temporary cash assistance
 100 who is otherwise exempted from noncompliance penalties fails to

101 comply with the alternative requirement plan required in
102 accordance with this section, the penalties provided in
103 paragraph (a) ~~shall~~ apply.

104
105 If a participant fully complies with work activity requirements
106 for at least 6 months, the participant must ~~shall~~ be reinstated
107 as being in full compliance with program requirements for
108 purpose of sanctions imposed under this section.

109 Section 2. Subsection (10) of section 414.105, Florida
110 Statutes, is amended to read:

111 414.105 Time limitations of temporary cash assistance.—
112 Except as otherwise provided in this section, an applicant or
113 current participant shall receive temporary cash assistance for
114 no more than a lifetime cumulative total of 48 months, unless
115 otherwise provided by law.

116 (10) A member of the staff of the local workforce
117 development board shall interview and assess the employment
118 prospects and barriers of each participant who is within 6
119 months of reaching the 48-month time limit. The staff member
120 shall do all of the following:

121 (a) Administer the exit survey required under s. 445.035.

122 (b) Use a tool to demonstrate future financial impacts of
123 the participant's change in income and benefits over time.

124 (c) Assist the participant in identifying actions
125 necessary to become employed before reaching the benefit time

126 | limit for temporary cash assistance.

127 | (d) ~~and~~, If appropriate, ~~shall~~ refer the participant for
 128 | services that could facilitate employment, including, but not
 129 | limited to, transitional benefits and services.

130 | Section 3. Section 414.455, Florida Statutes, is amended
 131 | to read:

132 | 414.455 Supplemental Nutrition Assistance Program;
 133 | legislative authorization; mandatory participation in employment
 134 | and training programs.—

135 | (1) Notwithstanding s. 414.45, and unless expressly
 136 | required by federal law, the department must ~~shall~~ obtain
 137 | specific authorization from the Legislature before seeking,
 138 | applying for, accepting, or renewing any waiver of work
 139 | requirements established by the Supplemental Nutrition
 140 | Assistance Program under 7 U.S.C. s. 2015(o).

141 | (2) The department must request approval from the Federal
 142 | Government in order to require a person who is 18 to 59 years of
 143 | age, inclusive, and receiving food assistance to be assigned to
 144 | an employment and training program unless the person qualifies
 145 | for an exemption.

146 | Section 4. Paragraph (k) of subsection (1) of section
 147 | 445.009, Florida Statutes, is redesignated as paragraph (l), and
 148 | a new paragraph (k) is added to that subsection, to read:

149 | 445.009 One-stop delivery system.—

150 | (1) The one-stop delivery system is the state's primary

151 customer-service strategy for offering every Floridian access,
152 through service sites or telephone or computer networks, to the
153 following services:

154 (k) Benefit management and career planning using a tool to
155 demonstrate future financial impacts of the participant's change
156 in income and benefits over time.

157 Section 5. Subsections (1) and (5) of section 445.011,
158 Florida Statutes, are amended to read:

159 445.011 Consumer-first workforce system.—

160 (1) The department, in consultation with the state board,
161 the Department of Education, and the Department of Children and
162 Families, shall implement, subject to legislative appropriation,
163 an automated consumer-first workforce system that improves
164 coordination among required one-stop partners and is necessary
165 for the efficient and effective operation and management of the
166 workforce development system. This system must ~~shall~~ include,
167 but is ~~need~~ not ~~be~~ limited to, the following:

168 (a) An integrated management system for the one-stop
169 service delivery system, which includes, at a minimum, common
170 registration and intake for required one-stop partners,
171 screening for needs and benefits, benefit management and career
172 planning using a tool to demonstrate future financial impacts of
173 the participant's change in income and benefits over time, case
174 management, training benefits management, service and training
175 provider management, performance reporting, executive

176 information and reporting, and customer-satisfaction tracking
 177 and reporting.

178 1. The system should report current budgeting,
 179 expenditure, and performance information for assessing
 180 performance related to outcomes, service delivery, and financial
 181 administration for workforce programs pursuant to s. 445.004(5)
 182 and (9).

183 2. The system should include auditable systems and
 184 controls to ensure financial integrity and valid and reliable
 185 performance information.

186 3. The system should support service integration and case
 187 management across programs and agencies by providing for case
 188 tracking for participants in workforce programs, participants
 189 who receive benefits pursuant to public assistance programs
 190 under chapter 414, and participants in welfare transition
 191 programs under this chapter.

192 (b) An automated job-matching information system that is
 193 accessible to employers, job seekers, and other users via the
 194 Internet, and that includes, at a minimum, all of the following:

195 1. Skill match information, including skill gap analysis;
 196 resume creation; job order creation; skill tests; job search by
 197 area, employer type, and employer name; and training provider
 198 linkage.†

199 2. Job market information based on surveys, including
 200 local, state, regional, national, and international occupational

201 and job availability information. ~~;~~ ~~and~~

202 3. Service provider information, including education and
 203 training providers, child care facilities and related
 204 information, health and social service agencies, and other
 205 providers of services that would be useful to job seekers.

206 (5) The department shall develop training for required
 207 one-stop partners on the use of the consumer-first workforce
 208 system, best practices for the use of a tool demonstrating
 209 future financial impacts of the participant's change in income
 210 and benefits over time, the different case management methods,
 211 the availability of welfare transition services, and how to
 212 prequalify individuals for workforce programs.

213 Section 6. Subsection (4) of section 445.017, Florida
 214 Statutes, is amended to read:

215 445.017 Diversion.—

216 (4) (a) The local workforce development board shall screen
 217 each family on a case-by-case basis for barriers to obtaining or
 218 retaining employment. The screening must ~~shall~~ identify barriers
 219 that, if corrected, may prevent the family from receiving
 220 temporary cash assistance on a regular basis. At the time of
 221 screening, the local workforce development board shall
 222 administer the intake survey required under s. 445.035(2).

223 (b) Assistance to overcome a barrier to employment is not
 224 limited to cash, but may include vouchers or other in-kind
 225 benefits.

226 Section 7. Subsection (2) of section 445.024, Florida
 227 Statutes, is amended to read:

228 445.024 Work requirements.—

229 (2) WORK ACTIVITY REQUIREMENTS.—Each individual who is not
 230 otherwise exempt from work activity requirements must
 231 participate in a work activity for the maximum number of hours
 232 allowable under federal law; however, a participant may not be
 233 required to work more than 40 hours per week. The maximum number
 234 of hours each month that a family may be required to participate
 235 in community service or work experience programs is the number
 236 of hours that would result from dividing the family's monthly
 237 amount for temporary cash assistance and food assistance by the
 238 applicable minimum wage. However, the maximum hours required per
 239 week for community service or work experience may not exceed 40
 240 hours.

241 (a)1. A participant who has not earned a high school
 242 diploma or its equivalent may participate in adult general
 243 education, as defined in s. 1004.02(3), or a high school
 244 equivalency examination preparation, as defined in s.
 245 1004.02(16). A participant must participate in such program or
 246 course for at least 20 hours per week in order to satisfy the
 247 participant's work activity requirement.

248 2. If the state's TANF work participation rate, as
 249 provided by federal law, does not exceed the federal minimum
 250 work participation rate by 10 percentage points in any month,

251 the requirements of this subsection may be suspended by the
252 department until the work participation rate exceeds the federal
253 minimum work participation rate by 10 percentage points for at
254 least 3 consecutive months.

255 3. If the requirements of this subsection are suspended,
256 the department must issue notice to the affected participants of
257 the changed work requirements within 5 days after the change in
258 such work requirements.

259 (b)(a) A participant in a work activity may also be
260 required to enroll in and attend a course of instruction
261 designed to increase literacy skills to a level necessary for
262 obtaining or retaining employment if the instruction plus the
263 work activity does not require more than 40 hours per week.

264 (c)(b) Program funds may be used, as available, to support
265 the efforts of a participant who meets the work activity
266 requirements and who wishes to enroll in or continue enrollment
267 in an adult general education program or other training
268 programs.

269 Section 8. Subsections (1) and (2) of section 445.028,
270 Florida Statutes, are amended to read:

271 445.028 Transitional benefits and services.—In cooperation
272 with the department, the Department of Children and Families
273 shall develop procedures to ensure that families leaving the
274 temporary cash assistance program receive transitional benefits
275 and services that will assist the family in moving toward self-

276 sufficiency. At a minimum, such procedures must include, but are
 277 not limited to, the following:

278 (1) Each recipient of cash assistance who is determined
 279 ineligible for cash assistance for a reason other than a work
 280 activity sanction must ~~shall~~ be contacted by the workforce
 281 system case manager and provided information about the
 282 availability of transitional benefits and services. Such contact
 283 must include the administration of the exit survey required
 284 under s. 445.035(2) and ~~shall~~ be attempted before ~~prior to~~
 285 closure of the case management file.

286 (2) Each recipient of temporary cash assistance who is
 287 determined ineligible for cash assistance due to noncompliance
 288 with the work activity requirements must ~~shall~~ be contacted and
 289 provided information in accordance with s. 414.065(1). Such
 290 contact must include the administration of the exit survey
 291 required under s. 445.035(2).

292 Section 9. Section 445.0281, Florida Statutes, is created
 293 to read:

294 445.0281 Transitional case management.—Each recipient of
 295 cash assistance who is determined ineligible for cash assistance
 296 for a reason other than noncompliance with work activity
 297 requirements is eligible for voluntary case management services
 298 administered by the local workforce development board. Case
 299 management services must be available to support families who
 300 transition to economic self-sufficiency and to mitigate

301 dependency on cash assistance. Case management services must
302 include, but are not limited to, career planning, job search
303 assistance, resume building, basic financial planning,
304 connection to support services, and benefits management using a
305 tool to demonstrate future financial impacts of the
306 participant's change in income and benefits over time, as
307 applicable. Case managers must connect recipients to other
308 transitional benefits as needed.

309 Section 10. Section 445.035, Florida Statutes, is amended
310 to read:

311 445.035 Data collection and reporting.—

312 (1) The Department of Children and Families and the state
313 board shall collect data necessary to administer this chapter
314 and make the reports required under federal law to the United
315 States Department of Health and Human Services and the United
316 States Department of Agriculture.

317 (2) CareerSource Florida, Inc., in collaboration with the
318 department, the Department of Children and Families, and the
319 local workforce development boards, shall develop standardized
320 intake and exit surveys for the purpose of collecting and
321 aggregating data to monitor program effectiveness, inform
322 program improvements, and allocate resources.

323 (a) The intake survey must be administered by the local
324 workforce development boards during the required diversion
325 screening process under s. 445.017. The intake survey must be

326 administered to each new recipient of temporary cash assistance
327 under chapter 414 who has not otherwise completed the survey.

328 (b) The intake survey must, at a minimum, collect
329 qualitative or quantitative data, as applicable, relating to all
330 of the following:

331 1. The recipient's perceived individual barriers to
332 employment.

333 2. The reasons cited by the recipient for his or her
334 separation from employment in the previous 12 months.

335 3. The recipient's stated goals for employment or
336 professional development.

337 4. The recipient's highest level of education or
338 credentials attained or training received at the time of
339 enrollment.

340 5. The recipient's awareness of welfare transition
341 services.

342 (c) The exit survey must be administered by the local
343 workforce development boards to recipients of temporary cash
344 assistance under chapter 414 as recipients prepare to transition
345 off of temporary cash assistance. Based on a recipient's
346 circumstances, the exit survey must be administered to the
347 recipient at one of the following points of contact:

348 1. The recipient is approaching the statutory time
349 limitation for temporary cash assistance and is interviewed
350 pursuant to s. 414.105(10); or

351 2. At such time when the recipient becomes ineligible for
 352 cash assistance and is contacted pursuant to s. 445.028.

353 (d) The exit survey must, at a minimum, collect data
 354 relating to all of the following:

355 1. The recipient's enrollment in other public benefits
 356 programs at the time of exit.

357 2. Whether the recipient has a long-term career plan.

358 3. The recipient's credentials or education attained or
 359 training received during enrollment.

360 4. Barriers to the recipient's employment which were
 361 addressed during enrollment.

362 5. Any remaining barriers to the recipient's employment.

363 (e) The completed surveys must be submitted to
 364 CareerSource Florida, Inc., and anonymized data must be
 365 disseminated quarterly to the department and the Department of
 366 Children and Families.

367 (f) The department, in consultation with CareerSource
 368 Florida, Inc., and the Department of Children and Families,
 369 shall prepare and submit to the President of the Senate and the
 370 Speaker of the House of Representatives a report by January 1 of
 371 each year. The report must include, at a minimum, the results of
 372 the intake and exit surveys, an analysis of the barriers to
 373 employment experienced by the survey respondents, and any
 374 recommendations for legislative and administrative changes to
 375 mitigate such barriers and improve the effective use of

HB 1267

2024

376 transitional benefits.

377 Section 11. Subsection (6) of section 1002.81, Florida
378 Statutes, is amended to read:

379 1002.81 Definitions.—Consistent with the requirements of
380 45 C.F.R. parts 98 and 99 and as used in this part, the term:

381 (6) "Economically disadvantaged" means having a family
382 income that does not exceed 150 percent of the federal poverty
383 level for initial eligibility and does not exceed the standard
384 for the county of residence for continued eligibility. The term
385 and includes, but is not limited to, being a child of a working
386 migratory family as defined by 34 C.F.R. s. 200.81(d) or (f) or
387 an agricultural worker who is employed by more than one
388 agricultural employer during the course of a year, and whose
389 income varies according to weather conditions and market
390 stability. For purposes of this subsection, the term "standard"
391 means the amount of income required for a family living in the
392 family's county of residence to meet basic needs at a minimally
393 adequate level, taking into account, at a minimum, the family
394 composition, the ages of the children, and the geographic
395 differences in costs, as determined by department rule.

396 Section 12. This act shall take effect July 1, 2024.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|---------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Children, Families &
2 Seniors Subcommittee

3 Representative Anderson offered the following:

4

5 **Amendment**

6 Remove lines 141-145 and insert:

7 (2) Unless prohibited by the federal government, the
8 department must require participation in an employment and
9 training program by a person who is receiving food assistance
10 and is 18 to 59 years of age, inclusive, who does not have
11 children under age 18 in the home, does not meet an exemption
12 and is determined by the department to be eligible for the
13 program.

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|---------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee

3 Representative Anderson offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 377-395 and insert:

7 Section 11. Section 1002.935, Florida Statutes, is created
 8 to read:

9 1002.935 School Readiness Subsidy Program.—The school
 10 readiness subsidy program is created within the Department of
 11 Education to support the continued school readiness and child
 12 care needs of children and working families. The program is
 13 contingent upon a legislative appropriation and is provided on a
 14 first-come, first-served basis.

15 (1) (a) A child who is determined ineligible for school
 16 readiness funds, due to family income, during the annual

Amendment No. 2

17 eligibility determination pursuant to s. 1002.87(6), is eligible
18 for a subsidy under this section if the family income is at or
19 above eighty-five percent of the state median income but is at or
20 below one hundred percent of the state median income.

21 (b) The early learning coalitions established in s.
22 1002.83 shall administer the school readiness subsidy program
23 and provide participants with access to the benefit management
24 and career planning tool described in s. 445.009(1)(k).

25 (2) (a) The amount of the subsidy shall be a percentage of
26 the early learning coalition's approved school readiness
27 provider reimbursement rates as calculated pursuant to s.
28 1002.84(17). Early learning coalitions shall consider family
29 income and a required parent copayment, that increases in
30 relation to the family income, when establishing the percentage.

31 (b) The amount of the subsidy and parent copayment must be
32 sufficient to provide the family access to child care providers
33 pursuant to s. 1002.88, and enable the parent to achieve self-
34 sufficiency.

35 (3) For a parent to receive a subsidy, the parent must:

36 (a) Submit an application to the early learning coalition
37 in a format prescribed by the Department of Education.

38 (b) Provide the documentation necessary to verify the
39 parent's eligibility to receive the subsidy.

40 (c) Be responsible for the payment of all child care
41 expenses in excess of the amount of the subsidy.

Amendment No. 2

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T I T L E A M E N D M E N T

Remove lines 44-45 and insert:

Such report; creating s. 1002.935, F.S.; establishing the school
readiness child care subsidy program; providing eligibility;
requiring each early learning coalition to administer the
program;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1271 Individuals with Disabilities

SPONSOR(S): Buchanan

TIED BILLS: **IDEN./SIM. BILLS:** SB 1758

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|---------|--|
| 1) Children, Families & Seniors Subcommittee | | Lloyd | Brazzell |
| 2) Health Care Appropriations Subcommittee | | | |
| 3) Health & Human Services Committee | | | |

SUMMARY ANALYSIS

The Agency for Persons with Disabilities (APD) provides services to individuals with certain developmental disabilities, including through a Medicaid Home and Community-Based Services (HCBS) waiver. The HCBS waiver allows these individuals to continue to live in their own homes or in another home-like setting and avoid institutionalization.¹ Florida's HCBS waiver for individuals with developmental disabilities is called iBudget Florida (iBudget). Waiver applications are submitted through a paper-based process and then reviewed by APD based on statutory deadlines. Most eligible individuals are then placed on a wait list known as the pre-enrollment list; some can wait for years before funding is available for waiver enrollment.

Applying and being determined eligible for the iBudget waiver can be confusing and frustrating. HB 1271 enhances the individual's eligibility and enrollment experience through:

- Requiring an online application process;
- Requiring APD to communicate with applicants about certain application actions;
- Specifying time standards for review and action on eligibility by pre-enrollment category.

The bill increases agency efficiency and improves access to services by:

- Reprioritizing individuals whose caregivers are between 60 and 69 years old higher on the pre-enrollment list (wait list);
- Creating care navigation to assist individuals waiting for services in accessing community resources;
- Limiting APD to developing support plans only for waiver enrollees;
- Authorizing funding for enrolling on the waiver individuals in pre-enrollment categories 3-5; and
- Requiring the Agency for Health Care Administration and APD to develop a plan by December 1, 2024 for a new Medicaid waiver for clients transitioning into adulthood.

The bill has a significant, negative fiscal impact on state government and no impact on local governments. See Fiscal Analysis.

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

¹ Rule 59G-13.080(1), F.A.C.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) provides services to certain individuals with developmental disabilities.² APD supports these individuals and families in living, learning, and working within their communities by creating multiple pathways to be successful through a variety of social, medical, behavioral, residential, and therapeutic services.³

Chapter 393, F.S., provides the authority and guidance to the APD on what programs to develop, who is eligible, and how to manage those programs within available resources. In s. 393.062, F.S., the legislative findings and declaration of intent state:

The greatest priority shall be given to the development and implementation of community-based services that will enable individuals with developmental disabilities to achieve their greatest potential for independent and productive living, enable them to live in their own homes or in residences located in their own communities, and permit them to be diverted or removed from unnecessary institutional placements.⁴

One of the ways in which services are delivered to individuals with developmental disabilities is through federal waivers, such as a Home and Community Based Services (HCBS) waiver⁵. The HCBS waiver allows these individuals to continue to live in their own homes or in another home-like setting and avoid institutionalization.⁶ To qualify for this waiver, an individual must meet the standards for institutional level of care.⁷

Home and Community Based Waiver Programs

iBudget Florida Program

The APD also administers the Medicaid HCBS waiver known as iBudget Florida (iBudget) for individuals with specified developmental disabilities who also meet Medicaid eligibility requirements.⁸ The iBudget waiver provides home and community-based services and supports to eligible persons with developmental disabilities living at home or in a home-like setting, with the costs shared with the federal government. The services for this waiver are delivered through a Fee-For-Service (FFS) delivery model, which means that providers are enrolled and reimbursed for services directly by the Agency for Health Care Administration.

The iBudget program allocates available funding to clients, providing each one with an established budget with the flexibility to choose from the authorized array of services that that best meet their individual needs within their community.⁹ Each client has a waiver support coordinator who assists with determining needs and coordinating providers to meet them.

² S. 393.062, F.S.

³ Agency for Persons with Disabilities, *About Us*, available at [About Us | APD - Agency for Persons with Disabilities - State of Florida \(myflorida.com\)](https://www.apd.fl.gov/about-us) (last visited January 22, 2024).

⁴ *Supra*, note 1.

⁵ Medicaid.gov, *Home and Community Based Services – 1915(c)*, available at <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited January 22, 2024).

⁶ Rule 59G-13.080(1), F.A.C.

⁷ *Id.*

⁸ S. 392.00662, F.S.

⁹ *Id.*

The iBudget program was phased in across the state beginning in May 2011 with the final area transitioned from the old system on July 1, 2013.¹⁰ The iBudget program uses an algorithm or formula to set each participant's funding allocation under the waiver.¹¹ According to APD, over 35,000 enrolled individuals are currently receiving their services under the iBudget waiver program.¹² However, due to insufficient funding, over 21,000 were on the pre-enrollment (wait) list for waiver services (see below).

Consumer Directed Care Plus Program

An individual who is enrolled on the iBudget waiver may choose to instead receive services through the Consumer Directed Care Plus Program, or CDC+, Program. The CDC+ Program allows individuals greater flexibility in the selection of providers and types of services and supports that may be purchased using the individual's budget. For instance, under CDC+, an individual and his or her family can directly hire personal caregivers instead of using a Medicaid-enrolled provider. As in the waiver, a support coordinator assists the individual and their families in identifying appropriate services and supports and making those selections through the system, though under CDC+, this individual is known as a consultant and has a more limited role.¹³

Program Eligibility

To receive services from APD, an individual must be found eligible through a paper application submission process. Information from the paper application is manually keyed into an electronic client data management system and reviewed both for eligibility based on information on the application and to identify if any additional information is needed. APD determines eligibility based on Florida statutes and rules.

To be eligible, an individual must:

- Demonstrate evidence that one of the following developmental diagnoses manifested itself before the age of 18 and can reasonably be expected to continue indefinitely:
 - Intellectual disability.
 - Spina Bifida.
 - Cerebral palsy.
 - Autism.
 - Down syndrome.
 - Phelan McDermid syndrome.
 - Prader-Willi syndrome.¹⁴
- Be domiciled in Florida;¹⁵ and
- Be at least three years of age.¹⁶

APD must review an application within 60 days depending on individual circumstances and the documentation received.¹⁷ Additional time to work with the applicant may be needed, for example, to

¹⁰ The Agency for Persons with Disabilities, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and their Costs: First Quarter Fiscal Year 2022-23*, p.2, November 15, 2022, available at <https://apd.myflorida.com/publications/reports/> (last visited January 22, 2024).

¹¹ Id.

¹² Agency for Persons with Disabilities, *2024 Agency Bill Analysis – HB 1271 (January 8, 2024)*(on file with the Children, Families, and Seniors Subcommittee).

¹³ A support coordinator is defined in s. 393.063(37), F.S. Further responsibilities are also included in the Agency for Health Care Administration, *Consumer Directed Care Plus Program Coverage, Limitations, and Reimbursement Handbook (October 2015)* available at https://apd.myflorida.com/cdcplus/docs/CDC_Plus_Program_Handbook_2015.pdf (last visited January 22, 2024).

¹⁴ S. 393.063(11), F.S. and 393.065, F.S.

¹⁵ S. 393.063(13), F.S. and 393.065, F.S.

¹⁶ *Supra*, Note 2.

¹⁷ S. 393.065(1), F.S.

conduct a comprehensive assessment to determine if the individual meets the clinical eligibility requirements.

For an applicant deemed in crisis, APD must expedite the application review to within 45 days.¹⁸ If additional documentation is needed, APD may pend the application until that information is provided which would toll the clock until the information was provided by the applicant. Eligible individuals are either enrolled in the program (provided a slot) or placed on the pre-enrollment list if the demand exceeds the available funding.¹⁹

The APD assigns each waitlisted client to a pre-enrollment category based on their needs and prioritized in the following decreasing order of priority:²⁰

- Category 1: Clients deemed to be in crisis.
- Category 2: Children in the child welfare System at the time of permanency or turning 18.
- Category 3: Intensive Needs
- Category 4 : Caregiver over the age of 70
- Category 5: Transition from School
- Category 6: Age 21 and Over
- Category 7: Age under 21

Eligible individuals that meet the criteria for Categories 1 or 2 are directly enrolled onto the iBudget waiver. Currently, there is a higher demand for iBudget services than the funding available, which means individuals who require services are put on the pre-enrollment list based on the categorization of their needs.

As of December 2023, as the table shows below, over 21,000 individuals were waiting for services, with approximately 50 percent of those between 25 through 59 years old.²¹

| iBudget Pre-Enrollment List December 2023²² | | |
|---|--|----------------------|
| Category | Description | Total Clients |
| Category 1 | Crisis | 0 |
| Category 2 | Children in Welfare System at the time of permanency or turning 18 | 0 |
| Category 3 | Intensive Needs | 210 |
| Category 4 | Caregiver over age 70 | 83 |
| Category 5 | Transition from School | 20 |
| Category 6 | Age 21 and Over | 12,809 |
| Category 7 | Age under 21 | 8,464 |
| Grand Total: | | 21,587 |

For each client in a pre-enrollment category, APD develops a support plan and sends an annual status letter. During this annual check-in, APD verifies contact information, provides resources information, and also provides the family an opportunity to indicate if there are any new unmet needs or other changes that may impact the individual's eligibility.²³ APD has recently begun providing care navigation to these clients, using positions that were repurposed for that effort.

When an individual is deemed eligible for services, the APD is required to consult with the client, if the client is competent, if not then the client's parent or guardian to devise a support plan. For children

¹⁸ Id.

¹⁹ Rule 65G-1.047, F.A.C. The rule provides that the severity of the crisis is determined by the risk to the health, safety, and welfare of each applicant relative to other applicant. Rule 65G-11.004 provides a procedure for determining if a client is considered to be in crisis.

²⁰ *Supra*, note 12.

²¹ Id.

²² *Supra*, Note 12.

²³ Id.

ages 3 to 18 and other individuals, the support plan must include the most appropriate, the least restrictive, and most cost beneficial environment for the individual's progress, and have the appropriate specification for the services authorized.²⁴

Effect of the Bill

Care Navigators

HB 1271 authorizes the APD to offer clients and their caregivers care navigation services within available resources at the time of application and as part of any eligibility or renewal review. A care navigator would assist the client and the client's family with navigating the systems and accessing services, supports, and available resources to meet an individual non-waiver enrolled client's needs, as well as identifying and address any barriers preventing individuals from accomplishing their goals. The care navigator would also connect individuals to supports and services in a timely manner and address immediate or critical needs to stabilize the individual seeking assistance before the individual reaches a crisis point.

Under s. 393.064, F.S., a care navigator would be involved in activities such as assessing client needs, developing care plans, and connecting individuals to resources that address the individual's immediate, intermediate, and long-term needs, goals leading to increased opportunities in education, employment, social engagement, community integration, and caregiver support.

For an individual who is also a public school student, the student's Individuals with Disabilities Education Act (I.D.E.A.) plan, as amended, would also be incorporated into the care plan.

Online Application

HB 1271 modernizes the application and eligibility processes at APD to incorporate a requirement for an online application, identify the federal time standards for eligibility review and processing, and provide specificity for eligibility determination time standards.

With only a paper application currently available, HB 1271 requires APD to develop and implement an online application process and system that meets certain minimum requirements, including the directive to:

- Create and maintain a paperless, electronic application.
- Maintain access to a printable, paper application on the APD website.
- Provide paper applications upon request.
- Designate a central or regional address for submission of paper applications via regular U.S. mail or via confidential fax.
- Provide immediate confirmation of receipt in the same manner as application was submitted, unless the applicant has designated otherwise.

For those individuals seeking enrollment in the HCBS waiver program who identify as being in crisis, the APD must make an eligibility determination in an expedited manner of 15 calendar days after receipt of a completed application.

For individuals with developmental disabilities who meet the criteria in s. 393.065(5)(b), F.S., which are children who are in the child welfare system (Category 2 on the pre-enrollment list), the APD must make eligibility determinations as soon as practicable. For the remaining categories under s. 393.065, F.S., HB 1271 requires an eligibility determination standard of 60 days after receipt of a complete application. The APD may toll the clock on the 60 day time period if documentation is missing; however, APD must convey this delay to the client verbally as soon as the action is taken and follow up with a written confirmation which details the anticipated length of the delay and a contact person for the client to reach should he or she have questions.

The bill amends the individual support plan requirement in s. 393.0651, F.S., to limit that requirement to only individuals served by the current iBudget waiver. HB 1271 adds a time standard of 60 calendar days after an APD eligibility determination for the development of the individual support plan and a requirement that the waiver support coordinator specifically inform the client, the client's parent or guardian about the CDC+ program. This will ensure that individuals eligible for CBC+ are informed about the opportunity.

Category 4 Expansion

The Category 4 pre-enrollment category is also modified. Instead of this category including those individuals whose caregivers are aged 70 of age or older, and for whom a caregiver is required but no alternate caregiver is available, HB 1271 reduces the qualifying age in the category for the caregiver to 60 years old. This will make more individuals eligible in a higher priority category, likely moving from category 6 up to category 5, and providing help to caregivers sooner.

Waiver Study

AHCA, APD, and other stakeholders are directed to work together to jointly develop a comprehensive plan for the administration, finance, and delivery of a new HCBS Medicaid waiver program focused on successfully transitioning clients into adulthood and proactively preventing crisis situations. AHCA is authorized to contract with the necessary experts to develop the plan which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024. The report must specifically address, at a minimum:

- The purpose, rationale, and expected benefits of the new waiver program.
- The proposed eligibility criteria for clients and the service benefit package to be offered through the waiver.
- A proposed implementation plan and timeline, including the recommended number of clients to be served at implementation and at different program intervals.
- Proposals for how clients may transition off and on the program and between other designated waiver programs.
- The fiscal impact of the program for the implementation year and over the next five fiscal years, determined on an actuarially sound basis.
- An analysis of the availability of the services that would be offered under the waiver program and recommendations for how to increase access, if necessary.
- A list of participating stakeholders, public and private, involved in or consulted about the proposed waiver program.

The effective date of the bill is July 1, 2024.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 393.064; F.S.; Care navigation.
- Section 2:** Amends s. 393.065, F.S.; Application and eligibility determination.
- Section 3:** Amends s. 393.0651, F.S.; Family or individual support plan.
- Section 4:** Provides an appropriation.
- Section 5:** Creates an unnumbered section of law, related to a report.
- Section 6:** 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:

Increased waiver enrollment: \$16,333,475 in recurring General Revenue funds and \$22,518,748 in recurring funds from the Operations and Maintenance Trust Fund to offer waiver services to individuals from pre-enrollment categories 3, 4, 5.

Online application process: between \$1.75 million and \$1.85 million ²⁵, with additional recurring funds needed for ongoing maintenance.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to affect local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those individuals enrolled on the waiver under the bill will receive additional supports and services. The number of individuals who will be enrolled on the waiver under the bill is unknown, as under the iBudget waiver the specific budget for each individual is determined after enrollment.

Providers of services to these individuals will have increased revenue.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Agency for Persons with Disabilities has sufficient rule-making authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

²⁵ *Supra*, Note 12.

1 A bill to be entitled
2 An act relating to individuals with disabilities;
3 amending s. 393.064, F.S.; requiring the Agency for
4 Persons with Disabilities to offer voluntary
5 participation care navigation services to certain
6 persons under certain circumstances; providing goals
7 and requirements for care navigation services;
8 amending s. 393.065, F.S.; requiring the agency to
9 develop and implement an electronic application
10 process; requiring the agency to maintain a printable
11 paper application on its website and, upon request,
12 provide a printed paper application to an applicant;
13 requiring the agency to provide applicants with
14 specified information upon receipt of an application
15 for services; revising timeframes within which the
16 agency must make eligibility determinations for
17 services; lowering the age that a caregiver must be
18 for an individual to be placed in a certain
19 preenrollment category; amending s. 393.0651, F.S.;
20 requiring the agency to provide an individual support
21 plan for each client served by the home and community-
22 based services Medicaid waiver program; providing
23 appropriations; requiring the Agency for Health Care
24 Administration and the Agency for Persons with
25 Disabilities, in consultation with other stakeholders,

26 to jointly develop a comprehensive plan for the
 27 administration, finance, and delivery of home and
 28 community-based services through a new home and
 29 community-based services Medicaid waiver program;
 30 providing requirements for the waiver program;
 31 requiring the Agency for Health Care Administration to
 32 submit a specified report to the Governor, the
 33 President of the Senate, and the Speaker of the House
 34 of Representatives by a specified date; providing an
 35 effective date.

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. Subsection (1) of section 393.064, Florida
 40 Statutes, is amended to read:

41 393.064 Care navigation ~~Prevention~~.—

42 (1) Within available resources, the agency must offer to
 43 clients and their caregivers, care navigation services for
 44 voluntary participation at time of application and as part of
 45 any eligibility or renewal review. The goals of care navigation
 46 are to create a seamless network of community resources and
 47 supports for the client and the client's family as a whole to
 48 support a client in daily living, community integration, and
 49 achievement of individual goals. Care navigation services shall
 50 involve assessing client needs, developing care plans, and

51 implementing care plans, including, but not limited to,
52 connecting a client to resources and supports. At a minimum, a
53 care plan shall address immediate, intermediate, and long term
54 needs and goals to promote and increase well-being and
55 opportunities for education, employment, social engagement,
56 community integration, and caregiver support. For a client who
57 is a public school student entitled to a free appropriate public
58 education under the Individuals with Disabilities Education Act,
59 I.D.E.A., as amended, the care plan shall be integrated with the
60 student's individual education plan (IEP). The care plan and IEP
61 must be implemented to maximize the attainment of educational
62 and habilitation goals ~~shall give priority to the development,~~
63 ~~planning, and implementation of programs which have the~~
64 ~~potential to prevent, correct, cure, or reduce the severity of~~
65 ~~developmental disabilities. The agency shall direct an~~
66 ~~interagency and interprogram effort for the continued~~
67 ~~development of a prevention plan and program. The agency shall~~
68 ~~identify, through demonstration projects, through program~~
69 ~~evaluation, and through monitoring of programs and projects~~
70 ~~conducted outside of the agency, any medical, social, economic,~~
71 ~~or educational methods, techniques, or procedures that have the~~
72 ~~potential to effectively ameliorate, correct, or cure~~
73 ~~developmental disabilities. The agency shall determine the costs~~
74 ~~and benefits that would be associated with such prevention~~
75 ~~efforts and shall implement, or recommend the implementation of,~~

76 ~~those methods, techniques, or procedures which are found likely~~
 77 ~~to be cost-beneficial.~~

78 Section 2. Subsection (1) and paragraph (d) of subsection
 79 (5) of section 393.065, Florida Statutes, are amended to read:

80 393.065 Application and eligibility determination.—

81 (1)(a) The agency shall develop and implement an online
 82 application process that, at a minimum, supports paperless
 83 electronic application submissions with immediate e-mail
 84 confirmation to each applicant to acknowledge receipt of
 85 application upon submission.

86 (b) The agency shall maintain access to a printable paper
 87 application on its website and, upon request, must provide an
 88 applicant with a printed paper application. Paper applications
 89 may ~~Application for services shall be submitted~~ made in writing
 90 to the agency, in the region in which the applicant resides,
 91 sent to a central or regional address via regular United States
 92 mail, or faxed to a central or regional confidential fax number.
 93 All applications, regardless of manner of submission, must be
 94 acknowledged as received, with an immediate receipt confirmation
 95 in the same manner as the application had been received unless
 96 the applicant has designated an alternative, preferred
 97 communication method on the submitted application.

98 (c) The agency must ~~shall~~ review each submitted
 99 application in accordance with federal time standards. ~~and make~~
 100 ~~an eligibility determination within 60 days after receipt of the~~

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101 ~~signed application. If, at the time of the application, an~~
102 ~~applicant is requesting enrollment in the home and community-~~
103 ~~based services Medicaid waiver program for individuals with~~
104 ~~developmental disabilities deemed to be in crisis, as described~~
105 ~~in paragraph (5)(a), the agency shall complete an eligibility~~
106 ~~determination within 45 days after receipt of the signed~~
107 ~~application.~~

108 1.(a) If the agency determines additional documentation is
109 necessary to make an eligibility determination, the agency may
110 request the additional documentation from the applicant.

111 2.(b) When necessary to definitively identify individual
112 conditions or needs, the agency or its designee must provide a
113 comprehensive assessment.

114 ~~(c) If the agency requests additional documentation from~~
115 ~~the applicant or provides or arranges for a comprehensive~~
116 ~~assessment, the agency's eligibility determination must be~~
117 ~~completed within 90 days after receipt of the signed~~
118 ~~application.~~

119 (d)1. If the applicant requesting enrollment in the home
120 and community-based services Medicaid waiver program for
121 individuals with developmental disabilities is deemed to be in
122 crisis as described in paragraph (5)(a), the agency must make an
123 eligibility determination within 15 calendar days after receipt
124 of a complete application.

125 2. If the applicant meets the criteria specified in

126 paragraph (5)(b), the agency must review and make an eligibility
127 determination as soon as practicable after receipt of a complete
128 application.

129 3. If the application meets the criteria specified in
130 paragraphs (5)(c)-(g), the agency shall make an eligibility
131 determination within 60 days after receipt of a complete
132 application. Any delays in the eligibility determination process
133 or any tolling of the time standard until certain information or
134 actions have been completed, must be conveyed to the client as
135 soon as such delays are known with a verbal contact to the
136 client or the client's designated caregiver and confirmed by a
137 written notice of the delay, the anticipated length of delay,
138 and a contact person for the client.

139 (5) Except as provided in subsections (6) and (7), if a
140 client seeking enrollment in the developmental disabilities home
141 and community-based services Medicaid waiver program meets the
142 level of care requirement for an intermediate care facility for
143 individuals with intellectual disabilities pursuant to 42 C.F.R.
144 ss. 435.217(b)(1) and 440.150, the agency must assign the client
145 to an appropriate preenrollment category pursuant to this
146 subsection and must provide priority to clients waiting for
147 waiver services in the following order:

148 (d) Category 4, which includes, but is not required to be
149 limited to, clients whose caregivers are 60 ~~70~~ years of age or
150 older and for whom a caregiver is required but no alternate

151 caregiver is available.

152

153 Within preenrollment categories 3, 4, 5, 6, and 7, the agency
154 shall prioritize clients in the order of the date that the
155 client is determined eligible for waiver services.

156 Section 3. Section 393.0651, Florida Statutes, is amended
157 to read:

158 393.0651 Family or individual support plan.—The agency
159 shall provide directly or contract for the development of a
160 family support plan for children ages 3 to 18 years of age and
161 an individual support plan for each client served by the home
162 and community-based services Medicaid waiver program under s.
163 393.0662. The client, if competent, the client's parent or
164 guardian, or, when appropriate, the client advocate, shall be
165 consulted in the development of the plan and shall receive a
166 copy of the plan. Each plan must include the most appropriate,
167 least restrictive, and most cost-beneficial environment for
168 accomplishment of the objectives for client progress and a
169 specification of all services authorized. The plan must include
170 provisions for the most appropriate level of care for the
171 client. Within the specification of needs and services for each
172 client, when residential care is necessary, the agency shall
173 move toward placement of clients in residential facilities based
174 within the client's community. The ultimate goal of each plan,
175 whenever possible, shall be to enable the client to live a

176 dignified life in the least restrictive setting, be that in the
177 home or in the community. The family or individual support plan
178 must be developed within 60 calendar days after the agency
179 determines the client eligible pursuant to s. 393.065(3). When
180 developing or reviewing the support plan, the waiver support
181 coordinator must inform the client, the client's parent or
182 guardian, or, when appropriate, the client advocate about the
183 consumer-directed care program under s. 409.221.

184 (1) The agency shall develop and specify by rule the core
185 components of support plans.

186 (2) The family or individual support plan shall be
187 integrated with the individual education plan (IEP) for all
188 clients who are public school students entitled to a free
189 appropriate public education under the Individuals with
190 Disabilities Education Act, I.D.E.A., as amended. The family or
191 individual support plan and IEP must be implemented to maximize
192 the attainment of educational and habilitation goals.

193 (a) If the IEP for a student enrolled in a public school
194 program indicates placement in a public or private residential
195 program is necessary to provide special education and related
196 services to a client, the local education agency must provide
197 for the costs of that service in accordance with the
198 requirements of the Individuals with Disabilities Education Act,
199 I.D.E.A., as amended. This does not preclude local education
200 agencies and the agency from sharing the residential service

201 costs of students who are clients and require residential
 202 placement.

203 (b) For clients who are entering or exiting the school
 204 system, an interdepartmental staffing team composed of
 205 representatives of the agency and the local school system shall
 206 develop a written transitional living and training plan with the
 207 participation of the client or with the parent or guardian of
 208 the client, or the client advocate, as appropriate.

209 (3) Each family or individual support plan shall be
 210 facilitated through case management designed solely to advance
 211 the individual needs of the client.

212 (4) In the development of the family or individual support
 213 plan, a client advocate may be appointed by the support planning
 214 team for a client who is a minor or for a client who is not
 215 capable of express and informed consent when:

216 (a) The parent or guardian cannot be identified;

217 (b) The whereabouts of the parent or guardian cannot be
 218 discovered; or

219 (c) The state is the only legal representative of the
 220 client.

221
 222 Such appointment may not be construed to extend the powers of
 223 the client advocate to include any of those powers delegated by
 224 law to a legal guardian.

225 (5) The agency shall place a client in the most

226 appropriate and least restrictive, and cost-beneficial,
 227 residential facility according to his or her individual support
 228 plan. The client, if competent, the client's parent or guardian,
 229 or, when appropriate, the client advocate, and the administrator
 230 of the facility to which placement is proposed shall be
 231 consulted in determining the appropriate placement for the
 232 client. Considerations for placement shall be made in the
 233 following order:

234 (a) Client's own home or the home of a family member or
 235 direct service provider.

236 (b) Foster care facility.

237 (c) Group home facility.

238 (d) Intermediate care facility for the developmentally
 239 disabled.

240 (e) Other facilities licensed by the agency which offer
 241 special programs for people with developmental disabilities.

242 (f) Developmental disabilities center.

243 (6) In developing a client's annual family or individual
 244 support plan, the individual or family with the assistance of
 245 the support planning team shall identify measurable objectives
 246 for client progress and shall specify a time period expected for
 247 achievement of each objective.

248 (7) The individual, family, and support coordinator shall
 249 review progress in achieving the objectives specified in each
 250 client's family or individual support plan, and shall revise the

251 plan annually, following consultation with the client, if
252 competent, or with the parent or guardian of the client, or,
253 when appropriate, the client advocate. The agency or designated
254 contractor shall annually report in writing to the client, if
255 competent, or to the parent or guardian of the client, or to the
256 client advocate, when appropriate, with respect to the client's
257 habilitative and medical progress.

258 (8) Any client, or any parent of a minor client, or
259 guardian, authorized guardian advocate, or client advocate for a
260 client, who is substantially affected by the client's initial
261 family or individual support plan, or the annual review thereof,
262 shall have the right to file a notice to challenge the decision
263 pursuant to ss. 120.569 and 120.57. Notice of such right to
264 appeal shall be included in all support plans provided by the
265 agency.

266 Section 4. For the 2024-2025 fiscal year, the sums of
267 \$16,333,475 in recurring funds from the General Revenue Fund and
268 \$22,518,748 in recurring funds from the Operations and
269 Maintenance Trust Fund are appropriated in the Home and
270 Community Based Services Waiver category to the Agency for
271 Persons with Disabilities to offer waiver services to the
272 greatest number of individuals permissible under the
273 appropriation from preenrollment categories 3, 4, and 5,
274 including individuals whose caregiver is age 60 or older in
275 category 4, established in s. 393.065, Florida Statutes, as

276 amended by this act. For the 2024-2025 fiscal year, the sum of
277 \$38,852,223 in recurring funds from the Medical Care Trust Fund
278 is appropriated in the Home and Community Based Services Waiver
279 category to the Agency for Health Care Administration to
280 establish budget authority for Medicaid services.

281 Section 5. The Agency for Health Care Administration and
282 the Agency for Persons with Disabilities, in consultation with
283 other stakeholders, shall jointly develop a comprehensive plan
284 for the administration, finance, and delivery of home and
285 community-based services through a new home and community-based
286 services Medicaid waiver program. The waiver program shall be
287 for clients transitioning into adulthood and shall be designed
288 to prevent future crisis enrollment into the waiver authorized
289 under s. 393.0662, Florida Statutes. The Agency for Health Care
290 Administration is authorized to contract with necessary experts
291 to assist in developing the plan. The Agency for Health Care
292 Administration must submit a report to the Governor, the
293 President of the Senate, and the Speaker of the House of
294 Representatives by December 1, 2024, addressing, at a minimum,
295 all of the following:

296 (1) The purpose, rationale, and expected benefits of the
297 new waiver program.

298 (2) The proposed eligibility criteria for clients and
299 service benefit package to be offered through the waiver
300 program.

301 (3) A proposed implementation plan and timeline, including
302 recommendations for number of clients served by the waiver
303 program at initial implementation, changes over time, and any
304 per-client benefit caps.

305 (4) Proposals for how clients will transition onto and off
306 of the waiver, including, but not limited to, transitions
307 between this waiver and the waiver established under s.
308 393.0662, Florida Statutes.

309 (5) The fiscal impact for the implementation year and
310 projections for the next 5 years, determined on an actuarially-
311 sound basis.

312 (6) An analysis of the availability of services that would
313 be offered under the waiver program and recommendations to
314 increase availability of such services, if necessary.

315 (7) A list of all stakeholders, public and private, who
316 were consulted or contacted as part of the waiver program.

317 Section 6. This act shall take effect July 1, 2024.

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|---------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee

3 Representative Buchanan offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 119-129 and insert:

7 (d)1. For purposes of this paragraph, the term "complete
 8 application" means an application submitted to the agency which
 9 is signed and dated by the applicant or an individual with legal
 10 authority to apply for public benefits on behalf of the
 11 applicant, is responsive on all parts of the application, and
 12 contains documentation of a diagnosis.

13 2. If the applicant requesting enrollment in the home and
 14 community-based services Medicaid waiver program for individuals
 15 with developmental disabilities is deemed to be in crisis as
 16 described in paragraph (5) (a), the agency must make an

Amendment No.1

17 eligibility determination within 15 calendar days after receipt
18 of a complete application.

19 3. If the applicant meets the criteria specified in
20 paragraph (5)(b), the agency must review and make an eligibility
21 determination as soon as practicable after receipt of a complete
22 application.

23 4. If the application meets the criteria specified in
24

25 -----

26 **T I T L E A M E N D M E N T**

27 Remove line 15 and insert:
28 for services; defining the term "complete application"; revising
29 timeframes within which the
30

Amendment No.2

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|---------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee

3 Representative Buchanan offered the following:

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Amendment (with title amendment)

Remove lines 290-294 and insert:

Administration is authorized to contract with necessary experts,
in consultation with the Agency for Persons with Disabilities,
to assist in developing the plan. The Agency for Persons with
Disabilities must submit a report, in consultation with the
Agency for Health Care Administration, to the Governor, the
President of the Senate, and the Speaker of the House of
Representatives by December 1, 2024, addressing, at a minimum,

Amendment No.2

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21
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23

T I T L E A M E N D M E N T

Remove line 31 and insert:

requiring the Agency for Persons with Disabilities, in
consultation with the Agency for Health Care Administration, to