

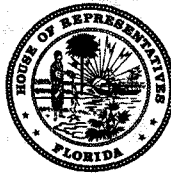
Appropriations Committee

Monday, April 21, 2014
8:30 AM – 10:30 AM
212 Knott Building

Meeting Packet

Will Weatherford
Speaker

Seth McKeel
Chair



The Florida House of Representatives

Appropriations Committee

Will Weatherford
Speaker

Seth McKeel
Chair

AGENDA

Monday, April 21, 2014

212 Knott Building

8:30 AM – 10:30 AM

I. Call to Order/Roll Call

II. Opening Remarks by Chair McKeel

III. **Consideration of the following bills:**

CS/HB 227 Victims of Wrongful Incarceration by Criminal Justice Subcommittee,
Kerner

CS/HB 587 Charitable Exemption from Ad Valorem Taxation by Finance & Tax
Subcommittee, Metz

HB 7169 Child Protection and Child Welfare Services by Healthy Families
Subcommittee, Harrell

IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 227 Victims of Wrongful Incarceration
SPONSOR(S): Criminal Justice Subcommittee; Kerner and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 326

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N, As CS	Aziz	Cunningham
2) Appropriations Committee		Kramer JK	Leznoff J

SUMMARY ANALYSIS

In 2008, the Legislature passed the "Victims of Wrongful Incarceration Compensation Act" (Act) to compensate persons determined to be actually innocent of a felony offense they were accused of committing and for which they were wrongfully convicted and imprisoned. The Act provides a process by which persons whose conviction and sentence has been vacated based upon exonerating evidence may petition the court to seek and obtain compensation.

Since 2008, three people have received compensation under the Act while others have struggled to show actual innocence because of the peculiar facts of their case. For example, James Richardson spent 21.5 years incarcerated for the murder of his daughter before he was released pending issuance of a final investigative report. Subsequently, a special prosecutor appointed by the Governor issued a nolle prosequi (whereby the prosecutor will not further prosecute the case) and the court vacated the judgment, conviction and sentence. When Richardson applied for compensation under the Act, he was denied because he was unable to prove his actual innocence even though an administrative law judge found there was a lack of evidence to prove him guilty beyond a reasonable doubt.

The bill exempts certain petitioners from being required to prove their actual innocence, and from complying with various other eligibility and procedural requirements when applying for compensation under the Act. A petitioner is exempted if: the petitioner was convicted and sentenced to death sentenced prior to December 31, 1979; the Governor issue an executive order appointing a special prosecutor to review the defendant's petition; and the special prosecutor issued a nolle prosequi. This exemption is repealed in 2018.

The bill makes it a first degree misdemeanor for a person to accept any portion of a claimant's compensation as payment for attorney's fees, lobbyist fees, or costs relating to assisting the claimant in receiving such compensation. In addition, the bill authorizes the Chief Financial Officer to purchase multiple annuities selected by a wrongfully incarcerated person, instead of a single annuity, for compensation awarded under the Act.

Current law contains a continuing appropriation from the General Revenue Fund to the Chief Financial Officer in an amount sufficient to pay the approved payments under the "Victims of Wrongful Incarceration Compensation Act". Under the provisions of this bill, it appears that James Richardson may be able to receive at least \$1,050,000 as compensation as a victim of wrongful incarceration as well as an amount for fines, penalties, court costs and attorney fees if any. It is unlikely any other person will qualify under the newly created exemption.

The bill is effective July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Victims of Wrongful Incarceration Compensation Act

In Florida, thirteen people have been exonerated or released from incarceration since 2000 as a result of post-conviction DNA testing.¹ During the regular session of 2008, the Legislature passed the "Victims of Wrongful Incarceration Compensation Act" (Act) to compensate persons determined to be actually innocent of a felony offense they were accused of committing and for which they were wrongfully convicted and imprisoned.²

The Act provides a process by which persons whose conviction and sentence has been vacated based upon exonerating evidence may petition the court to seek and obtain compensation as a "wrongfully incarcerated person"³ who is "eligible for compensation."⁴

The Act has a definitions section found at s. 961.02, F.S., and four other primary components:

- The Petition Process: section 961.03, F.S., provides the process for determining whether a petitioner is a "wrongfully incarcerated person" and is "eligible for compensation."
- Eligibility: section 961.04, F.S., specifies criteria that render a petitioner ineligible for compensation.
- Application: section 961.05, F.S., provides the process by which an eligible person may apply for compensation.
- Compensation: section 961.06, F.S., provides for the entitlement to compensation and other benefits for an eligible person and directs the Chief Financial Officer to purchase an annuity on behalf of the eligible person.

The Petition Process

In order to receive compensation under the Act, a person must return to the court where the judgment and sentence were vacated and file a petition seeking status as a "wrongfully incarcerated person." Section 961.03(1)(a), F.S., requires that a petition must:

- State that verifiable and substantial evidence of actual innocence exists and state with particularity the nature and significance of the verifiable and substantial evidence of actual innocence; and
- State that the person is not disqualified, under the provisions of s. 961.04, F.S., from seeking compensation under the Act.

A copy of the petition must be provided to the prosecuting authority of the felony for which the petitioner was incarcerated. In response to the petition, the prosecuting authority may either:

¹ Frank Lee Smith, Jerry Townsend, Wilton Dedge, Luis Diaz, Alan Crotzer, Orlando Boquete, Larry Bostic, Chad Heins, Cody Davis, William Dillon, James Bain, Anthony Caravella, and Derrick Williams are the thirteen people released from prison or exonerated in this state based on DNA testing. Florida Innocence Project, http://floridainnocence.org/content/?page_id=34. (last visited on April 4, 2014).

² Chapter 2008-39, L.O.F.

³ Section 961.02(4), F.S., defines a "wrongfully incarcerated person" as a "person whose felony conviction and sentence have been vacated by a court of competent jurisdiction and, with respect to whom pursuant to the requirements of s. 961.03, F.S., the original sentencing court has issued its order finding that the person neither committed the act nor the offense that served as the basis for the conviction and incarceration and that the person did not aid, abet, or act as an accomplice or accessory to a person who committed the act or offense."

⁴ Section 961.02(5), F.S., defines "eligible for compensation" to mean "a person who meets the definition of 'wrongfully incarcerated person' and is not disqualified from seeking compensation under the criteria prescribed in s. 961.04." The Act does not currently provide a definition of "actual innocence"; instead some provisions of the Act repeat a lengthy description of a concept of actual innocence. See ss. 961.02(4), 961.03(3), and (7), F.S.

- Stipulate to the petitioner's innocence and eligibility for compensation;
- Contest the evidence of actual innocence; or
- Contest the eligibility of the petitioner to compensation.⁵

Without a stipulation from the prosecuting authority of the petitioner's innocence and eligibility, the original sentencing court, based on the pleadings and the supporting documents, must determine whether the petitioner's eligibility for compensation has been established by a preponderance of the evidence. If the court finds the petitioner is not eligible for compensation it must dismiss the petition.⁶

If the court finds the petitioner is eligible for compensation and the prosecuting authority contests the actual innocence of the petitioner, the court must set forth its findings and transfer the petition to the Division of Administrative Hearings (DOAH) for a hearing before an administrative law judge. The administrative law judge must make factual findings regarding the petitioner's actual innocence and draft a recommended order on the determination of whether the petitioner has established by clear and convincing evidence that he or she is a wrongfully incarcerated person.⁷ The administrative law judge must file its findings and recommended order within 45 days of the hearing's adjournment.⁸ The original sentencing court must review the findings and recommendation of the administrative law judge and issue its own order declining or adopting the recommended order within 60 days.⁹

If, after review of the administrative law judge's findings and recommendations, the court determines that the person is a wrongfully incarcerated person eligible for compensation, the court must include in its order a certification stating:

- That:
 - The administrative law judge found that the petitioner met his or her burden required under the act by clear and convincing evidence; or
 - The court declines to adopt the findings and recommendation of the administrative law judge that the petitioner did not meet his or her burden and that the court makes its own findings that the petitioner has met his or her burden as required under the act; and
- That the findings and recommendations on which its order is based is supported by competent, substantial evidence.¹⁰

Eligibility

To be eligible for compensation, a wrongfully incarcerated person must not have a disqualifying felony, which is:

- The person had a prior conviction or pled guilty or nolo contendere to a felony offense in this state, a federal offense that is a felony, or to an offense in another state that would be a felony in this state;
- The person was convicted of, or pled guilty or nolo contendere to, a felony offense while wrongfully incarcerated; or
- While wrongfully incarcerated, the person was serving a concurrent sentence for another felony for which the person was not wrongfully convicted.¹¹

The Application Process

A petitioner who is found to be a "wrongfully incarcerated person" under the Act has two years to initiate an application for compensation with the Department of Legal Affairs after the original

⁵ Section 961.03(2)(a) and (b), F.S.

⁶ Section 961.03(4)(a), F.S.

⁷ Section 961.03(4)(b), F.S.

⁸ Section 961.03 (5)(c), F.S.

⁹ Section 961.03(5)(d), F.S.

¹⁰ Section 961.03(7), F.S.

¹¹ Section 961.04, F.S.

sentencing court enters its order.¹² Only the petitioner, not his or her estate or personal representative of the estate, may apply for compensation.¹³ Section 961.05(4), F.S., lists the content requirements of an application for compensation. In part, it requires that the application include:

- A certified copy of the order vacating the conviction and sentence;
- A certified copy of the original sentencing court's order finding the claimant to be a wrongfully incarcerated person who is eligible for compensation under the Act;
- Certified copies of the original judgment and sentence; and
- Documentation demonstrating the length of the sentence served, including documentation from the Department of Corrections regarding the person's admission into and release from the custody of the Department of Corrections.¹⁴

Compensation

Under s. 961.06, F.S., a "wrongfully incarcerated person" is entitled to:

- Monetary compensation, at the rate of \$50,000 for each year of wrongful incarceration¹⁵;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid in connection with all criminal proceedings and appeals; and
- Immediate expunction, including administrative expunction, of the person's criminal record of the wrongful arrest, conviction, and incarceration.¹⁶

Total compensation awarded may not exceed \$2 million.¹⁷ Any compensation awarded is paid through an annuity purchased by the Chief Financial Officer on behalf of the "wrongfully incarcerated person" to be paid out over a ten year term.¹⁸

Claims Made Under Chapter 961, F.S.

Since 2008, three petitioners have been compensated under the Act.¹⁹ Several petitioners have been denied compensation due to the peculiarity of their case and the requirements of the Act. For example, James J. Richardson filed a petition for compensation under the Act on August 25, 2008. The state attorney's office filed a response contesting the petition. The facts of Mr. Richardson's case are detailed below.

On October 25-26, 1967, the seven children of James Joseph Richardson died in Arcadia, Florida, after eating food laced with the pesticide parathion.²⁰ Mr. Richardson was convicted of first-degree murder in May 1968 and sentenced to death. In 1972, the sentence was commuted to life in prison. Thereafter, in

¹² Section 961.05(1) and (2), F.S.

¹³ Section 961.05(2), F.S.

¹⁴ Section 961.05(4), F.S.

¹⁵ "For persons found to be wrongfully incarcerated after December 31, 2008, the Chief Financial Officer may adjust the annual rate of compensation for inflation using the change in the December-to-December 'Consumer Price Index for All Urban Consumers' of the Bureau of Labor Statistics of the Department of Labor." Section 961.06(1)(a), F.S. Thus, \$50,000 in 2008 adjusted for inflation is \$54,523.39 in 2014. See CPI Inflation Calculator, Bureau of Labor Statistics, http://www.bls.gov/data/inflation_calculator.htm (last visited April 9, 2014).

¹⁶ Section 961.06(1), F.S.

¹⁷ *Id.*
¹⁸ Section 961.06(4), F.S. The Chief Financial Officer shall purchase the annuity using general revenue funds or another source designated by the Legislature. Section 961.06(3), F.S.

¹⁹ <http://floridainnocence.org/content/?p=8971> (last visited on April 4, 2014).

²⁰ *State v. James Joseph Richardson*, Sworn Petition Seeking Status as a Wrongfully Incarcerated Person Who Is Eligible for Compensation, Case No. 3302-D (Fla. 12th Cir. Tr. Ct. 2008).

August 1988, the Sarasota Herald Tribune revealed that the children's former babysitter, Betsy Reese, admitted to killing all seven of Mr. Richardson's children.²¹

In October 1988, evidence was provided to Governor Bob Martinez which indicated that exculpatory evidence was not provided to Mr. Richardson's counsel prior to trial. Pursuant to the Governor's executive order, State Attorney Janet Reno of the Eleventh Judicial Circuit was assigned to conduct an investigation into the murder. State Attorney Reno concluded that "[i]t is apparent, after a review of all evidence obtained in the original investigation and ensuing investigations, that not only couldn't the State prove James Richardson was guilty beyond a reasonable doubt, but James Richardson was probably wrongfully accused."²²

In April 1989, Mr. Richardson was released from incarceration pending the final investigative report of State Attorney Reno. Subsequent to the conclusion of the investigation, all charges against Mr. Richardson arising out of the death of his children were nolle prossed²³ by the State Attorney, and Mr. Richardson's judgment, conviction, and sentence were vacated by the court in 1989. Altogether, Mr. Richardson served 21.5 years of incarceration.

Because the state attorney's office contested the petition, the petition was referred to the Division of Administrative Hearings (DOAH) for an evidentiary hearing. The hearing, by way of video teleconference with sites in Miami and Tallahassee, was conducted on July 17, 2009.²⁴ The administrative law judge determined that there was a clear "absence of evidence proving the Petitioner guilty beyond a reasonable doubt."²⁵ However, the administrative law judge concluded that the Petitioner failed to meet his burden of proving actual innocence by clear and convincing evidence and denied the petition for compensation.²⁶

Effect of the Bill

The bill exempts certain petitioners from being required to prove their actual innocence, and from complying with various other eligibility and procedural requirements, when applying for compensation under the Act.²⁷ The exemption applies if:

- The petitioner was convicted and sentenced to death prior to December 31, 1979;
- The Governor issues an executive order appointing a special prosecutor to review the petitioner's conviction; and
- The special prosecutor enters a nolle prosequi for the charges for which the petitioner was convicted.

Under the bill, just as for other claims for compensation under ch. 961, F.S., only the wrongfully incarcerated person may pursue a claim. An estate or a personal representative of an estate is prohibited from filing a claim on behalf of a wrongfully incarcerated person. The bill also exempts eligible petitioners from s. 961.04, F.S., which denies compensation for any petitioner who has a disqualifying felony.²⁸

The bill creates an alternate application process for those petitioners eligible for the exemption. The application process set forth in the bill requires that only the wrongfully incarcerated petitioner can apply

²¹ *Id.*

²² *Id.* at 4-5.

²³ A nolle prosequi means "to abandon a suit or prosecution." BLACK'S LAW DICTIONARY (9th ed. 2009). A nolle prosequi, unlike a judgment of acquittal, has no probative value as to a defendant's guilt or innocence. *Holland v. State*, 432 So.2d 60 (Fla. 1st DCA 1983).

²⁴ *James Joseph Richardson v. State*, Case No. 09-2718VWI (Fla. DOAH 2009).

²⁵ *Id.* at 21.

²⁶ *Id.*

²⁷ Sections 961.03, 961.04, 961.05, F.S.

²⁸ It appears that Richardson would pass this "clean hands" provision even without the exemption. See *James Joseph Richardson v. State*, Case No. 09-2718VWI (Fla. DOAH 2009).

for compensation and has to do so by July 1, 2016. The application process in the bill mirrors the existing application process in s. 961.05, F.S., except that instead of submitting "a certified copy of the order vacating the conviction and sentence,"²⁹ the petitioner must submit a certified copy of the nolle prosequi or nolle prosequi memorandum. The petitioner has to adhere to similar existing application requirements, such as providing fingerprints and being subject to a criminal records check.

The bill makes it a first degree misdemeanor for a person to accept any portion of the claimant's compensation as payment for attorney's fees, lobbyist fees, or costs relating to assisting the claimant in receiving such compensation.³⁰

It appears that James Richardson would be entitled to receive compensation as a victim of wrongful incarceration pursuant to the provisions of this bill. It is unlikely any other person will qualify under the newly created exemption.

The bill permits the Chief Financial Officer (CFO) to purchase multiple annuities selected by a wrongfully incarcerated person, instead of a single annuity, for compensation awarded under chapter 961. In purchasing the annuities, the CFO must maximize the benefits to the wrongfully incarcerated person.

Both the exemption and alternate application process created in the bill are repealed on July 1, 2018.

B. SECTION DIRECTORY:

Section 1. Creates section 961.055, F.S., relating to application for compensation for a wrongfully incarcerated person; exemption from application by nolle prosequi.

Section 2. Creates section 961.056, F.S., relating to alternative application for compensation for a wrongfully incarcerated person.

Section 3. Amends section 961.06, F.S., relating to compensation for wrongful incarceration.

Section 4. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

Current law contains a continuing appropriation from the General Revenue Fund to the Chief Financial Officer in an amount sufficient to pay the approved payments under the "Victims of Wrongful Incarceration Compensation Act".³¹

It is unknown how many petitioners would receive compensation under the bill or which fiscal year state funds would be paid, however, it is likely to apply only to James Richardson. Mr. Richardson could be eligible under the provisions of the bill to receive \$1.05 million (\$50,000 per year for 21.5 years he spent in prison).³² The Chief Financial Officer is authorized to adjust the annual amount of

²⁹ Section 961.05(4)(a), F.S.

³⁰ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

³¹ Section 961.07, F.S.

³² See s. 961.06, F.S.

compensation for inflation using the Consumer Price Index.³³ If this adjustment is made, Mr. Richardson could be eligible to receive at least \$1,172,252.89. He could also be entitled to a refund of any fines, penalties, and court costs he paid as well as reasonable attorney's fees and expenses incurred and paid in connection with all criminal proceedings and appeals regarding the wrongful conviction.

The Office of the State Courts Administrator does not expect a fiscal impact on the courts.³⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions of the bill may result in at least one individual receiving compensation for wrongful incarceration.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Article I, Section 10 of the Florida Constitution provides that "no . . . law impairing the obligation of contracts shall be passed." Furthermore, the Contract Clause of Article I, Section 10 of the United States Constitution prohibits states from passing laws which impair contract rights. These provisions empower courts to strike laws that retroactively burden or alter contractual relations.³⁵ The bill prohibits any person from accepting any portion of the claimant's compensation as payment for any attorney's fees, lobbyist fees, or costs associated with assisting the claimant receiving such compensation. While it is already illegal for a lobbyist to accept compensation contingent on enactment of specific legislation,³⁶ this prohibition in the bill may impair existing contracts. This provision could be challenged as a violation of the contracts clause of the state and federal constitution.

³³ Section 961.06(1)(a), F.S.

³⁴ Office of the State Courts Administrator, *2014 Judicial Impact Statement HB 227* (January 9, 2014)(on file with House Criminal Justice Subcommittee).

³⁵ *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234 (1978); *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So.2d 774 (Fla. 1979).

³⁶ Section 11.047(2), F.S.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill exempts eligible petitioners from s. 961.04, F.S., which denies compensation for any petitioner who was convicted of a felony prior or during their wrongful incarceration. Thus, an eligible petitioner under the bill would be able to receive compensation even if they had a felony prior to their wrongful incarceration whereas a petitioner with a disqualifying felony not fitting the exception created by the bill would be barred because of the "clean hands" provision.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 8, 2014, the Criminal Justice Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Authorize the Chief Financial Officer (CFO) to purchase multiple annuities selected by a wrongfully incarcerated person instead of a single annuity; and
- Make it a first degree misdemeanor to accept any portion of the claimant's compensation as payment for attorney's fees, lobbyist fees, or costs relating to assisting the claimant in receiving such compensation.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

27 the wrongfully incarcerated person; requiring the
 28 wrongfully incarcerated person to sign a waiver before
 29 the department's approval of the application;
 30 providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Section 961.055, Florida Statutes, is created
 35 to read:

36 961.055 Application for compensation for a wrongfully
 37 incarcerated person; exemption from application by nolle
 38 prosequi.-

39 (1) A person alleged to be a wrongfully incarcerated
 40 person who was convicted and sentenced to death on or before
 41 December 31, 1979, is exempt from the application provisions of
 42 ss. 961.03, 961.04, and 961.05 in the determination of wrongful
 43 incarceration and eligibility to receive compensation pursuant
 44 to s. 961.06 if:

45 (a) The Governor issues an executive order appointing a
 46 special prosecutor to review the defendant's conviction; and

47 (b) The special prosecutor thereafter enters a nolle
 48 prosequi for the charges for which the defendant was convicted
 49 and sentenced to death.

50 (2) The nolle prosequi constitutes conclusive proof that
 51 the defendant is innocent of the offenses charged and is
 52 eligible to receive compensation under this chapter.

53 (3) This section is repealed July 1, 2018.

54 Section 2. Section 961.056, Florida Statutes, is created
55 to read:

56 961.056 Alternative application for compensation for a
57 wrongfully incarcerated person.-

58 (1) A person who has been determined to be a wrongfully
59 incarcerated person pursuant to s. 961.055 is eligible to apply
60 to the department to receive compensation for such wrongful
61 incarceration.

62 (a) Only the wrongfully incarcerated person may apply for
63 compensation. The estate of, or personal representative for, a
64 decedent may not apply on behalf of the decedent for
65 compensation for wrongful incarceration.

66 (b) In order to receive compensation, the wrongfully
67 incarcerated person shall, by July 1, 2016, submit to the
68 Department of Legal Affairs an application for compensation
69 irrespective of whether the person has previously sought
70 compensation under this chapter. The application must include:

71 1. A certified copy of the nolle prosequi or nolle
72 prosequi memorandum;

73 2. Certified copies of the original judgment and sentence;

74 3. Documentation demonstrating the length of the sentence
75 served, including documentation from the Department of
76 Corrections regarding the person's admission into and release
77 from the custody of the Department of Corrections;

78 4. Positive proof of identification, as evidenced by two

79 full sets of fingerprints prepared by a law enforcement agency
 80 of this state and a current form of photo identification;

81 5. Supporting documentation of any fine, penalty, or court
 82 costs imposed on and paid by the wrongfully incarcerated person
 83 as described in s. 961.06(1);

84 6. Supporting documentation of any reasonable attorney
 85 fees and expenses as described in s. 961.06(1); and

86 7. Any other documentation, evidence, or information
 87 required by rules adopted by the department.

88 (2) The law enforcement agency that prepared the
 89 applicant's set of fingerprints shall forward both full sets to
 90 the Department of Law Enforcement. The Department of Law
 91 Enforcement shall retain one set for statewide criminal records
 92 checks and forward the second set of fingerprints to the Federal
 93 Bureau of Investigation for national criminal records checks.
 94 The results of the state and national records checks shall be
 95 submitted to the department.

96 (3) Upon receipt of an application, the department shall
 97 examine the application and, within 30 days after receipt of the
 98 application, shall notify the claimant of any error or omission
 99 and request any additional information relevant to the review of
 100 the application.

101 (a) The claimant has 15 days after proper notification by
 102 the department to correct any identified error or omission in
 103 the application and to supply any additional information
 104 relevant to the application.

105 (b) The department may not deny an application for failure
 106 of the claimant to correct an error or omission or to supply
 107 additional information unless the department has notified the
 108 claimant of such error or omission and requested the additional
 109 information within the 30-day period specified in this
 110 subsection.

111 (c) The department shall process and review each complete
 112 application within 90 calendar days.

113 (d) Once the department determines whether a claim for
 114 compensation meets the requirements of this chapter, the
 115 department shall notify the claimant within 5 business days
 116 after that determination.

117 (4) If the department determines that a claimant making
 118 application under this section meets the requirements of this
 119 chapter, the wrongfully incarcerated person is entitled to
 120 compensation under s. 961.06.

121 (5)(a) No portion of the compensation paid to a claimant
 122 making application under this section may be used for attorney
 123 fees, lobbyist fees, or costs relating to assisting the claimant
 124 in receiving such compensation.

125 (b) A person who accepts any portion of the compensation
 126 paid to a claimant making application under this section as
 127 payment for attorney fees, lobbyist fees, or costs relating to
 128 assisting the claimant in receiving such compensation commits a
 129 misdemeanor of the first degree, punishable as provided in s.
 130 775.082 or s. 775.083.

131 (6) This section is repealed July 1, 2018.
 132 Section 3. Subsections (4) and (5) of section 961.06,
 133 Florida Statutes, are amended to read:
 134 961.06 Compensation for wrongful incarceration.—
 135 (4) The Chief Financial Officer shall issue payment in the
 136 amount determined by the department to an insurance company or
 137 other financial institution admitted and authorized to issue
 138 ~~purchase an annuity contracts in this state to purchase an~~
 139 annuity or annuities, selected by the wrongfully incarcerated
 140 person, on behalf of the claimant for a term of not less than 10
 141 years. The Chief Financial Officer is directed to execute all
 142 necessary agreements to implement this act and to maximize the
 143 benefit to the wrongfully incarcerated person. The terms of the
 144 annuity or annuities shall:
 145 (a) Provide that the annuity or annuities may not be sold,
 146 discounted, or used as security for a loan or mortgage by the
 147 wrongfully incarcerated person applicant.
 148 (b) Contain beneficiary provisions for the continued
 149 disbursement of the annuity or annuities in the event of the
 150 death of the wrongfully incarcerated person applicant.
 151 (5) Before the department approves the application for
 152 compensation ~~Chief Financial Officer draws the warrant for the~~
 153 ~~purchase of the annuity,~~ the wrongfully incarcerated person
 154 ~~claimant~~ must sign a release and waiver on behalf of the
 155 wrongfully incarcerated person claimant and his or her heirs,
 156 successors, and assigns, forever releasing the state or any

CS/HB 227

2014

157 | agency, instrumentality, or any political subdivision thereof,
 158 | or any other entity subject to ~~the provisions of~~ s. 768.28, from
 159 | all present or future claims that the wrongfully incarcerated
 160 | person ~~claimant~~ or his or her heirs, successors, or assigns may
 161 | have against such entities arising out of the facts in
 162 | connection with the wrongful conviction for which compensation
 163 | is being sought under the act. ~~The release and waiver must be~~
 164 | ~~provided to the department prior to the issuance of the warrant~~
 165 | ~~by the Chief Financial Officer.~~

166 | Section 4. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 587 Charitable Exemption from Ad Valorem Taxation

SPONSOR(S): Finance & Tax Subcommittee, Metz and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	17 Y, 1 N, As CS	Wolfgang	Langston
2) Local & Federal Affairs Committee	16 Y, 0 N	Miller	Rojas
3) Appropriations Committee		Hawkins <i>WA</i>	Leznoff <i>JS</i>

SUMMARY ANALYSIS

The committee substitute creates s. 196.1955, F.S., allowing property owned by an exempt organization to receive an exemption from ad valorem taxes for educational, literary, scientific, religious or charitable purposes if the institution has taken "affirmative steps" to prepare the property for a charitable purpose. If the property is not in actual use for an exempt purpose within 5 years, the property owner must pay back taxes owed plus 15 percent interest. A tax lien will be placed on the property for purposes of collecting these taxes unless the property owner is continuing to take affirmative steps, in which case the property owner may continue to receive the exemption.

The bill has an effective date of July 1, 2014.

The Revenue Estimating Conference determined that the committee substitute will have a negative, annual impact on local government revenues of -\$1.2 million beginning in fiscal year 2015-2016.

This bill may be county or municipality mandates requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Article VII, s. 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or the amount a "purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell."¹ Section 193.011, F.S., requires property appraisers to consider eight factors in determining the property's just valuation.²

Article VII, s. 4 of the Florida Constitution provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted by the Legislature; currently the Legislature completely exempts inventory.³ The Florida Constitution also limits the amount by which the assessed value may increase in a given year for certain classes of property.⁴

Article VII, s. 3 of the Florida Constitution permits a number of tax exemptions. In addition to exemptions for municipal purposes, Article VII, s. 3 provides that such portions of property used predominately for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation. The Legislature has fully implemented these constitutional exemptions. Sections 196.195 and 196.196, F.S., set forth the criteria used to determine whether property is entitled to an exemption for use as a charitable, religious, scientific, or literary purpose. Specific provisions exist for property for hospitals, nursing homes, and homes for special services;⁵ property used for religious purposes;⁶ educational institutions⁷ and charter schools,⁸ labor organization property;⁹ nonprofit community centers;¹⁰ biblical history displays;¹¹ and affordable housing.¹²

Property Entitled to Charitable, Religious, Scientific, or Literary Exemptions

In determining whether the use of a property qualifies the property for an ad valorem tax exemption under s. 196.196, F.S., the property appraiser must consider the nature and extent of the charitable or other qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other charitable or other qualifying entities.¹³ Only the portions of the property used predominantly for the charitable or other qualified purposes may be exempt from ad valorem taxation. If the property owned by an exempt entity is used exclusively for exempt purposes, it shall be totally exempt from ad valorem taxation.

¹ See *Walter v. Shuler*, 176 So. 2d 81, 86 (Fla. 1965) (quoting *Root v. Wood*, 21 So.2d 133 (Fla. 1945)); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

² See s. 193.011(1)-(8), F.S.

³ Section 196.185, F.S.

⁴ See FLA. CONST. art. VII, s. 4(d) & (g)

⁵ Section 196.197, F.S.

⁶ Sections 196.1975(3) and 196.196(3), F.S.

⁷ Section 196.198, F.S.

⁸ Section 196.1983, F.S.

⁹ Section 196.1985, F.S.

¹⁰ Section 196.1986, F.S.

¹¹ Section 196.1987, F.S.

¹² Section 196.196(5), F.S.

¹³ Section 196.196(1)(a)-(b), F.S.

Property used for a house of worship, affordable housing, or educational purposes may be exempt if the entity has taken affirmative steps to prepare the property for specified exempt uses. The term "affirmative steps" is defined by statute to mean:

- environmental or land use permitting activities,
- creation of architectural or schematic drawings,
- land clearing or site preparation,
- construction or renovation activities, or
- other similar activities that demonstrate a commitment to a religious use.¹⁴

If affordable housing is granted a charitable exemption while performing these affirmative steps, but transfers the property for purposes other than affordable housing, or if the property is not actually used as affordable housing within 5 years after the exemption is granted, then the property is subject to back taxes, 15 percent interest, and a penalty of 50 percent of the taxes owed.¹⁵ The 5-year limitation may be extended if the holder of the exemption continues to take affirmative steps to develop the property for affordable housing.¹⁶

Charitable organizations are not entitled to exemptions while affirmative steps are being taken. In *Smith v. American Lung Ass'n of Gulfcoast Florida, Inc.*, the Second District Court of Appeals held that a charitable organization was not entitled to an exemption while it was constructing its headquarters even though it would be entitled to an exemption once the headquarters was completely built.¹⁷

Charitable Organizations

Under section 501(c)(3) of the Internal Revenue Code, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes. None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities. Charitable purposes include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Section 196.012(7), F.S., defines a charitable purpose as a function or service which is of such a community service that its discountenance could legally result in the allocation of public funds for the continuance of the function or the service.

Determining Profit vs. Non-Profit Status of an Entity

Section 196.195, F.S., outlines the statutory criteria that a property appraiser must consider in determining whether an applicant for a religious, literary, scientific, or charitable exemption is a nonprofit or profit-making venture. When applying for an exemption under this section, an applicant is required to provide the property appraiser with "such fiscal and other records showing in reasonable detail the financial condition, record of operations, and exempt and nonexempt uses of the property . . . for the immediately preceding fiscal year."¹⁸

The applicant must show that "no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose."¹⁹

¹⁴ Sections 196.196(3),(5) and 196.198, F.S.

¹⁵ Section 196.196(5), F.S.

¹⁶ Section 196.196(5), F.S.

¹⁷ 870 So. 2d 241 (Fla. 2d DCA 2004).

¹⁸ Section 196.195(1), F.S.

¹⁹ Section 196.195(3), F.S.

Based on the information provided by the applicant, the property appraiser must use the specified statutory criteria outlined in subsection (2) of s. 196.195, F.S., to determine whether the applicant is a nonprofit or profit-making venture or if the property is used for a profit-making purpose.²⁰

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant to be nonprofit under s. 196.195, F.S.²¹

Proposed Changes

The bill creates s. 196.1955, F.S., allowing property owned by an exempt organization to receive an ad valorem exemption for educational, literary, scientific, religious or charitable purposes if the property owner has taken "affirmative steps" to prepare the property for an exempt purpose. The bill consolidates the existing provisions allowing affordable housing, religious houses of worship, and educational property to receive the exemption while affirmative steps are being taken into one provision that would allow all educational, literary, scientific, religious or charitable property to use this exemption. If the property is not in actual use for an exempt purpose within 5 years, the property owner must pay back taxes owed plus 15 percent interest. A tax lien will be placed on the property for purposes of collecting these taxes unless the property owner is continuing to take affirmative steps, in which case the property owner may continue to receive the exemption.

The bill defines "affirmative steps," consistent with existing law, to be:

- environmental or land use permitting activities,
- creation of architectural or schematic drawings,
- land clearing or site preparation,
- construction or renovation activities, or
- other similar activities.

The bill clarifies that if an exemption is improperly granted as a result of a mistake by the property appraiser, the property owner does not owe interest.

The bill also makes technical and conforming changes to ss. 196.196 & 196.198, F.S.

The bill has an effective date of July 1, 2014.

B. SECTION DIRECTORY:

Section 1: Creates s. 196.1955, F.S., allowing property to be exempt from ad valorem taxation for educational, literary, scientific, religious or charitable purposes while the property owner is taking affirmative steps to put the property in use for such purpose. Provides for remedies if the property is not put to such use within 5 years.

Section 2: Conforms and makes technical corrections to s. 196.196, F.S., by deleting language made unnecessary by the creation of s. 196.1955, F.S., and renumbering certain subsections.

Section 3: Conforms and makes technical corrections to s. 196.198, F.S., by deleting language made unnecessary by the creation of s. 196.1955, F.S., and creating certain subsections and paragraphs.

Section 4: Provides an effective date.

²⁰ Section 196.195(2)(a)-(e), F.S.

²¹ Section 196.195(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. The Revenue Estimating Conference determined that the committee substitute will have a negative, annual impact on local government revenues of -\$1.2 million beginning in fiscal year 2015-2016.

3. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Exempt organizations will receive an ad valorem exemption while they are taking affirmative steps toward a charitable purpose. They will receive a tax benefit because they will not have to wait until the property is in actual use for educational, literary, scientific, religious or charitable purposes before receiving the exemption.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. This provision may apply because the committee substitute is expected to reduce local government revenues. However, the committee substitute may qualify for an exemption under art. VII, s. 18(d), Fla. Const., as an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

27 Be It Enacted by the Legislature of the State of Florida:

28

29 Section 1. Section 196.1955, Florida Statutes, is created
30 to read:

31 196.1955 Preparing property for educational, literary,
32 scientific, religious, or charitable use.-

33 (1) Property owned by an exempt organization is used for
34 an exempt purpose if the owner has taken affirmative steps to
35 prepare the property for an exempt educational, literary,
36 scientific, religious, or charitable use and no portion of the
37 property is being used for a nonexempt purpose. As used in this
38 section, the term "affirmative steps" means environmental or
39 land use permitting activities, creation of architectural plans
40 or schematic drawings, land clearing or site preparation,
41 construction or renovation activities, or other similar
42 activities that demonstrate a commitment to prepare the property
43 for an exempt use.

44 (2) If property owned by an organization granted an
45 exemption under this section is transferred for a purpose other
46 than an exempt use or is not in actual exempt use within 5 years
47 after the date that the organization is granted an exemption,
48 the property appraiser making such determination shall serve
49 upon the organization that received the exemption a notice of
50 intent to record in the public records of the county a notice of
51 tax lien against any property owned by that organization in the
52 county, and such property must be identified in the notice of

53 tax lien. The organization owning such property is subject to
 54 the taxes otherwise due and owing as a result of the failure to
 55 use the property in an exempt manner plus 15 percent interest
 56 per annum.

57 (a) The lien, when filed, attaches to any property
 58 identified in the notice of tax lien owned by the organization
 59 that received the exemption. If the organization no longer owns
 60 property in the county but owns property in any other county in
 61 the state, the property appraiser shall record in each such
 62 county a notice of tax lien identifying the property owned by
 63 the organization in each respective county, which shall become a
 64 lien against the identified property.

65 (b) Before such lien may be filed, the organization so
 66 notified must be given 30 days to pay the taxes and interest.

67 (c) If an exemption is improperly granted as a result of a
 68 clerical mistake or an omission by the property appraiser, the
 69 organization improperly receiving the exemption may not be
 70 assessed interest.

71 (d) The 5-year limitation specified in this subsection may
 72 be extended if the holder of the exemption continues to take
 73 affirmative steps to develop the property for the purposes
 74 specified in this subsection.

75 Section 2. Subsections (3), (4), and (5) of section
 76 196.196, Florida Statutes, are amended to read:

77 196.196 Determining whether property is entitled to
 78 charitable, religious, scientific, or literary exemption.-

79 ~~(3) Property owned by an exempt organization is used for a~~
 80 ~~religious purpose if the institution has taken affirmative steps~~
 81 ~~to prepare the property for use as a house of public worship.~~
 82 ~~The term "affirmative steps" means environmental or land use~~
 83 ~~permitting activities, creation of architectural plans or~~
 84 ~~schematic drawings, land clearing or site preparation,~~
 85 ~~construction or renovation activities, or other similar~~
 86 ~~activities that demonstrate a commitment of the property to a~~
 87 ~~religious use as a house of public worship. For purposes of this~~
 88 ~~subsection, the term "public worship" means religious worship~~
 89 ~~services and those other activities that are incidental to~~
 90 ~~religious worship services, such as educational activities,~~
 91 ~~parking, recreation, partaking of meals, and fellowship.~~

92 ~~(3)(4)~~ Except as otherwise provided in this section
 93 herein, property claimed as exempt for literary, scientific,
 94 religious, or charitable purposes which is used for profitmaking
 95 purposes is ~~shall be~~ subject to ad valorem taxation. Use of
 96 property for functions not requiring a business or occupational
 97 license conducted by the organization at its primary residence,
 98 the revenue of which is used wholly for exempt purposes, is not
 99 ~~shall not be~~ considered profitmaking ~~profit making~~. In this
 100 connection the playing of bingo on such property shall not be
 101 considered as using such property in such a manner as would
 102 impair its exempt status.

103 ~~(5)(a) Property owned by an exempt organization qualified~~
 104 ~~as charitable under s. 501(c)(3) of the Internal Revenue Code is~~

105 ~~used for a charitable purpose if the organization has taken~~
 106 ~~affirmative steps to prepare the property to provide affordable~~
 107 ~~housing to persons or families that meet the extremely low-~~
 108 ~~income, very low income, low income, or moderate income limits,~~
 109 ~~as specified in s. 420.0004. The term "affirmative steps" means~~
 110 ~~environmental or land use permitting activities, creation of~~
 111 ~~architectural plans or schematic drawings, land clearing or site~~
 112 ~~preparation, construction or renovation activities, or other~~
 113 ~~similar activities that demonstrate a commitment of the property~~
 114 ~~to providing affordable housing.~~

115 ~~(b)1. If property owned by an organization granted an~~
 116 ~~exemption under this subsection is transferred for a purpose~~
 117 ~~other than directly providing affordable homeownership or rental~~
 118 ~~housing to persons or families who meet the extremely low-~~
 119 ~~income, very low income, low income, or moderate income limits,~~
 120 ~~as specified in s. 420.0004, or is not in actual use to provide~~
 121 ~~such affordable housing within 5 years after the date the~~
 122 ~~organization is granted the exemption, the property appraiser~~
 123 ~~making such determination shall serve upon the organization that~~
 124 ~~illegally or improperly received the exemption a notice of~~
 125 ~~intent to record in the public records of the county a notice of~~
 126 ~~tax lien against any property owned by that organization in the~~
 127 ~~county, and such property shall be identified in the notice of~~
 128 ~~tax lien. The organization owning such property is subject to~~
 129 ~~the taxes otherwise due and owing as a result of the failure to~~
 130 ~~use the property to provide affordable housing plus 15 percent~~

131 ~~interest per annum and a penalty of 50 percent of the taxes~~
 132 ~~owed.~~

133 ~~2. Such lien, when filed, attaches to any property~~
 134 ~~identified in the notice of tax lien owned by the organization~~
 135 ~~that illegally or improperly received the exemption. If such~~
 136 ~~organization no longer owns property in the county but owns~~
 137 ~~property in any other county in the state, the property~~
 138 ~~appraiser shall record in each such other county a notice of tax~~
 139 ~~lien identifying the property owned by such organization in such~~
 140 ~~county which shall become a lien against the identified~~
 141 ~~property. Before any such lien may be filed, the organization so~~
 142 ~~notified must be given 30 days to pay the taxes, penalties, and~~
 143 ~~interest.~~

144 ~~3. If an exemption is improperly granted as a result of a~~
 145 ~~clerical mistake or an omission by the property appraiser, the~~
 146 ~~organization improperly receiving the exemption shall not be~~
 147 ~~assessed a penalty or interest.~~

148 ~~4. The 5-year limitation specified in this subsection may~~
 149 ~~be extended if the holder of the exemption continues to take~~
 150 ~~affirmative steps to develop the property for the purposes~~
 151 ~~specified in this subsection.~~

152 Section 3. Section 196.198, Florida Statutes, is amended
 153 to read:

154 196.198 Educational property exemption.-

155 (1) Educational institutions within this state and their
 156 property used by them or by any other exempt entity or

157 educational institution exclusively for educational purposes are
 158 exempt from taxation.

159 (a) Sheltered workshops providing rehabilitation and
 160 retraining of individuals who have disabilities and exempted by
 161 a certificate under s. (d) of the federal Fair Labor Standards
 162 Act of 1938, as amended, are declared wholly educational in
 163 purpose and are exempt from certification, accreditation, and
 164 membership requirements set forth in s. 196.012.

165 (b) Those portions of property of college fraternities and
 166 sororities certified by the president of the college or
 167 university to the appropriate property appraiser as being
 168 essential to the educational process are exempt from ad valorem
 169 taxation.

170 (c) The use of property by public fairs and expositions
 171 chartered by chapter 616 is presumed to be an educational use of
 172 such property and is exempt from ad valorem taxation to the
 173 extent of such use.

174 (2) Property used exclusively for educational purposes
 175 shall be deemed owned by an educational institution if the
 176 entity owning 100 percent of the educational institution is
 177 owned by the identical persons who own the property, or if the
 178 entity owning 100 percent of the educational institution and the
 179 entity owning the property are owned by the identical natural
 180 persons.

181 (a) Land, buildings, and other improvements to real
 182 property used exclusively for educational purposes shall be

183 deemed owned by an educational institution if the entity owning
 184 100 percent of the land is a nonprofit entity and the land is
 185 used, under a ground lease or other contractual arrangement, by
 186 an educational institution that owns the buildings and other
 187 improvements to the real property, is a nonprofit entity under
 188 s. 501(c)(3) of the Internal Revenue Code, and provides
 189 education limited to students in prekindergarten through grade
 190 8.

191 (b) If legal title to property is held by a governmental
 192 agency that leases the property to a lessee, the property shall
 193 be deemed to be owned by the governmental agency and used
 194 exclusively for educational purposes if the governmental agency
 195 continues to use such property exclusively for educational
 196 purposes pursuant to a sublease or other contractual agreement
 197 with that lessee.

198 (c) If the title to land is held by the trustee of an
 199 irrevocable inter vivos trust and if the trust grantor owns 100
 200 percent of the entity that owns an educational institution that
 201 is using the land exclusively for educational purposes, the land
 202 is deemed to be property owned by the educational institution
 203 for purposes of this exemption. ~~Property owned by an educational~~
 204 ~~institution shall be deemed to be used for an educational~~
 205 ~~purpose if the institution has taken affirmative steps to~~
 206 ~~prepare the property for educational use. The term "affirmative~~
 207 ~~steps" means environmental or land use permitting activities,~~
 208 ~~creation of architectural plans or schematic drawings, land~~

CS/HB 587

2014

209 ~~clearing or site preparation, construction or renovation~~
210 ~~activities, or other similar activities that demonstrate~~
211 ~~commitment of the property to an educational use.~~

212 Section 4. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7169 PCB HFS 14-03 Child Protection and Child Welfare Services
SPONSOR(S): Healthy Families Subcommittee, Harrell and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Healthy Families Subcommittee	12 Y, 0 N	Entress	Brazzell
1) Appropriations Committee		Fontaine <i>WJA</i>	Leznoff <i>JR</i>

SUMMARY ANALYSIS

The bill makes many changes intended to improve the care of children in the child welfare system to better protect them from abuse and neglect. First, the bill addresses high staff turnover rates by increasing the qualifications for certain staff. The bill:

- Establishes an Assistant Secretary for Child Welfare in the Department of Children and Families (DCF).
- Enhances the qualifications for child protective investigators, case managers, and their supervisors by requiring a degree in social work, a human services-related field with relevant coursework, or any field with relevant experience and demonstrated capacity.
- Exempts certain staff from state university tuition and fees, and creates a loan forgiveness program, for education in social work.

The bill revises laws relating to community-based care organizations (CBCs) by:

- Amending community alliance duties and membership to provide for their oversight of the child welfare system.
- Creating a new part V of ch. 409, F.S., entitled "Community-Based Child Welfare", to reorganize current law, delete obsolete provisions, and clarify other provisions relating to community-based care. The bill specifies duties and accountability of both DCF and CBCs and facilitates community control of community-based care lead agencies.

The bill modifies requirements relating to the collection and analysis of data. The bill:

- Directs DCF to conduct immediate investigations of deaths involving children known to the child protection and welfare system to identify root causes and rapidly determine the need to change DCF policies and practices.
- Expands the scope of child deaths to be reviewed by the statewide child death abuse review committee to all child deaths reported to DCF's abuse hotline.
- Requires DCF to publish on its website basic facts relating to all child deaths reported to the DCF abuse hotline.
- Creates a consortium of the state's public and private university social work programs named the Florida Institute for Child Welfare which conducts research and analysis to advise the state and improve the education and training of child protection and child welfare workers. The Institute is directed to convene a task force to recommend enhancements to the state's child welfare system, including two workgroups on reducing paperwork and retaining case managers and caring for medically complex children within the child welfare system.

The bill creates standards relating to medically complex and fragile children in the child welfare system. The bill:

- Defines "medical neglect," describes the requirements for investigating it, and requires Child Protection Teams involved in cases of alleged abuse, neglect, or abandonment of a medically complex child to involve a physician with experience in treating that child's condition.
- Requires the DCF to work with the Department of Health (DOH) and the Agency for Health Care Administration to provide care for medically complex children. It allows placement of such children in medical foster homes and requires placement in the least restrictive, most nurturing environment. The bill requires in-home services to be offered, if such care meets the needs of the child.

The bill makes various additional changes to the child welfare system. The bill:

- Requires that when siblings are removed from a home, DCF must make every effort to keep the siblings together and, if separated, to keep them in communication with one another and reunite them as quickly as feasible, unless doing so is not in their best interest.
- Requires the court to evaluate whether the disabilities of nonage of a child in out-of-home care who turns 17 should be removed for the purpose of signing leases, obtaining utilities, or opening bank accounts, and to remove those disabilities if in the child's best interest.
- Creates a criminal offense for abandoning a child and provides definitions and penalties for that offense.
- Provides that a person who places an advertisement for adoption services, rather than the publisher, is responsible for including certain information in the advertisement.

The bill has an estimated fiscal impact of \$10,212,064 to DCF, an insignificant impact to DOH, and an indeterminate impact to the state university system.

The bill provides for an effective date of July 1, 2014.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7169.APC.DOCX

DATE: 4/15/2014

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Child Welfare and Department of Children and Families Structure

Child welfare is governed by ch. 39, F.S., and parts of ch. 383, ch. 409, and ch. 402, F.S. Currently, the Department of Children and Families (DCF) has three assistant secretaries: the Assistant Secretary for Administration, the Assistant Secretary for Programs, and the Assistant Secretary for Substance Abuse & Mental Health.¹ The assistant secretary for Substance Abuse and Mental Health is the only assistant secretary authorized in statute.² The assistant secretary for Substance Abuse and Mental Health is required to have expertise in both areas of responsibility.³ While there is no assistant secretary who deals solely with child welfare, currently the assistant secretary for programs oversees child welfare. The assistant secretary for programs also oversees DCF's family and community services, domestic violence, adult protection, homelessness, and childcare services programs.⁴

Community Based Care Organizations

DCF contracts for foster care and related services with lead agencies, also known as community based care organizations (CBCs). The transition to outsourced provision of child welfare services was intended to increase local community ownership of service delivery and design.⁵ The state completed the transition to community-based care during the latter part of Fiscal Year 2004-2005.⁶

Under this localized system, CBCs are responsible for providing foster care and related services. These services include, but are not limited to, family preservation, emergency shelter, and adoption.⁷ CBCs contract with a number of subcontractors for case management and direct care services to children and their families.⁸ There are 18 CBCs statewide, which together serve the state's 20 judicial circuits.⁹ The law requires DCF to contract with CBCs through a competitive procurement process.¹⁰

Even in this outsourced system, DCF remains responsible for a number of child welfare functions. These functions include operating the abuse hotline, performing child protective investigations (which determine whether children need to be removed from their homes because of abuse or neglect), and providing child welfare legal services.¹¹ DCF is also ultimately responsible for program oversight and the overall performance of the child welfare system.¹²

Each month, CBCs are graded by DCF according to their performance on a scorecard. The scorecard evaluates the CBCs on 11 key measures to determine how well the CBCs are meeting the most critical

¹ *Organizational Chart*, The Department of Children and Families, *accessible at*: www.dcf.state.fl.us/admin/docs/orgchart.pdf (last accessed March 12, 2014).

² S. 20.19(2)(c), F.S.

³ S. 20.19(2)(c), F.S.

⁴ *Organizational Chart*, The Department of Children and Families, *accessible at*: www.dcf.state.fl.us/admin/docs/orgchart.pdf (last accessed March 12, 2014).

⁵ *Community-Based Care*, The Department of Children and Families, *accessible at*: <http://www.myflfamilies.com/service-programs/community-based-care> (last accessed March 12, 2014).

⁶ OPPAGA, Report 06-50.

⁷ OPPAGA, Report 06-50.

⁸ OPPAGA, Report 06-50.

⁹ *Community Based Care Lead Agency Map*, The Department of Children and Families, *accessible at*:

<http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last accessed March 12, 2014).

¹⁰ *Competitive Procurement*, The Department of Children and Families, *accessible at*: <http://www.myflfamilies.com/service-programs/community-based-care/competitive-procurement> (last accessed March 12, 2014).

¹¹ OPPAGA, Report 06-50.

¹² OPPAGA, Report 06-50.

needs of children and families in the child welfare system. Scorecards measure four indicators of permanency, three indicators of wellbeing, three indicators of safety, and one indicator of costs. Two of the permanency indicators are weighted more than the other 9 indicators, making the permanency indicators drive the CBC's overall score. The scores received by CBCs vary monthly.¹³ Scorecards are posted online each month.

Community Alliances

Community alliances provide a focal point for community participation and governance of community-based services. Community alliances are located in local communities and consist of stakeholders, community leaders, client representatives, and funders of human services.¹⁴ Community alliances have the following duties:

- Joint planning for resource utilization in the community, including resources appropriated to DCF and any funds that local funding sources choose to provide.
- Needs assessment and establishment of community priorities for service delivery.
- Determining community outcome goals to supplement state-required outcomes.
- Serving as a catalyst for community resource development.
- Providing for community education and advocacy on issues related to delivery of services.
- Promoting prevention and early intervention services.¹⁵

Initially, community alliances are required to include members from the following organizations:

- DCF;
- County government;
- The school district;
- County United Way;
- County sheriff's office
- Circuit court corresponding to the county; and
- County children's board, if one exists.

After the initial meeting of the community alliance, the alliance may increase membership to include the state attorney for the judicial circuit, the public defender, and other individuals who represent funding organizations, are community leaders, have knowledge of community-based service issues, or represent perspectives that will enable them to accomplish the duties of the community alliances.¹⁶

Child Abuse and Neglect

Child abuse and neglect is a serious problem in the United States.¹⁷ In Federal Fiscal Year (FFY) 2011, the most recent year for which national data is available, an estimated 3.4 million reports of abuse were received by child protection agencies nationwide.¹⁸ After investigation, the number of unduplicated child victims nationally was estimated to be 681,000.¹⁹ Florida reported 208,437 calls to the abuse hotline in FFY 2011.²⁰ The most serious result of child maltreatment is the death of the child. In FFY 2011,

¹³ *CBC Scorecard*, The Department of Children and Families, accessible at: <http://www.myffamilies.com/about-us/planning-performance-measures/cbc-scorecard> (last accessed March 12, 2014).

¹⁴ S. 20.19(4), F.S.

¹⁵ S. 20.19(4), F.S.

¹⁶ S. 20.19(4), F.S.

¹⁷ US. Department of Health and Human Services, *Child Maltreatment 2011*, p. 1.

¹⁸ *Id.* at vii. The report adds that the rate of referrals have remained fairly constant for at least five years.

¹⁹ *Id.* at 19.

²⁰ *Id.* at 11.

nationally 1,545 child fatalities resulting from child abuse or neglect were identified.²¹ Florida reported 133 child fatalities resulting from child abuse or neglect in FFY 2011.²²

Abuse Investigations

A child protective investigation begins with a report by any person to the Florida abuse hotline.²³ The state is required to maintain a 24 hour per day, 7 day per week capacity for receiving reports of maltreatments.²⁴ When allegations of abuse, abandonment, or neglect of a child are reported to DCF's child abuse hotline and the hotline employee believes that the report meets the statutory definition of the allegations, an investigation by a child protective investigator is triggered.²⁵ A child protective investigation must be commenced either immediately or within 24 hours after the report is received, depending on the nature of the allegation.²⁶

The sheriff's offices in Pasco, Manatee, Broward, and Pinellas Counties are required to provide all child protective investigations in these counties.²⁷ DCF is authorized to enter into grant agreements with sheriffs of other counties to perform child protection investigations in other counties, but they are not required to do so.²⁸ The child protective investigators (CPIs) employed by a sheriff's department must meet the same requirements as child protective investigators employed by DCF.²⁹

DCF Custody

A child must have a court hearing to be placed in a shelter³⁰, unless:

- The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;
- The parent or legal custodian of the child has materially violated a condition of placement imposed by the court; or
- The child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.³¹

Once a child is taken into custody³², DCF reviews the facts supporting the removal of the child and determines if sufficient cause exist to file a shelter petition. If sufficient cause does not exist, the child must be returned to their parent or legal custodian.³³ If sufficient cause does exist, DCF is required to file a petition and schedule a hearing with the courts. DCF must request that a shelter hearing be held within 24 hours from the removal of the child from the home.³⁴

At the adjudicatory hearing the court may make one the following rulings:³⁵

²¹ U.S. Department of Health and Human Services, *ibid.* at 56.

²² *Id.* at 63.

²³ S. 39.201(4), F.S.

²⁴ S. 39.201(5), F.S.

²⁵ S. 39.201(2)(a), F.S.

²⁶ S. 39.201(5), F.S.

²⁷ S. 39.3065 (3)(a), F.S.

²⁸ S. 39.3065 (3)(b), F.S.

²⁹ S. 39.3065 (3)(b), F.S.

³⁰ The term "shelter" is defined in chapter 39 as "a placement with a relative or a nonrelative, or in a licensed home or facility, for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication."

³¹ S. 39.402 (1), F.S.

³² The term "legal custody" means a legal status created by a court which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, nurture, guide, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

³³ S. 39.401(3)(a), F.S.

³⁴ S. 39.401(3)(b), F.S.

³⁵ S. 39.507, F.S.

- That the child is not a dependent child and dismiss the case.
- That the child is adjudicated dependent and may remain in the home, under supervision of the court, or be placed in out-of-home care.
- That the child may remain in the home, under the supervision of DCF; adjudication of dependency would be withheld assuming the family complies with the conditions of supervision.

DCF is required to seek permanency for children as quickly as possible, with a goal of permanency occurring within 12 months from removal from the child's home.³⁶ Permanency hearings are required to be held every 12 months for any child who continues to be supervised by DCF or awaits adoption. The permanency hearing aims to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child.³⁷ Permanency may consist of:

- Reunification with a parent;
- Adoption;
- Permanent guardianship with a relative or nonrelative;
- Permanent placement with a relative or nonrelative; or
- Placement in another planned permanent living arrangement.³⁸

While reunification with the parent is the preferred permanency option, the best interest of the child is the primary consideration in determining the permanency goal for the child.³⁹ The court is required to base its decision concerning any motion by a parent for reunification on the effect of the decision on the safety, well-being, and physical or emotional health of the child.⁴⁰ The court must specifically consider:

- The compliance or noncompliance of the parent with the case plan;
- The circumstances which caused the child's dependency and whether those circumstances have been resolved;
- The stability and longevity of the child's placement;
- The preferences of the child, if the child is of sufficient age and understanding to express a preference;
- The recommendation of the current custodian; and
- The recommendation of the guardian ad litem, if one has been appointed.⁴¹

Current law includes legislative intent that when siblings are placed in out-of-home care, DCF makes every possible effort to place them together; if they are permanently placed, to place them in the same adoptive home, and if placement together is not possible, to keep them in contact with each other.⁴² There is no provision at specific points in the child welfare system such as at removal or at judicial reviews to ensure that DCF is attending to issues relating to siblings.

Medically Complex and Medically Fragile Children

While there are no definitions for "medically fragile" or "medically complex" children in the child welfare statutes, these terms are defined by the Department of Health (DOH) in rules related to Medicaid. DOH defines the term "medically complex" as "a person who has chronic debilitating diseases or conditions of one or more physiological or organ systems that generally make the person dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention". DOH defines "medically fragile" as "an individual who is medically complex and whose medical condition is of such a nature that he is

³⁶ S. 39.621

³⁷ S. 39.621 (1), F.S.

³⁸ S. 39.621(2), F.S.

³⁹ S. 39.621, F.S.

⁴⁰ S. 39.621 (10), F.S.

⁴¹ S. 39.621 (10), F.S.

⁴² S. 39.001(1)(k), F.S.

technologically dependent, requiring medical apparatus or procedures to sustain life and without such services is likely to expire without warning.”⁴³

Children’s Medical Services (CMS), within DOH, offers a range of specialty services and long-term services for medically complex or medically fragile children who are Medicaid eligible.⁴⁴ These services include services from a prescribed pediatric extended care center, services from a medical foster homes, and services from nursing facilities. The Children’s Multidisciplinary Assessment Team (CMAT) is a coordinated interagency effort administered by CMS that provides assessments, recommendations, and decisions for services based on medical necessity for medically complex children.⁴⁵ CMAT assessments are available to all medically complex children 20 years of age or younger.⁴⁶ Children do not have to be Medicaid eligible to have an assessment.⁴⁷

These assessments form the basis for the CMAT recommendations for the most appropriate and least restrictive setting that will meet the health needs of the child.⁴⁸ CMATs also recommend long-term care services and determine the associated level of care needed.⁴⁹ After the CMAT makes its recommendations and determinations, the parent or guardian of the child then decides where the child will be placed.⁵⁰ However, when medically complex children are in the legal custody of DCF because of abuse, neglect, or abandonment, their parents do not make the decisions regarding their placements and services.⁵¹ Instead, the CBCs and the court determine the child’s placement, generally following the CMAT’s recommendations.⁵²

Medically fragile, Medicaid-eligible children who require short-term, long-term, or intermittent continuous therapeutic interventions or skilled nursing supervision can receive Medicaid services from a prescribed pediatric extended care (PPEC) center.⁵³ A PPEC center is a nonresidential health care center, which offers an array of services focused on meeting the medical, nursing, psychosocial, developmental, and personal care needs of these children.⁵⁴ It also provides training for the children’s caregivers.⁵⁵ When approved, children can attend a PPEC center up to a maximum of 12 hours per day.⁵⁶ PPEC centers provide a cost effective alternative to home nursing services and may reduce the isolation that a homebound child may experience.⁵⁷

Medically complex children may also be eligible for services in a nursing facility. Federal law mandates that nursing facility services are provided as an option.⁵⁸ Approximately 5 percent of medically complex

⁴³ 59G-1.001, F.A.C.

⁴⁴ CMS Provider Handbook, the Department of Health, 2013, *accessible at*:

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0CCsQFjAB&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fcms-kids%2Fproviders%2Fdocuments%2Fhandbook_physician.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usg=AFQjCNGto7cmhubw7pbEpsgmoxx7SuYggQ&sig2=EITrRnKPojoVoMBi2Wbckw (last accessed March 22, 2014).

⁴⁵ Medicaid Summary of Services, the Agency for Health Care Administration, 2011-2012, *accessible at*:

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CDAQFjAC&url=http%3A%2F%2Fwww.medicaidoptions.net%2Fsharedfiles%2Fenglish%2FFloridaMedicaidSummaryOfServices.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usg=AFQjCNH16XQMwBF-bcniVexADzIFiwYkKA&sig2=ok6q5TShKAQ7zLCjpZzv_A (last accessed March 22, 2014).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

⁴⁹ E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

⁵⁰ E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

⁵¹ E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

⁵² E-mail correspondence with the Department of Children and Families, March 25, 2014, on file with committee staff.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Medicaid Child Health Services, the Agency for Health Care Administration, *accessible at*:

<http://ahca.myflorida.com/medicaid/childhealthservices/ppec/index.shtml> (last accessed March 22, 2014).

⁵⁷ Medicaid Summary of Services, the Agency for Health Care Administration, 2011-2012, *accessible at*:

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CDAQFjAC&url=http%3A%2F%2Fwww.medicaidoptions.net%2Fsharedfiles%2Fenglish%2FFloridaMedicaidSummaryOfServices.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usg=AFQjCNH16XQMwBF-bcniVexADzIFiwYkKA&sig2=ok6q5TShKAQ7zLCjpZzv_A (last accessed March 22, 2014).

⁵⁸ E-mail correspondence with the Agency for Health Care Administration, March 21, 2014, on file with committee staff.

children receiving Medicaid are receiving services in a skilled nursing facility.⁵⁹ According to the Agency for Health Care Administration (AHCA), 150 children with complex medical problems currently reside in nursing homes.⁶⁰ As of March 2013, there are approximately 13 medically complex children in DCF care residing in nursing homes.⁶¹

Children in the custody of DCF may receive in-home services or be placed in a nursing facility or a medical foster home. Medical foster homes provide family-based care for medically complex children.⁶² Medical foster parents receive specific training on how to take care of the child's physical, emotional, and health care needs.⁶³ Medical foster parents also serve as role models to train the birth family on how to care for their child's special medical needs so the child can return home.⁶⁴ Each foster parent maintains a comprehensive in-home record book that documents all the care provided to the child.⁶⁵ This book also includes the plan of care which lists out exactly what care is to be provided with instructions in how to provide the care, which can be used by the parent when the child is returning home.⁶⁶

Medical Neglect

While there is no definition of the term "medical neglect" in ch. 39, F.S., neglect encompasses cases of medical neglect. Neglect is when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired.⁶⁷

DCF does not treat investigations of abuse or neglect involving a medically fragile child differently from other investigations of abuse and neglect, unless the allegations of abuse or neglect are deemed high risk. CPIs and case managers are not specially trained on how to determine abuse and neglect involving medically fragile children.⁶⁸

Child Protection Teams

Children's Medical Services within the DOH operate service teams of one or more multidisciplinary child protection teams (CPTs) in each DCF service district.⁶⁹ Teams can be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies.⁷⁰ CPTs provide specialized diagnostic assessments, evaluations, coordination, consultations, and other support services including:

- Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings;
- Medical evaluation related to abuse, abandonment, or neglect;
- Psychological and psychiatric diagnosis and evaluation services;

⁵⁹ E-mail correspondence with the Agency for Health Care Administration, March 21, 2014, on file with committee staff.

⁶⁰ E-mail correspondence with the Agency for Health Care Administration, March 21, 2014, on file with committee staff.

⁶¹ E-mail correspondence with the Department of Children and Families, March 27, 2014, on file with committee staff.

⁶² CMS Provider Handbook, the Department of Health, 2013, *accessible at*:

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0CCsQFjAB&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fcms-kids%2Fproviders%2Fdocuments%2Fhandbook_physician.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usg=AFQjCNGto7cmhubw7pbEpsgmoxx7SuYggQ&sig2=EITrRnKPojoVoMBi2Wbckw (last accessed March 22, 2014).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ S. 39.01(44), F.S.

⁶⁸ E-mail correspondence with the Department of Children and Families, January 10, 2014, on file with Healthy Families Subcommittee Staff.

⁶⁹ S. 39.303, F.S.

⁷⁰ S. 39.303, F.S.

- Expert medical, psychological, and related professional testimony in court cases;
- Case staffings to develop treatment plans for children whose cases have been referred to the team; and
- Child protection team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.⁷¹

Some cases, including all cases involving medical neglect, must be referred to CPTs.⁷² CPTs have medical directors who are board certified pediatricians. The medical directors receive special training in the field of child abuse and neglect.⁷³ According to DCF, most medical directors have knowledge of some rare conditions that may generate abuse or neglect allegations, such as osteogenesis imperfecta (brittle bone disease). Children with osteogenesis imperfecta may appear to have been abused because of broken bones but instead have experienced a known complication from the medical condition.⁷⁴ According to DCF, if a CPT physician is unsure of a diagnosis, before concluding that it is the result of abuse or neglect, they will first consult with the statewide CPT Director.⁷⁵

Medical directors of CPTs handling cases of medical neglect involving medically complex or medically fragile children are not required to have any experience treating the specific disease or disorder suffered by each medically complex child.⁷⁶ There is currently no requirement to consult a physician with such experience when the CPT physician has little experience.

State Child Abuse Death Review Committee

The State Child Abuse Death Review Committee (SCADRC) reviews the facts and circumstances surrounding child abuse and neglect deaths in which there has been a verified case of abuse or neglect.⁷⁷ The SCADRC is housed within DOH and consists of a representatives from the DOH, DCF, Department of Legal Affairs, Department of Law Enforcement, Department of Education, Florida Prosecuting Attorneys Association, Inc., and Florida Medical Examiners Commission, whose representative must be a forensic pathologist.⁷⁸ In addition, the State Surgeon General must appoint following members to the SCADRC:

- A board-certified pediatrician.
- A public health nurse.
- A mental health professional who treats children or adolescents.
- An employee of the DCF who supervises family services counselors and who has at least 5 years of experience in child protective investigations.
- The medical director of a child protection team.
- A member of a child advocacy organization.
- A social worker who has experience in working with victims and perpetrators of child abuse.
- A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.
- A law enforcement officer who has at least 5 years of experience in children's issues.
- A representative of the Florida Coalition Against Domestic Violence.

⁷¹ S. 39.303, F.S.

⁷² S. 39.303, F.S.

⁷³ E-mail correspondence with the Department of Health, March 21, 2014, on file with committee staff.

⁷⁴ E-mail correspondence with the Department of Children and Families, March 27, 2014, on file with committee staff.

⁷⁵ E-mail correspondence with the Department of Children and Families, March 27, 2014, on file with committee staff.

⁷⁶ E-mail correspondence with the Department of Health, March 21, 2014, on file with committee staff.

⁷⁷ 2013 Annual Report, Child Abuse Death Review Committee, accessible at:

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=4&cad=rja&uact=8&ved=0CDgQFjAD&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Ffcdadr%2Fattach%2F2013CADRrpt.pdf&ei=2-wgU_XOOpKP0gH0h4HgAQ&usq=AFQjCNG-qH-aoPrFZAZIVXHNuemu_fcAkw&sig2=Cqj9h99WtPI2I6G6s0CRdg (last accessed March 12, 2014).

⁷⁸ S. 383.402(2)(a), F.S.

- A representative from a private provider of programs on preventing child abuse and neglect.⁷⁹

Records of Children

All records held by DCF concerning reports of child abandonment, abuse, or neglect are confidential and exempt from public records laws.⁸⁰ This includes all reports to the DCF abuse hotline.⁸¹ This information may only be released to individuals specified in statute, which includes DCF, DOH, or the Agency for Persons with Disabilities (APD) employees with specific responsibilities; a grand jury; a state attorney; and any person when the child has died due to abuse, neglect, or abandonment.⁸² However, DCF has the discretion to release certain information regarding a missing child.⁸³ In addition, any person or organization, including DCF, may petition the court for an order making public the records of the DCF which pertain to investigations of alleged abuse, abandonment, or neglect of a child.⁸⁴ The court determines whether good cause exists for public access to the records.⁸⁵ The court is required to balance the best interests of the child who is the focus of the investigation and the interest of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest.⁸⁶

Abandonment of a Child

Beginning on September 9, 2013, Reuters News Service published a five-part series entitled "The Child Exchange," which exposed how American parents were using Internet message boards to find new families for children whom they regretted adopting, a practice that has been called "private re-homing."⁸⁷ Reuters spent 18 months investigating eight message boards where participants advertised unwanted children and examined two dozen cases in which adopted children were re-homed.⁸⁸ The investigative series found:

- On average, a child was advertised for re-homing at least once a week;
- The average range for children being advertised for re-homing is 6 to 14 years of age;
- Re-homing is accomplished through basic power of attorney documents which allow the new guardians of the child to enroll the child in school or secure government benefits;
- At least 70 percent of the children offered for re-homing on one message board were international adoptees;
- Only 29 states have laws that govern how children can be advertised for adoption; and
- The Interstate Compact for the Placement of Children, which is meant to be a safeguard against the improper placement of children across state lines, is often not enforced by law enforcement.⁸⁹

Child Protective Investigators and Case Managers

CPIs must earn certification within 12 months of hire. The third-party credentialing entity administering the certification process must:

⁷⁹ S. 383.402(2)(b), F.S.

⁸⁰ S. 39.202(1), F.S.

⁸¹ S. 39.202(1), F.S.

⁸² S. 39.202(1), F.S.

⁸³ S. 39.202(4), F.S.

⁸⁴ S. 39.2021(1), F.S.

⁸⁵ S. 39.2021(1), F.S.

⁸⁶ S. 39.2021(1), F.S.

⁸⁷ Megan Twohey, The Child Exchange, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

⁸⁸ Megan Twohey, The Child Exchange, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

⁸⁹ Megan Twohey, The Child Exchange, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

- Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare certification and to maintain such certification.
- Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards.
- Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.
- Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.
- Require annual continuing education for persons holding child welfare certification.
- Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.⁹⁰

Turnover and Vacancies

In Fiscal Year (FY) 2011-2012, CPI turnover was 36.59%.⁹¹ This figure was slightly lower in FY 2012-13, with a turnover rate of 26.39%.⁹² As of January 6, 2014, As of January 6, 2014, DCF employed 1,082.5 CPIs, and 40.5 CPI positions were vacant.⁹³

Between October 2011 and September 2012, CPIs had an average caseload of 1:15.5 and case managers had an average caseload of 1:20.⁹⁴ The Child Welfare League of America recommends that professionals handling child welfare investigations have a caseload of 1:12 and employees handling ongoing cases for child welfare (typically the case manager role in Florida) have a caseload of 1:17.⁹⁵ Caseloads of child welfare employees vary between states. New Jersey reported an average caseload of 1:12 for open cases and 1:8 for new referrals in the child welfare system as of June 2013.⁹⁶ North Carolina had an average caseload for child protective workers of 1:9 and Texas had an average caseload of 1:24 in 2012.⁹⁷

According to the U.S. Administration on Children and Families, a supportive organizational culture is a key ingredient in building a stable and effective child welfare workforce.⁹⁸ Core elements of organizational culture include agency leadership, workforce management, supervision, and support. Organizational culture and employee relations significantly influence an agency's ability to recruit and retain staff as well as make long-lasting workforce changes.⁹⁹

In 2014, OPPAGA conducted 16 focus groups around Florida to study child welfare. OPPAGA found that some case managers feel that high turnover rates among workers resulted in supervisors carrying caseloads themselves, leaving little time for supervision or mentoring.¹⁰⁰ In addition, OPPAGA reported that most case managers reported that supervisors primarily focus on meeting department performance measures rather than encouraging quality work or mentoring new case managers.¹⁰¹

CPIs in the focus groups noted that senior investigators, meant to serve as back-ups to supervisors and mentors to less experienced investigators, are carrying full caseloads, making fulfilling these functions

⁹⁰ S. 402.40(3), F.S.

⁹¹ E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

⁹² E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

⁹³ E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

⁹⁴ *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

⁹⁵ *Recommended Caseload Standards*, Child Welfare League of America, *accessible at*:

<http://www.cwla.org/newsevents/news030304cwlacaseload.htm> (last accessed March 12, 2014).

⁹⁶ *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

⁹⁷ *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

⁹⁸ *Organizational Culture*, Administration for Children and Families, *accessible at*:

https://childwelfare.gov/management/workforce/org_culture/index.cfm (last accessed March 21, 2014).

⁹⁹ *Organizational Culture*, Administration for Children and Families, *accessible at*:

https://childwelfare.gov/management/workforce/org_culture/index.cfm (last accessed March 21, 2014).

¹⁰⁰ *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

¹⁰¹ *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

difficult.¹⁰² According to OPPAGA, while most CPIs and case managers reported feeling supported by their immediate supervisor, many of these workers did not feel supported by the management of their respective agencies.¹⁰³

According to faculty at the Florida State University School of Social Work, graduates have reported leaving their positions as CPIs primarily due to the work environment.¹⁰⁴ Pam Graham, the director of the BSW and Professional Development Programs at Florida State University School of Social Work, reported that CPIs with social work degrees expressed that they do not leave their jobs due to low incomes or high stress levels.¹⁰⁵ Instead, they leave because of a lack of a professional environment, a lack of respect for professional expertise, a lack of potential for advancement, and because they do not feel supported by their supervisors.¹⁰⁶

Education

CPIs must have a bachelor's degree.¹⁰⁷ DCF prefers to hire CPIs with a bachelor's degree in human services-related fields.¹⁰⁸ The degrees held by CPIs as of January 6 are as indicated below:

- 6.2% held a Bachelor's or Master's degree in social work;
- 7.1% held a Bachelor's or Master's degree in public or business administration;
- 14% held a Bachelor's or Master's degree in education, nursing, religion, or other human services field;
- 24.1% held a Bachelor's or Master's degree in social sciences;
- 25.4% held a Bachelor's or Master's degree in criminal justice or criminology; and
- 23.2% held a degree in which the type of degree was unknown by DCF.¹⁰⁹

Extensive academic research has studied whether having a degree in social work is beneficial to child welfare employees. A 2012 meta-analysis review by Allen Rubin and Danielle Parrish compared a variety of studies on the effect of social workers in the child welfare workforce and found:

- Job Satisfaction: Child welfare employees with social work degrees had similar levels of burnout, satisfaction, accomplishment, and compassion when compared to child welfare employees with other degrees.¹¹⁰
- Employee Retention: Child welfare employees with social work degrees had similar levels of turnover when compared to child welfare employees with other degrees.¹¹¹
- Knowledge and Skills: Child welfare employees with social work degrees did better on exams measuring knowledge and merit or competency and skills pertaining to child welfare practice than other child welfare employees.
- Performance Evaluations: Child welfare employees with social work degrees either scored similar to or better than child welfare employees with other degrees on performance evaluations.

¹⁰² *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

¹⁰³ *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

¹⁰⁴ Testimony by the Florida State University College of Social Work, Healthy Families Committee Meeting, February 11, 2014.

¹⁰⁵ Testimony by the Florida State University College of Social Work, Healthy Families Committee Meeting, February 11, 2014.

¹⁰⁶ Testimony by the Florida State University College of Social Work, Healthy Families Committee Meeting, February 11, 2014.

¹⁰⁷ *Career Opportunities*, The Department of Children and Families, accessible at: <https://www.dcf.state.fl.us/initiatives/DCFJobs/> (last accessed March 12, 2014).

¹⁰⁸ *Career Opportunities*, The Department of Children and Families, accessible at: <https://www.dcf.state.fl.us/initiatives/DCFJobs/> (last accessed March 12, 2014).

¹⁰⁹ E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

¹¹⁰ However, one study found that employees with social work degrees had worse on 3 out of 4 work morale comparison factors than employees without social work degrees

¹¹¹ However, one study found that employees with MSW degrees had higher rates of turnover than other employees and another study found that employees with social work degrees expressed higher rates of intention to leave their job, but did not follow through on their intention. Another study found that being a student in a MSW program and employee of the CW system simultaneously strengthened their commitment to child welfare and helped these employees imagine career ladders within child welfare agencies.

- Direct Outcome Measures: Child welfare employees with social work degrees had better direct outcome measures than child welfare employees with other degrees. The direct outcome measures studied include client outcome scores, likelihood of substantiating abuse, likelihood of placing children with relatives, likelihood of placing children in adoptive homes, number of child times the child in foster care moved, number of times the child welfare employee visited the child, satisfaction with child welfare services, and likelihood of deeming services necessary.¹¹²

Tuition Exemption and Loan Repayment

Section 1004.61, F.S, directs DCF to form partnerships with the schools of social work of the state universities in order to encourage the development of graduates trained to work in child protection. In one such partnership, DCF provided 100 stipends per year for social work students at Florida International University working towards a bachelor's in social work (BSW) or a master's in social work (MSW) degree.¹¹³ In return for accepting the stipend, the student was required to work for a CBC for at least a year.¹¹⁴ The Legislature reduced the funding in FY 12-13 by \$455,020 (leaving a balance of \$739,980). For FY 13-14, the Legislature did not fund the program.¹¹⁵

DCF also has the authority to administer general child welfare student loan forgiveness.¹¹⁶ This program allows DCF to provide loan reimbursement.¹¹⁷ To eligible, employees must hold child welfare positions that are critical to DCF's mission and that are within DCF, sheriff's offices, or contracted community-based care agencies.¹¹⁸ In addition, the employee's outstanding student loans may not be in a default status to be eligible for loan reimbursement.¹¹⁹ The Child Welfare Loan Forgiveness was terminated June 30, 2012, and it was last funded in FY 2012-13 for \$1,950,000.¹²⁰

Effect of Proposed Changes

Child Welfare System Structure

The bill creates a new part of ch. 409, F.S., and titles this "Community-Based Child Welfare."

The bill creates an assistant secretary for child welfare within DCF. The bill requires the secretary of DCF to appoint the assistant secretary to lead DCF in carrying out its duties and responsibilities for child protection and child welfare. The bill requires the assistant secretary to have at least 7 years of experience working in organizations delivering child protective or child welfare services and specifies that the assistant secretary serves at the pleasure of the secretary.

Community-Based Care Organizations

The bill makes several structural changes to ch. 409, F.S., to improve the organization of provisions related to CBCs. The bill moves provisions from s. 409.1671, F.S., to create s. 409.986, F.S. and repeals s. 409.1671, F.S. The new section provides legislative findings, intent, goals, and definitions related to community based care. The legislative intent language in the bill was amended to reflect the intent that communities participate in assuring child safety, permanence, and well-being. The legislative intent language was also changed to express that when private entities assume responsibility for children in care, adequate oversight of these entities is essential and ultimately, appropriate care of

¹¹² *Comparing Social Worker and Non-Social Worker Outcomes: A Research Review*, Allen Rubin and Danielle Parrish, National Association of Social Workers, on file with Subcommittee Staff.

¹¹³ E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

¹¹⁴ E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

¹¹⁵ E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

¹¹⁶ S. 402.401, F.S.

¹¹⁷ S. 402.401, F.S.

¹¹⁸ S. 402.401, F.S.

¹¹⁹ S. 402.401, F.S.

¹²⁰ E-mail correspondence with Appropriations Committee, October 15, 2013, on file with committee staff.

children is the responsibility of the state. Similar but not identical language is currently found in s. 409.1671, F.S.

The bill states outcomes that DCF, in conjunction with the CBCs, CBC subcontractors, and the alliances, must aim to achieve relating to abuse, neglect, safety, stability, and services. The bill provides definitions for the terms “child,” “dependent child,” “care,” “community-based care lead agency,” “community-based care alliance”, and “related services.”

The bill also moves provisions from s. 409.1671, F.S., to create s. 409.987, F.S. The new section amends current language and clarifies the requirements for DCF to CBCs. The bill specifies that the procurement for CBCs must be conducted through a competitive process required by ch. 287 and describes the geographic size limitations for such procurements. It requires DCF to produce a schedule for procurements, to share that schedule with community alliances, and to post the schedule on DCF’s website. The bill requires DCF to use five-year contracts (rather than three-year contracts) with CBCs and sets for the requirements for an entity to compete for the award of a contract as a CBC lead agency, including the requirements that the entity be organized as a Florida corporation or governmental entity governed by a local board of directors and demonstrate financial responsibility (through financial audits and posting of a performance bond). It requires that the procurement team include individuals from the community alliance and requires that the procurement meetings to be held locally.

The bill moves provisions from s. 409.1671, F.S., and 409.1675, F.S., to create s. 409.988, F.S. The new section outlines the duties of the CBCs and authorizes subcontracting for the provision of child welfare services. The new section makes changes to the current requirements regarding the duties of a CBC. The bill authorizes a CBC to subcontract for services and specifies requirements for any subcontract. The bill provides DCF rulemaking authority, as well as specifies that the CBCs must serve dependent children through services that are supported by research, are best child welfare practices, or are innovative.

The bill moves provisions from s. 409.1671, F.S., and 409.16745, F.S., to create s. 409.990, F.S. and repeals s. 409.16745, F.S. The new section describes funding for lead agencies. While the bill retains the majority of the provisions in s. 409.1671, F.S., the bill repeals the authority for DCF to issue an interest-free loan to the Florida Coalition for Children, Inc., for the purpose of creating a self-insurance program.

The bill also makes changes to the community partnership matching grant program, which is authorized in s. 409.1671, F.S. Currently, DCF may match contributions to a CBC when a children’s services council or local government entity makes a financial commitment of at least \$250,000. DCF can match these contributions, up to \$2 million per council or local government entity. The CBC can then use these funds for prevention or in-home services to reduce the number of children entering the child welfare services. The bill changes this to specify that DCF can match contributions to a CBC when a children’s services council, local government entity, business, or other organization makes a financial commitment of any amount. The bill changes the cap on the DCF matching grant from \$2 million per council or government entity to \$500,000 per CBC annually. The bill also changes the uses for the grant, to specify that the funds may be used for services that address children at risk of abuse, neglect, or abandonment.

The bill moves provisions from s. 409.16713, F.S., to create s. 409.991, F.S. The new section describes the allocation of funds for CBCs. The bill also moves provisions from s. 409.1671, F.S., to create s. 409.992, F.S. The new section provides for lead agency expenditures. In addition to moving the current law, the bill requires DCF to develop financial guidelines in consultation with the Auditor General.

The bill moves provisions from s. 409.1671, F.S., to create s. 409.993, F.S., to describe lead agency and subcontractor liability. While the new section moves the majority of the provisions from s.

409.1671(1)(h)-(l), the new section does not include current statutory provisions requiring that conditional limitations on damages increase at a rate of 5% per year. In addition to the current requirements, the bill also requires DCF to verify that the CBC has insurance coverage as part of its monitoring process. The bill also transfers and renumbers s. 409.1675, F.S., to create s. 409.994, F.S., describing CBCs and receivership.

CBC and DCF Responsibilities

The bill specifies responsibilities of the CBCs and DCF. It changes requirements of the CBCs to:

- Define the population CBCs are required to serve to include both children who are at risk of, and children who have actually experienced, abuse, neglect, or abandonment;
- Require the CBCs to provide information to DCF for oversight;
- Require the CBCs to follow financial guidelines developed by DCF;
- Require the CBCs to provide independent audits;
- Require the CBCs to prepare reports for court hearings; and
- Require CBCs to ensure that individuals providing care meet employment standards established by DCF.

The bill creates s. 409.996, F.S., to describe the duties of DCF in contracting for community based child welfare services. In addition to what is required in CBC contracts under current law, the bill requires the contracts between DCF and the CBCs to specify that the contracts must provide for services required to accomplish duties established in statute, provide for graduated penalties for failure to comply with contract terms, and ensure that the CBCs provide accurate and current information in all cases. The bill also requires DCF to transmit federal and state funds received for the operation of the child welfare system to the CBCs as agreed. The bill specifies that DCF retains responsibility for the appropriate spending of these funds and requires DCF to monitor CBCs to assess compliance with financial guidelines and applicable state and federal laws.

The bill requires DCF to provide technical assistance and consultation to the CBCs in the provision of care to children in the child protection and child welfare system. The bill specifies that DCF:

- Retains the responsibility for the review, approval, and issuance of all foster home licenses;
- Must process all applications submitted by CBCs for the Interstate Compact for Placement of Children and the Interstate Compact for Adoption and Medical Assistance;
- Must develop a standardized competency-based curriculum for CPI certification, in cooperation with the CBCs and the third-party credentialing entity;
- Must work with AHCA to provide certain Medicaid services;
- Must provide a mechanism to allow CBCs to request a waiver of certain DCF policies and procedures; and
- Must provide attorneys to prepare and present cases in dependency court and ensure that the court is provided with adequate information.

The bill requires DCF to assist CBCs in coordinating with other programs within DCF, federal programs (such as Social Security), and Medicaid. The bill also requires DCF to assist CBCs to develop an array of services and to monitor the provision of these services.

The bill requires DCF, with the assistance of the CBCs, to develop and implement interagency agreements as necessary to coordinate services for children in the child welfare system and working agreements between CBCs and substance abuse and mental health managing entities.

Accountability

The bill creates s. 409.997, F.S., to establish a child welfare results-oriented accountability system. The bill requires that DCF maintain a comprehensive, results-oriented accountability system that monitors the use of resources, the quality and amount of services provided, and the child and family outcomes through data analysis, research review, evaluation, and quality improvement. The bill gives direction to DCF on establishing such a system and requires DCF to report the result of the accountability system at least quarterly on its website as well as annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill moves the provisions of s. 409.1671, F.S., related to quality assurance of CBCs, to s. 409.996, F.S. The bill makes changes to this language to specify that the evaluations of the CBCs by DCF are required to cover the programmatic, operational, and fiscal operations of the CBC, to be consistent with the child welfare results-oriented accountability system. The bill also requires DCF to consult with the dependency judge on the performance of the CBC.

The bill also requires each CBC to post on its website its current budget, including the salaries, bonuses, and other compensation paid to its chief executive officer, chief financial officer, and chief operating officer, or their equivalents. The bill requires each CBC to also post on its website the average caseload of case managers, the turnover rate for case managers and case manager supervisors, the percentage of required home visits completed, and the performance on outcome measures. This information is required to be posted by the 15th of each month.

Community Alliances

The bill amends the duties of community alliances, to include providing independent, community-focused oversight of child protection and child welfare services and the local CBC system. The bill adds two members to those to be initially appointed to the alliances: an advocate for persons receiving child protection and child welfare services (chosen by the secretary), and a representative from the CBC lead agency, who serves as a nonvoting member. The bill also specifies that the representative from DCF and the representative from a county sheriff's office which is providing child protective services serve as nonvoting members. The bill specifies that the members initially appointed to the community alliance are appointed by the entities they represent.

The bill creates s. 409.998, F.S., to require that DCF establish community alliances in each service area of CBCs. It describes the duties, membership, and responsibilities of the alliances and their members and provides that meetings of the alliance are open to the public. The duties of the alliances include conducting needs assessments, reviewing the performance of DCF or the sheriff's department in providing child protective services, being involved in the procurement process, developing recommendations for the CBCs and DCF, and promoting community involvement in the community-based care system.

CBC Boards

CBCs are required under current law to have a board of directors. Fifty-one percent of the CBC board members are required to reside in the state, and of those members, 51 percent must also reside in the CBC service area. The bill changes the membership requirements and responsibilities of CBC board of directors to require a CBC to be governed by either a board of directors or a board committee composed of board members. The bill specifies that for procurements of CBC contracts initiated on or after July 1, 2014, the following requirements apply:

- If the CBC is governed by a board of directors, at least 75 percent of members on the CBC board of directors must reside in the state, and at least 51 percent of members on the CBC board of directors must also reside in the service area of the lead agency.
- If the CBC is governed by a board committee, 100 percent of members on the CBC board committee must reside in the service area of the lead agency.

The bill also specifies that for CBC contracts initiated on or after July 1, 2014, the board of directors or the board committee must have the responsibilities of approving the budget, setting the operational policies and procedures, and hiring the CBC's executive director, if governed by a board of directors, or confirming the selection of an executive director, if governed by a board committee.

Child Abuse and Neglect

Abuse Investigations

The bill defines the terms "impending danger," "present danger," and "safety plan." The bill also redefines the term "diligent efforts by a parent" in ch. 39, F.S., to require a meaningful change in behavior.

The bill requires CPIs to implement a safety plan when present or impending danger is identified. The bill specifies requirements for developing and implementing the safety plan. The bill allows CPIs to modify the safety plan if additional impending danger threats are identified. The bill requires all safety assessments and safety plans involving the parent or legal custodian to be provided to the court during petitions for dependency, if DCF is the petitioner.

The bill specifies that if a safety plan is necessary but is not feasible (the parents, guardian, or legal custodian lacks the capacity or ability to comply, or the plan cannot be developed), DCF is required to file a petition for adjudication of dependency.

The bill changes the requirements in which services are required to be provided.¹²¹ Current law requires services when there are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Under current law, the factors may include the parents' or legal custodians' history of substance abuse or domestic violence. The bill also adds mental illness to these factors. The bill also requires services to be provided if there is a high likelihood of lack of compliance with voluntary services and such noncompliance would result in the child being unsafe.

DCF Custody

The bill amends s. 39.001, F.S., to alter the purposes of ch. 39, F.S. The bill makes changes which stress the importance of:

- Safety of the child;
- Coordination between agencies;
- Sibling contact;
- Proper protective investigations;
- Access to support services for children in their homes; and
- Family engagement in the child's care.

The bill defines the term "sibling." The bill also amends s. 39.402, F.S., to require, at the time of a shelter hearing for children removed from their homes as the result of allegations of abuse, neglect, or abandonment, that DCF report to the court that it has made reasonable efforts to keep siblings together unless the placement together is not in their best interest. It also provides that if siblings removed from their home cannot be placed together, that DCF must provide the court with a recommendation for frequent visitation or other ongoing interaction between the siblings unless such interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours of the shelter hearing, DCF must provide justification to the court for the delay.

The bill also amends s. 39.701, F.S., to require DCF to report to the court at every judicial review the frequency, kind, and duration of sibling contacts among siblings who have been separated during

placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the child. It also requires that, at the time of the special judicial review hearing held for children who have become 17 years of age, the court consider whether granting emancipation for the purposes of obtaining housing, turning on utilities, and opening bank accounts is in the child's best interest.

The bill amends s. 39.802, F.S., to remove the requirement that petitions for termination of parental rights be signed by DCF employees.

Medically Complex Children

The bill makes explicit the requirement for DCF to preserve and strengthen families who are caring for medically complex children. The bill requires that among the protections provided to children in this state is access to sufficient home and community-based support for medically complex children to allow them to remain in the least restrictive and most nurturing environment, including sufficient home and community-based services in an amount and scope comparable to those the child would receive in an out-of-home care placement. The bill adds specificity to DCF's and the judiciary's rulemaking authority regarding taking a child into custody, petitioning the court, and conducting administrative reviews.

The bill requires DCF to maintain a program of family-centered services and supports for medically complex children. Under the bill, the purpose of this program is to prevent abuse and neglect of medically complex children while enhancing the ability of families to provide for their children's needs. The bill specifies that program services must include outreach, early intervention, and provision of home and community-based services such as care coordination, respite care, and direct home care. The bill requires DCF to work with AHCA and DOH to provide needed services.

The bill also redefines the term "assessment" to include the gathering of information for evaluation of the child's and caregiver's developmental delays or challenges, the term "preventive services" to require these services to promote the child's developmental needs, and the term "reunification services" to require these services to promote the child's need for developmental health. The bill also defines the term "medical neglect."

The bill creates s. 39.3068, F.S., which requires that reports of medical neglect must be investigated by staff with specialized training in medical neglect and medically complex children. It requires that the investigation identify any immediate medical needs of the child and use a family-centered approach to assess the capacity of the family to meet those needs. It describes the attributes of a family-centered approach and requires that any investigation of cases involving medically complex children include determination of Medicaid coverage for needed services and coordination with AHCA to secure such covered services.

The bill also amends s. 409.165, F.S., to clarify that funds appropriated for the alternative care of children may be used to meet the needs of children in their own homes or the homes of relatives if the children can be safely served in such settings and the expenditure of funds in such a manner is equal to or less than the cost of out-of-home placement. The bill requires DCF to cooperate with all child service institutions or agencies within the state which meet DCF standards in order to maintain a comprehensive, coordinated, and inclusive system for promoting and protecting the well-being of children set forth in s. 409.986, F.S.

The bill requires DCF to work with DOH in the development, utilization, and monitoring of medical foster homes for medically complex children, and to work with AHCA and APD to provide such home and community-based services as may be necessary to maintain medically complex children in the least restrictive and most nurturing environment. The bill adds medical foster homes to the list of placements available to DCF in placing medically complex children. The bill provides that placements of children in their own homes or in the homes or relatives may be made if the child can be safely served in such a placement and the cost of the placement is equal to or less than the cost of out-of-home placement.

The bill also requires Medicaid managed care plans serving children in DCF custody to maintain complete medical, dental, and behavioral health information, which AHCA and DCF must use to determine plan compliance with standards and whether children are receiving necessary services.

Child Protection Teams

The bill amends s. 39.303, F.S., to require that a Child Protection Team in DOH that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child must involve a physician who has experience in treating children with the same condition.

The bill also amends s. 383.402, F.S., to require the SCADRC to review all deaths of children ages birth through 18 which occur in Florida and are reported to the abuse hotline. This increases the number of deaths reviewed by the SCADRC. The bill also changes the date the SCADRC must provide its annual report from December 31 to October 1.

Critical Incident Rapid Response Team

The bill creates s. 39.2015, F.S., which directs DCF to establish critical incident rapid response teams to conduct an immediate investigation of all deaths or other serious incidents involving children reported to the hotline where the family was the subject of a verified report of abuse or neglect in the previous 12 months. This investigation does not take the place of the child abuse investigation currently conducted by DCF or sheriff's office. The investigation, rather than focusing on the cause of death, will focus on the root cause and determine the need to change policies and practices related to child protection and child welfare.

The bill specifies the qualifications of the team, the time periods under which they must work, their compensation, and their required reporting. The bill also requires the DCF Secretary to appoint an advisory committee for the teams with the responsibility for reviewing their reports and making recommendations to improve policies and practices related to child protection services and child welfare services. The bill specifies that the result of these investigations will be to identify operational changes within the child protection and child welfare system to prevent future child abuse deaths.

Records of Children

The bill creates s. 39.2022, F.S., to require public disclosure of all child deaths in Florida reported to the abuse hotline. The bill requires DCF to post the following information on the DCF website when a child death is reported to the abuse hotline:

- Age, race, and gender of the child;
- Date of the child's death;
- Allegations of the cause of death or the preliminary cause of death, until verified and once the cause of death is verified, the verified cause of death;
- County and placement of the child at the time of the incident leading to the child's death, if applicable;
- Name of the CBC, case management agency, or out-of-home licensing agency involved with the child, family, or licensed caregiver, if applicable; and
- Whether the child has been the subject of any prior verified reports to DCF's abuse hotline.

The bill specifies the public disclosure requirement does not limit the public access to records under other provisions of law.

Child Abandonment

The bill creates s. 827.10, F.S., to create the criminal offense of abandoning a child and provides definitions and penalties. The bill defines the terms “abandons,” “care,” “caregiver,” “child,” and “relative.” The bill specifies that a caregiver who abandons a child under circumstances in which the caregiver knew or should have known that the abandonment exposes the child to unreasonable risk of harm commits a felony of the third degree. The bill specifies that abandonment of a child does not apply to a person who surrenders a newborn infant to a hospital, fire station, or emergency medical services station, in compliance with s. 383.50, F.S.

Current law states that only attorneys licensed to practice law in Florida or adoption entities licensed in Florida may pay to advertise that a child is offered or wanted for adoption or the person is able to place, locate, or receive a child for adoption. If a person publishes a telephone directory distributed in Florida containing the abovementioned information, the publisher must include the attorney’s Florida Bar number or adoption entity’s license number in the advertisement. The bill amends s. 63.212, F.S., to specify that the person who places the advertisement, rather than the person who publishes the advertisement, must include the Bar number or license number.

Rilya Wilson Act

The Rilya Wilson Act requires any child, ages 3 to school entry, who is under protective supervision or custody of DCF or a CBC, and enrolled in a licensed early learning education or child care program, to be enrolled to participate in the program 5 days a week.¹²² Case plans developed for a child who is enrolled in a program are required to contain the participation in this program as a required action.¹²³ If a child is absent from the program, the person with whom the child resides is required to report the absence to the program.¹²⁴ If absence is not reported, or if the child is absent for more than seven consecutive days, the program is required to report this information to DCF. DCF or the CBC is then required to visit the home where the child resides.¹²⁵

The bill amends s. 39.604, F.S., to require that a child who is age birth to school entry (rather than age 3 to school age), under protective supervision or custody of DCF or a CBC, and enrolled in a licensed early learning education or child care program attend 5 days a week. The bill requires the child attendance be a required action in the safety plan. The bill specifies that if the child does not attend for two consecutive days, the parent will be notified that this is a violation of the safety plan.

Child Welfare and Child Protection Personnel

Child Protective Investigator and Case Manager Education

The bill raises professional standards for CPIs and CPI supervisors employed by DCF and case managers and case manager supervisors employed by a CBC or a CBC subcontractor. It creates s. 402.402, F.S., to require that these professionals hired on or after July 1, 2014, must have one of the following:

- A bachelor’s or master’s degree in social work with at least 12 hours of relevant coursework;
- A bachelor’s or master’s degree in a human-services related field and at least 12 hours of relevant coursework;
- A bachelor’s or master’s degree in a human-services related field, and 12 credit hours of relevant coursework completed within 3 years of hire; or

¹²² S. 39.604, F.S.

¹²³ S. 39.604, F.S.

¹²⁴ S. 39.604, F.S.

¹²⁵ S. 39.604, F.S.

- At least 5 years of experience directly relevant to child protection (if the individual will be employed as a CPI or CPI supervisor) or at least 5 years of experience directly relevant to child welfare (if the individual will be employed as a case manager or a case manager supervisor) and demonstrated competence regarding required skills and aptitudes.

The bill specifies that these requirements do not apply to CPIs or CPI supervisors employed by a sheriff's office until July 1, 2018. The newly-created Institute is to evaluate the effectiveness of the bill's new education and training requirements and recommend whether they should be extended to child protection personnel employed by a sheriff's office.

The bill defines the term "human services related field" as "psychology, sociology, counseling, special education, human development, child development, family development, marriage and family therapy, and nursing." The bill defines "relevant coursework" as "coursework that imparts knowledge and leads to the development of skills with direct application to the child protection and child welfare field from a college or university social work program accredited by the Council on Social Work Education." The bill specifies that the 12 credit hours may be designed to provide in-depth knowledge in serving a specific subpopulation or develop a particular skillset. The bill requires DCF to consult with the Institute created by the bill to identify courses available through the consortium of public and private universities offering degrees in social work that fulfill this requirement.

The bill also requires all CPIs and CPI supervisors to complete specialized training either focused in serving a specific population or in performing certain aspects of child protection processes. The bill specifies that the specialized training may focus on areas such as medically fragile children, sexually exploited children, children under the age of three, families with issues of domestic violence, mental illness or substance abuse, investigation techniques, and analysis of family dynamics. The bill states that the specialized training may be used to fulfill continuing education requirements. The bill requires CPIs and CPI supervisors hired before July 1, 2014, to complete the specialized training by June 30, 2016, and requires those hired on or after July 1, 2014, to complete the training within two years of hire. The bill authorizes DCF to approve certifications involving specializations in serving specific populations or skills relevant to child protection to be awarded by a third-party credentialing entity.

The bill also makes changes to the third-party credentialing entity which certifies CPIs and case managers. The bill requires the entity to administer a standing child welfare advisory council. The bill specifies that this council must include representatives from each region of DCF, each CBC, and each sheriff's office conducting child protection investigations, who shall be appointed by the organizations they represent. The bill permits the third-party credentialing entity which certifies CPIs and case managers to appoint additional members.

Tuition Exemption and Loan Forgiveness

The bill creates s. 402.403, F.S., to establish a child protection and child welfare personnel tuition exemption program and sets the qualifications for obtaining the exemption. The program is for high-performing CPIs, CPI supervisors, case managers, and case manager supervisors, who do not have a social work degree but who are accepted in a social work program or who are completing required additional coursework. This program will allow current and future child welfare workers without a social work degree or who need additional coursework to obtain education without payment of tuition and fees to improve their knowledge and skills, if they have been employed for a least a year. However, this does not apply to CPIs or CPI supervisors employed by a sheriff's office until July 1, 2018.

The bill creates s. 402.404, F.S., to establish the Florida CPI and CPI supervisor student loan forgiveness program. The bill states that the program's purpose is to increase employment and retention of high-performing individuals who have a degree in social work and are employed as a CPI by making payments towards loans received for the support of study in social work programs. To be eligible, the bill states that the CPI or CPI supervisor must be employed by DCF for one year, have a high level of performance, and have graduated from an accredited social work program. The bill

specifies that CPIs employed by a sheriff's department are not eligible until July 1, 2018. The bill specifies that DCF may make loan payments up to \$3,000 per year for four years on behalf of eligible CPIs and CPI supervisors. The bill specifies additional qualifications and restrictions for the program. The bill also authorizes CBCs to provide loan forgiveness for case managers and their supervisors that they employ or who are employed by its subcontractors.

The bill amends s. 1009.25, F.S., to add CPIs, CPI supervisors, case managers, and case manager supervisors to the list of persons exempted from payment of tuition and fees at a state college or state university. This change, along with other changes in the bill, will allow certain case manager, case manager supervisors, CPIs and CPI supervisors to obtain additional education in social work. However, this does not apply to CPIs or CPI supervisors employed by a sheriff's office until July 1, 2018.

Children's Legal Services

The bill requires attorneys employed by DCF handling child welfare cases to receive the same pre-service training as CPIs and to shadow a CPI and a case manager for at least 8 hours each. These requirements only apply to attorneys hired on or after July 1, 2014.

Florida Institute For Child Welfare

The bill creates s. 1004.615, F.S., to establish the Florida Institute for Child Welfare and to set forth the purpose, duties, and responsibilities of the Institute. The Institute is defined as a consortium of the state's 14 public and private university schools of social work. The Institute is to advise the state on child welfare policy, improve the curriculum for social work degree programs, and develop on-the-job training for child protective investigators and child welfare case managers. It requires the Institute to provide a report annually by October 1st to the Governor, the President of the Senate, and the Speaker of the House of Representatives outlining its activities in the preceding fiscal year, significant research findings and results of other programs, and specific recommendations for improving child protection and child welfare services. The bill requires the Institute to include an evaluation of the result of this act's education and training requirements for child protection and child welfare personnel and recommendations for their application to child protection personnel employed by sheriff's offices in its report due October 1, 2017. The bill specifies that the Institute must include an evaluation of the effects of the other provisions of this bill and any recommendations for improvements in its report due October 1, 2018.

The bill requires the Institute or the Florida State University College of Social Work (until the Institute is operational) to convene a task force to make recommendations for improving the state's child welfare system. The bill specifies who will serve on the task force and requires the task force to establish workgroups on reducing paperwork and increasing retention of case managers and on the care of medically complex children within the child welfare system.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 20.19, F.S., related to the Department of Children and Families;
- Section 2:** Amends s. 39.001, F.S., related to purposes and intent;
- Section 3:** Amends s. 39.01, F.S., related to definitions;
- Section 4:** Creates s. 39.2015, F.S., related to critical incident rapid response team;
- Section 5:** Creates s. 39.2022, F.S., related to public disclosure of child deaths reported to the abuse hotline;
- Section 6:** Amends s. 39.301, F.S., related to initiation of protective investigations;
- Section 7:** Amends s. 39.303, F.S., related to child protection teams;
- Section 8:** Creates s. 39.3068, F.S., related to reports of medical neglect;
- Section 9:** Amends s. 39.402, F.S., related to placement in a shelter;
- Section 10:** Amends s. 39.501, F.S., related to petition for dependency;

- Section 11:** Amends s. 39.604, F.S., related to the Rilya Wilson Act;
- Section 12:** Amends s. 39.701, F.S., related to review hearings for children younger than 18 years of age;
- Section 13:** Amends s. 39.802, F.S., related to petition for termination of parental rights;
- Section 14:** Amends s. 63.212, F.S., related to prohibited acts;
- Section 15:** Amends s. 383.402, F.S., related to child abuse death review;
- Section 16:** Amends s. 402.40, F.S., related to core competencies and specializations;
- Section 17:** Creates s. 402.402, F.S., related to child protective investigators;
- Section 18:** Creates s. 402.403, F.S., related to child protection and child welfare tuition exemption;
- Section 19:** Creates s. 402.404, F.S., related to child protective investigator and supervisor loan forgiveness program;
- Section 20:** Amends s. 409.165, F.S., related to alternate care for children;
- Section 21:** Amends s. 409.967, F.S., related to managed care accountability;
- Section 22:** Creates part five of ch. 409, F.S., related to community-based child welfare;
- Section 23:** Creates s. 409.986, F.S., related to legislative findings;
- Section 24:** Creates s. 409.987, F.S., related to lead agency procurement;
- Section 25:** Creates s. 409.988, F.S., related to lead agency duties;
- Section 26:** Creates s. 409.990, F.S., related to funding for lead agencies;
- Section 27:** Amends s. 409.991, F.S., related to allocation of funds for community-based care lead agencies;
- Section 28:** Creates s. 409.992, F.S., related to lead agency expenditures;
- Section 29:** Creates s. 409.993, F.S., related to lead agencies and subcontractor liability;
- Section 30:** Amends s. 409.1675, F.S., related to community-based care lead agencies;
- Section 31:** Creates s. 409.996, F.S., related to duties of the Department of Children and Families;
- Section 32:** Creates s. 409.997, F.S., related to child welfare results-oriented accountability system;
- Section 33:** Creates s. 409.998, F.S., related to community-based oversight by community alliances;
- Section 34:** Creates s. 827.10, F.S., related to unlawful abandonment of a child;
- Section 35:** Creates s. 1004.615, F.S., related to Florida Institute for Child Welfare;
- Section 36:** Amends s. 1009.25, F.S., related to fee exemptions;
- Section 37:** Repeals s. 409.1671, F.S., related to foster care and related services;
- Section 38:** Repeals s. 409.16745, F.S., related to community partnership matching grant program.
- Section 39:** Amends s. 39.201, F.S., related to mandatory reports of child abuse.
- Section 40:** Amends s. 409.16713, F.S., related to allocation of funds for community-based care lead agencies.
- Section 41:** Amends s. 409.1675, F.S., related to lead community-based providers.
- Section 42:** Amends s. 409.1676, F.S., related to comprehensive residential group care services to children who have extraordinary needs.
- Section 43:** Amends s. 409.1677, F.S., related to model comprehensive residential services.
- Section 44:** Amends s. 409.906, F.S., related to optional Medicaid services.
- Section 45:** Amends s. 420.628, F.S., related to affordable housing for children and young adults leaving foster care.
- Section 46:** Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill includes provisions expected to have a negative fiscal impact upon DCF as enumerated below. The department may implement and manage the bill's provisions in a manner requiring less

fiscal and personnel resources than estimated. To the extent these workload assumptions are implemented differently, the fiscal impact may be less.

The total impact based on DCF and DOH estimates and House staff review is \$10,335,000 and requires 28 FTE for the following items:

1. Critical Incident Response Team - \$400,000 – Costs associated with the bill's requirement for the reimbursement of team members' travel and per-diem. This includes payment of team members' salary to their employers for the time spent fulfilling the duties of this team.
2. Advisory Committee Appointees - \$175,000 – The department's estimate to produce an annual report that includes recommendations to improve policies and practices related to child protection and welfare services. The report is to be based upon an independent review of investigations performed by the aforementioned Critical Incident Response Team.
3. Public Disclosure of Reported Child Deaths – \$233,400 (1 FTE) – The estimated cost for the maintenance and development for a system that collects child death information and makes it available on the department's website.
4. Child Abuse Death Reviews - \$734,336 (6 FTE) – The estimated cost to DCF of \$611,400 for additional positions necessary to review all reports of abuse submitted to the department's abuse hotline, and cost to Department of Health of \$122,936 for additional administrative items relative to an increase of State Child Abuse Death Review Committee meetings.
5. Specialized Training for Child Protective Investigators – \$63,925 – The department's estimated cost to fulfill the bill's requirement that investigators be credentialed by a third-party entity (estimated to be \$50 per 1,278 investigators). *See also FISCAL COMMENTS section.*
6. Managed Care Plans - \$3,710,000 (2 FTE) – Costs in connection with the bill's requirement that DCF develop a system to collect the data from dependent children's managed care plans. DCF expects this system will require an interface with AHCA to fulfill the bill's requirement that both agencies validate the data to ensure each plan is in compliance with standard health care practices.
7. Quality Assurance Program and Annual Evaluation - \$1,230,964 (12 FTE) – The estimated cost for additional positions necessary to evaluate CBC's contracted services and to produce an annual assessment of each CBC's programmatic, operational, and fiscal operations.
8. Results-Oriented Accountability System - \$3,125,000 (5 FTE) – The department's estimate for additional positions necessary to develop accountability measures relative to CBCs' performance and to develop a system for data collection and monitoring of such measures and consequent outcomes.
9. Assistant Secretary for Child Welfare - \$222,376 (2 FTE) – Costs associated for a new executive position as required by the bill with an accompanying administrative assistant.
10. The Florida Institute for Child Welfare - \$440,000 – Estimated administrative costs to the state university system for activities performed by the Institute. This amount represents the state share as it's anticipated that training services are eligible for matched federal funding, thus providing a total of \$1,000,000 for the Institute.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Overall, the House proposed GAA provides a total of \$44.4 million towards child welfare initiatives. Of this amount, \$41.6 million is provided directly to DCF for additional Child Protective Investigators, to county Sheriffs that perform child protective investigations, to expand the Healthy Families Program, to expand direct services by the CBCs, and to service sexually exploited youth. The remaining \$2.8 million is provided to the Department of Health to expand the assessment of child abuse and neglect cases as performed by Child Protection Teams.

The bill includes provisions for which there is an indeterminate cost, or do not directly impact DCF, as outlined below:

- The bill establishes a Child Protective Investigator and Supervisor Student Loan Forgiveness Program. The total cost for this program is indeterminate as it's based upon the number of investigators determined eligible and upon the availability of funding.
- The bill exempts the payment of tuition and fees for child protection and welfare personnel. The costs associated with this exemption are indeterminate as the number of participants is unknown. These costs would be absorbed by the respective state university or college.

As noted in the Expenditure section, the bill requires specialized training of Child Protective Investigators. The department indicates additional CPIs would be necessary as substitutes when training is conducted (which is expected to take four weeks). The House proposed GAA includes \$13.0 million to fund an additional 191 positions, which exceeds the department's estimated need of 12 CPIs for this provision.

The bill provides that a caregiver who abandons a child under circumstances in which the caregiver knew or should have known that the abandonment exposes the child to unreasonable risk of harm commits a felony of the third degree. The Criminal Justice Impact Conference met on April, 10 2014 and determined this bill will have an insignificant impact on state prison beds.

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:

The bill adds specificity to DCF's and the judiciary's rulemaking authority regarding taking a child into custody, petitioning the court, and administrative reviews. The bill also provides DCF with rulemaking authority for licensure of CBCs, foster homes and other placement facilities operated by CBCs, substitute care providers contracted with CBCs, and for inspections for licensure.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 25, 2014, the Healthy Families Subcommittee adopted four amendments. The amendments:

- Clarify that DCF must consult with the dependency judge, rather than the chief judge, on the performance of each CBC;
- Require the community alliances to recommend a contract extension for a CBC if both programmatic and financial performance are superior, rather than if either the programmatic or financial performance is superior;
- Require the CBCs to post information relating to case management services on their websites; and
- Allow a CPI, CPI supervisor, case manager and case manager supervisor to have five years of experience directly relevant to child protection, in lieu of a degree in a human-services related field with relevant coursework or a social work degree.

This analysis is drafted to the proposed committee bill as amended.

27 Legislature; creating s. 39.2022, F.S.; providing
 28 legislative intent; requiring the department to
 29 publish specified information on its website regarding
 30 the death of a child reported to the central abuse
 31 hotline; amending s. 39.301, F.S.; authorizing the use
 32 of safety plans in child protection investigations in
 33 cases of present or impending danger; providing
 34 requirements for implementation of a safety plan;
 35 providing conditions for filing a petition for
 36 dependency; amending s. 39.303, F.S.; requiring
 37 physician involvement when a child protection team
 38 evaluates a report of medical neglect of a medically
 39 complex child; creating s. 39.3068, F.S.; providing
 40 requirements for investigating medical neglect;
 41 providing duties of the department; amending s.
 42 39.402, F.S.; requiring the department to make a
 43 reasonable effort to keep siblings together when they
 44 are placed in out-of-home care under certain
 45 circumstances; providing for sibling visitation under
 46 certain conditions; amending s. 39.501, F.S.;
 47 requiring compliance with a safety plan to be
 48 considered when deciding a petition for dependency;
 49 amending s. 39.604, F.S.; requiring certain children
 50 to attend a licensed early education or child care
 51 program; requiring the inclusion of attendance at a
 52 licensed early education or child care program in a

53 child's safety plan; amending s. 39.701, F.S.;

54 requiring the court to consider contact among siblings

55 in judicial reviews; authorizing the court to remove

56 specified disabilities of nonage at judicial reviews;

57 amending s. 39.802, F.S.; removing department

58 authorization to sign a petition for termination of

59 parental rights; amending s. 63.212, F.S.; requiring a

60 person who places an advertisement for adoption

61 services to provide specified information; amending s.

62 383.402, F.S.; requiring review of all child deaths

63 reported to the department's central abuse hotline;

64 revising the due date for a report; amending s.

65 402.40, F.S.; requiring a third-party credentialing

66 entity to establish an advisory committee; authorizing

67 the department to approve certification of

68 specializations; creating s. 402.402, F.S.; providing

69 definitions; providing education requirements for

70 child protection and child welfare personnel;

71 providing training requirements for department

72 attorneys; creating s. 402.403, F.S.; establishing a

73 tuition exemption program for child protective and

74 child welfare personnel; providing eligibility

75 requirements; creating s. 402.404, F.S.; establishing

76 a student loan forgiveness program for child

77 protective investigators and supervisors; providing

78 eligibility requirements; authorizing community-based

79 care lead agencies to provide student loan forgiveness
 80 to case managers employed by a community-based care
 81 lead agency or its subcontractor; amending s. 409.165;
 82 enhancing provision of care to medically complex
 83 children; amending s. 409.967; revising standards for
 84 Medicaid managed care plan accountability with respect
 85 to services for dependent children; creating part V of
 86 chapter 409, F.S.; creating s. 409.986, F.S.;

87 providing legislative findings and intent; providing
 88 child protection and child welfare outcome goals;
 89 providing definitions; creating s. 409.987, F.S.;

90 providing for department procurement of community-
 91 based care lead agencies; providing requirements for
 92 contracting as a lead agency; creating s. 409.988,
 93 F.S.; providing duties of a community-based care lead
 94 agency; providing licensure requirements for a lead
 95 agency; specifying services provided by a lead agency;
 96 providing conditions for an agency or provider to act
 97 as a child's guardian; creating s. 409.990, F.S.;

98 providing general funding provisions for lead
 99 agencies; providing for a matching grant program and
 100 the maximum amount of funds that may be awarded;
 101 requiring the department to develop and implement a
 102 community-based care risk pool initiative; providing
 103 requirements for the risk pool; transferring,
 104 renumbering, and amending s. 409.16713, F.S.;

105 transferring provisions relating to the allocation of
 106 funds for community-based lead care agencies;
 107 conforming a cross-reference; creating s. 409.992,
 108 F.S.; providing requirements for community-based care
 109 lead agency expenditures; creating s. 409.993, F.S.;
 110 providing legislative findings; providing for lead
 111 agency and subcontractor liability; providing
 112 limitations on damages; transferring, renumbering, and
 113 amending s. 409.1675, F.S.; transferring provisions
 114 relating to receivership from community-based
 115 providers to lead agencies; conforming cross-
 116 references and terminology; creating s. 409.996, F.S.;
 117 providing duties of the department relating to
 118 community-based care and lead agencies; creating s.
 119 409.997, F.S.; providing outcome goals for the
 120 department and specified entities with respect to
 121 delivery of child welfare services; requiring the
 122 department to maintain an accountability system;
 123 requiring the department to establish a technical
 124 advisory panel; requiring the department to make the
 125 results of the accountability system public; requiring
 126 a report to the Governor and the Legislature; creating
 127 s. 409.998, F.S.; providing for oversight of
 128 community-based care by community alliances; creating
 129 s. 827.10, F.S.; providing definitions; establishing
 130 the criminal offense of unlawful abandonment of a

131 child; providing criminal penalties; providing
 132 exceptions; creating s. 1004.615, F.S.; establishing
 133 the Florida Institute for Child Welfare; providing
 134 purpose, duties, and responsibilities of the
 135 institute; requiring the institute to contract and
 136 work with specified entities; providing for the
 137 administration of the institute; requiring a report to
 138 the Governor and the Legislature by a specified date;
 139 creating a task force; requiring the task force to
 140 establish workgroups on specified topics; amending s.
 141 1009.25, F.S.; exempting specified child protective
 142 investigators and child protective investigation
 143 supervisors from certain tuition and fee requirements;
 144 repealing s. 409.1671, F.S., relating to outsourcing
 145 of foster care and related services; repealing s.
 146 409.16745, F.S., relating to the community partnership
 147 matching grant program; amending ss. 39.201,
 148 409.16713, 409.1675, 409.1676, 409.1677, 409.906, and
 149 420.628, F.S.; conforming cross-references; providing
 150 an effective date.

151

152 Be It Enacted by the Legislature of the State of Florida:

153

154 Section 1. Subsections (3) through (5) of section 20.19,
 155 Florida Statutes, are renumbered as subsections (4) through (6),
 156 respectively, present subsections (2) and (4) are amended, and a

157 new subsection (3) is added to that section, to read:

158 20.19 Department of Children and Families.—There is
159 created a Department of Children and Families.

160 (2) SECRETARY OF CHILDREN AND FAMILIES; DEPUTY SECRETARY.—

161 (a) The head of the department is the Secretary of
162 Children and Families. The secretary is appointed by the
163 Governor, subject to confirmation by the Senate. The secretary
164 serves at the pleasure of the Governor.

165 (b) The secretary shall appoint a deputy secretary who
166 shall act in the absence of the secretary. The deputy secretary
167 is directly responsible to the secretary, performs such duties
168 as are assigned by the secretary, and serves at the pleasure of
169 the secretary.

170 (3) ASSISTANT SECRETARIES.—

171 (a) Child welfare.—

172 1. The secretary shall appoint an Assistant Secretary for
173 Child Welfare to lead the department in carrying out its duties
174 and responsibilities for child protection and child welfare. The
175 assistant secretary shall serve at the pleasure of the
176 secretary.

177 2. The assistant secretary must have at least 7 years of
178 experience working in organizations that deliver child
179 protective or child welfare services.

180 (b) Substance abuse and mental health.—

181 ~~(e)~~1. The secretary shall appoint an Assistant Secretary
182 for Substance Abuse and Mental Health. The assistant secretary

183 shall serve at the pleasure of the secretary and must have
 184 expertise in both areas of responsibility.

185 2. The secretary shall appoint a Director for Substance
 186 Abuse and Mental Health who has the requisite expertise and
 187 experience to head the state's Substance Abuse and Mental Health
 188 Program Office.

189 ~~(5)(4)~~ COMMUNITY ALLIANCES.-

190 (a) The department shall, in consultation with local
 191 communities, establish a community alliance or similar group of
 192 the stakeholders, community leaders, client representatives and
 193 funders of human services in each county to provide a focal
 194 point for community participation and governance of community-
 195 based services. An alliance may cover more than one county when
 196 such arrangement is determined to provide for more effective
 197 representation. The community alliance shall represent the
 198 diversity of the community.

199 (b) The duties of the community alliance include, but are
 200 not limited to:

201 1. Providing independent, community-focused oversight of
 202 child protection and child welfare services and the local system
 203 of community-based care, as described in s. 409.998.

204 ~~2.1.~~ Joint planning for resource utilization in the
 205 community, including resources appropriated to the department
 206 and any funds that local funding sources choose to provide.

207 ~~3.2.~~ Needs assessment and establishment of community
 208 priorities for service delivery.

209 ~~4.3.~~ Determining community outcome goals to supplement
 210 state-required outcomes.

211 ~~5.4.~~ Serving as a catalyst for community resource
 212 development.

213 ~~6.5.~~ Providing for community education and advocacy on
 214 issues related to delivery of services.

215 ~~7.6.~~ Promoting prevention and early intervention services.

216 (c) The department shall ensure, to the greatest extent
 217 possible, that the formation of each community alliance builds
 218 on the strengths of the existing community human services
 219 infrastructure.

220 (d) The initial membership of the community alliance in a
 221 county shall be composed of the following, who shall be
 222 appointed by the entities they represent:

223 1. A representative from the department, who shall serve
 224 as a nonvoting member.

225 2. A representative from county government.

226 3. A representative from the school district.

227 4. A representative from the county United Way.

228 5. A representative from the county sheriff's office. If
 229 the county sheriff's office is providing child protective
 230 services, the representative shall serve as a nonvoting member.

231 6. A representative from the circuit court corresponding
 232 to the county.

233 7. A representative from the county children's board, if
 234 one exists.

235 8. An advocate for persons receiving child protection and
 236 child welfare services chosen by the secretary.

237 9. A representative from the community-based care lead
 238 agency, who shall serve as a nonvoting member.

239 (e) At any time after the initial meeting of the community
 240 alliance, the community alliance shall adopt bylaws and may
 241 increase the membership of the alliance to include the state
 242 attorney for the judicial circuit in which the community
 243 alliance is located, or his or her designee, the public defender
 244 for the judicial circuit in which the community alliance is
 245 located, or his or her designee, and other individuals and
 246 organizations who represent funding organizations, are community
 247 leaders, have knowledge of community-based service issues, or
 248 otherwise represent perspectives that will enable them to
 249 accomplish the duties listed in paragraph (b), if, in the
 250 judgment of the alliance, such change is necessary to adequately
 251 represent the diversity of the population within the community
 252 alliance service circuits.

253 (f) A member of the community alliance, other than a
 254 member specified in paragraph (d), may not receive payment for
 255 contractual services from the department or a community-based
 256 care lead agency.

257 (g) Members of the community alliances shall serve without
 258 compensation, but are entitled to receive reimbursement for per
 259 diem and travel expenses, as provided in s. 112.061. Payment may
 260 also be authorized for preapproved child care expenses or lost

261 wages for members who are consumers of the department's services
 262 and for preapproved child care expenses for other members who
 263 demonstrate hardship.

264 (h) Members of a community alliance are subject to the
 265 provisions of part III of chapter 112, the Code of Ethics for
 266 Public Officers and Employees.

267 (i) Actions taken by a community alliance must be
 268 consistent with department policy and state and federal laws,
 269 rules, and regulations.

270 (j) Alliance members shall annually submit a disclosure
 271 statement of services interests to the department's inspector
 272 general. Any member who has an interest in a matter under
 273 consideration by the alliance must abstain from voting on that
 274 matter.

275 (k) All alliance meetings are open to the public pursuant
 276 to s. 286.011 and the public records provision of s. 119.07(1).

277 Section 2. Paragraphs (b), (c), (g), and (k) of subsection
 278 (1) of section 39.001, Florida Statutes, are amended, paragraphs
 279 (o) and (p) are added to that subsection, paragraphs (f) through
 280 (h) of subsection (3) are redesignated as paragraphs (g) through
 281 (i), respectively, a new paragraph (f) is added to that
 282 subsection, present subsections (4) through (11) are renumbered
 283 as subsections (5) through (12), respectively, a new subsection
 284 (4) is added to that section, and paragraph (c) of present
 285 subsection (8) and paragraph (b) of present subsection (10) of
 286 that section are amended, to read:

287 39.001 Purposes and intent; personnel standards and
 288 screening.-

289 (1) PURPOSES OF CHAPTER.-The purposes of this chapter are:

290 (b) To recognize that most families desire to be competent
 291 caregivers and providers for their children and that children
 292 achieve their greatest potential when families are able to
 293 support and nurture the growth and development of their
 294 children. Therefore, the Legislature finds that policies and
 295 procedures that provide for prevention and intervention through
 296 the department's child protection system should be based on the
 297 following principles:

298 1. The health and safety of the children served shall be
 299 of paramount concern.

300 2. The prevention and intervention should engage families
 301 in constructive, supportive, and nonadversarial relationships.

302 3. The prevention and intervention should intrude as
 303 little as possible into the life of the family, be focused on
 304 clearly defined objectives, and take the most parsimonious path
 305 to remedy a family's problems, keeping the safety of the child
 306 or children as the paramount concern.

307 4. The prevention and intervention should be based upon
 308 outcome evaluation results that demonstrate success in
 309 protecting children and supporting families.

310 (c) To provide a child protection system that reflects a
 311 partnership between the department, other agencies, the courts,
 312 law enforcement, service providers, and local communities.

313 (g) To ensure that the parent or legal custodian from
 314 whose custody the child has been taken assists the department to
 315 the fullest extent possible in locating relatives suitable to
 316 serve as caregivers for the child and provides all medical and
 317 educational information, or consent for access thereto, needed
 318 to help the child.

319 (k) To make every possible effort, if ~~when~~ two or more
 320 children who are in the care or under the supervision of the
 321 department are siblings, to place the siblings in the same home;
 322 and in the event of permanent placement of the siblings, to
 323 place them in the same adoptive home or, if the siblings are
 324 separated while under the care or supervision of the department
 325 or in a permanent placement, to keep them in contact with each
 326 other.

327 (o) To preserve and strengthen families who are caring for
 328 medically complex children.

329 (p) To provide protective investigations that are
 330 conducted by trained persons in a complete and fair manner, that
 331 are promptly concluded, and that consider the purposes of this
 332 subsection and the general protections provided by law relating
 333 to child welfare.

334 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
 335 the Legislature that the children of this state be provided with
 336 the following protections:

337 (f) Access to sufficient home and community-based support
 338 for medically complex children to allow them to remain in the

339 least restrictive and most nurturing environment, which includes
 340 sufficient home and community-based services in an amount and
 341 scope comparable to those services the child would receive in
 342 out-of-home care placement.

343 (4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The
 344 department shall maintain a program of family-centered services
 345 and supports for medically complex children. The purpose of the
 346 program is to prevent abuse and neglect of medically complex
 347 children while enhancing the capacity of families to provide for
 348 their children's needs. Program services must include outreach,
 349 early intervention, and the provision of home and community-
 350 based services such as care coordination, respite care, and
 351 direct home care. The department shall work with the Agency for
 352 Health Care Administration and the Department of Health to
 353 provide such services.

354 (9) ~~(8)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

355 (c) The office is authorized and directed to:

356 1. Oversee the preparation and implementation of the state
 357 plan established under subsection (10) ~~(9)~~ and revise and update
 358 the state plan as necessary.

359 2. Provide for or make available continuing professional
 360 education and training in the prevention of child abuse and
 361 neglect.

362 3. Work to secure funding in the form of appropriations,
 363 gifts, and grants from the state, the Federal Government, and
 364 other public and private sources in order to ensure that

365 sufficient funds are available for the promotion of adoption,
 366 support of adoptive families, and child abuse prevention
 367 efforts.

368 4. Make recommendations pertaining to agreements or
 369 contracts for the establishment and development of:

370 a. Programs and services for the promotion of adoption,
 371 support of adoptive families, and prevention of child abuse and
 372 neglect.

373 b. Training programs for the prevention of child abuse and
 374 neglect.

375 c. Multidisciplinary and discipline-specific training
 376 programs for professionals with responsibilities affecting
 377 children, young adults, and families.

378 d. Efforts to promote adoption.

379 e. Postadoptive services to support adoptive families.

380 5. Monitor, evaluate, and review the development and
 381 quality of local and statewide services and programs for the
 382 promotion of adoption, support of adoptive families, and
 383 prevention of child abuse and neglect and shall publish and
 384 distribute an annual report of its findings on or before January
 385 1 of each year to the Governor, the Speaker of the House of
 386 Representatives, the President of the Senate, the head of each
 387 state agency affected by the report, and the appropriate
 388 substantive committees of the Legislature. The report shall
 389 include:

390 a. A summary of the activities of the office.

391 b. A summary of the adoption data collected and reported
 392 to the federal Adoption and Foster Care Analysis and Reporting
 393 System (AFCARS) and the federal Administration for Children and
 394 Families.

395 c. A summary of the child abuse prevention data collected
 396 and reported to the National Child Abuse and Neglect Data System
 397 (NCANDS) and the federal Administration for Children and
 398 Families.

399 d. A summary detailing the timeliness of the adoption
 400 process for children adopted from within the child welfare
 401 system.

402 e. Recommendations, by state agency, for the further
 403 development and improvement of services and programs for the
 404 promotion of adoption, support of adoptive families, and
 405 prevention of child abuse and neglect.

406 f. Budget requests, adoption promotion and support needs,
 407 and child abuse prevention program needs by state agency.

408 6. Work with the direct-support organization established
 409 under s. 39.0011 to receive financial assistance.

410 (11)~~(10)~~ FUNDING AND SUBSEQUENT PLANS.—

411 (b) The office and the other agencies and organizations
 412 listed in paragraph (10)(a) ~~(9)~~(a) shall readdress the state
 413 plan and make necessary revisions every 5 years, at a minimum.
 414 Such revisions shall be submitted to the Speaker of the House of
 415 Representatives and the President of the Senate no later than
 416 June 30 of each year divisible by 5. At least biennially, the

417 office shall review the state plan and make any necessary
 418 revisions based on changing needs and program evaluation
 419 results. An annual progress report shall be submitted to update
 420 the state plan in the years between the 5-year intervals. In
 421 order to avoid duplication of effort, these required plans may
 422 be made a part of or merged with other plans required by either
 423 the state or Federal Government, so long as the portions of the
 424 other state or Federal Government plan that constitute the state
 425 plan for the promotion of adoption, support of adoptive
 426 families, and prevention of child abuse, abandonment, and
 427 neglect are clearly identified as such and are provided to the
 428 Speaker of the House of Representatives and the President of the
 429 Senate as required under this section ~~above~~.

430 Section 3. Subsections (28) through (76) of section 39.01,
 431 Florida Statutes, are renumbered as subsections (26) through
 432 (79), respectively, new subsections (31), (41), (59), (67), and
 433 (72) are added to that section, and present subsections (18),
 434 (22), (26), (27), (59), and (65) of that section are amended, to
 435 read:

436 39.01 Definitions.—When used in this chapter, unless the
 437 context otherwise requires:

438 (18) "Comprehensive assessment" or "assessment" means the
 439 gathering of information for the evaluation of a child's and
 440 caregiver's physical, psychiatric, psychological, or mental
 441 health; developmental delays or challenges; and ~~7~~ educational,
 442 vocational, and social condition and family environment as they

443 relate to the child's and caregiver's need for rehabilitative
 444 and treatment services, including substance abuse treatment
 445 services, mental health services, developmental services,
 446 literacy services, medical services, family services, and other
 447 specialized services, as appropriate.

448 (22) "Diligent efforts by a parent" means a course of
 449 conduct which results in a meaningful change in the behavior of
 450 a parent that reduces ~~reduction in~~ risk to the child in the
 451 child's home to the extent that ~~would allow~~ the child may ~~to~~ be
 452 safely placed permanently back in the home as set forth in the
 453 case plan.

454 ~~(26) "District" means any one of the 15 service districts~~
 455 ~~of the department established pursuant to s. 20.19.~~

456 ~~(27) "District administrator" means the chief operating~~
 457 ~~officer of each service district of the department as defined in~~
 458 ~~s. 20.19(5) and, where appropriate, includes any district~~
 459 ~~administrator whose service district falls within the boundaries~~
 460 ~~of a judicial circuit.~~

461 (31) "Impending danger" means a situation in which family
 462 behaviors, attitudes, motives, emotions, or situations pose a
 463 threat that may not be currently active but that can be
 464 anticipated to become active and to have severe effects on a
 465 child at any time.

466 (41) "Medical neglect" means the failure to provide or the
 467 failure to allow needed care as recommended by a health care
 468 practitioner for a physical injury, illness, medical condition,

469 or impairment, or the failure to seek timely and appropriate
 470 medical care for a serious health problem that a reasonable
 471 person would have recognized as requiring professional medical
 472 attention. Medical neglect does not occur if the parent or legal
 473 guardian of the child has made reasonable attempts to obtain
 474 necessary health care services or the immediate health condition
 475 giving rise to the allegation of neglect is a known and expected
 476 complication of the child's diagnosis or treatment and:

477 (a) The recommended care offers limited net benefit to the
 478 child and the morbidity or other side effects of the treatment
 479 may be considered to be greater than the anticipated benefit; or

480 (b) The parent or legal guardian received conflicting
 481 medical recommendations for treatment from multiple
 482 practitioners and did not follow all recommendations.

483 (59) "Present danger" means a significant and clearly
 484 observable family condition that is occurring at the current
 485 moment and is already endangering or threatening to endanger the
 486 child. Present danger threats are conspicuous and require that
 487 an immediate protective action be taken to ensure the child's
 488 safety.

489 (60)-(59) "Preventive services" means social services and
 490 other supportive and rehabilitative services provided to the
 491 parent or legal custodian of the child and to the child for the
 492 purpose of averting the removal of the child from the home or
 493 disruption of a family which will or could result in the
 494 placement of a child in foster care. Social services and other

495 | supportive and rehabilitative services shall promote the child's
 496 | developmental needs and need for physical, mental, and emotional
 497 | health and a safe, stable, living environment;7 shall promote
 498 | family autonomy;7 and shall strengthen family life, whenever
 499 | possible.

500 | (66)~~(65)~~ "Reunification services" means social services
 501 | and other supportive and rehabilitative services provided to the
 502 | parent of the child, to the child, and, where appropriate, to
 503 | the relative placement, nonrelative placement, or foster parents
 504 | of the child, for the purpose of enabling a child who has been
 505 | placed in out-of-home care to safely return to his or her parent
 506 | at the earliest possible time. The health and safety of the
 507 | child shall be the paramount goal of social services and other
 508 | supportive and rehabilitative services. The services shall
 509 | promote the child's need for physical, developmental, mental,
 510 | and emotional health and a safe, stable, living environment;7
 511 | shall promote family autonomy;7 and shall strengthen family
 512 | life, whenever possible.

513 | (67) "Safety plan" means a plan created to control present
 514 | or impending danger using the least intrusive means appropriate
 515 | to protect a child when a parent, caregiver, or legal custodian
 516 | is unavailable, unwilling, or unable to do so.

517 | (72) "Sibling" means:

518 | (a) A child who shares a birth parent or legal parent with
 519 | one or more other children; or

520 | (b) A child who has lived together in a family with one or

521 more other children whom he or she identifies as siblings.

522 Section 4. Section 39.2015, Florida Statutes, is created
523 to read:

524 39.2015 Critical incident rapid response team.—

525 (1) The department shall conduct an immediate
526 investigation of deaths or other serious incidents involving
527 children using critical incident rapid response teams as
528 provided in subsection (2). The purpose of such investigation is
529 to identify root causes and rapidly determine the need to change
530 policies and practices related to child protection and child
531 welfare.

532 (2) An immediate onsite investigation conducted by a
533 critical incident rapid response team is required for all child
534 deaths reported to the department if the child or another child
535 in his or her family was the subject of a verified report of
536 suspected abuse or neglect during the previous 12 months. The
537 secretary may direct an immediate investigation for other cases
538 involving serious injury to a child.

539 (3) Each investigation shall be conducted by a team of at
540 least five professionals with expertise in child protection,
541 child welfare, and organizational management. The team may
542 consist of employees of the department, community-based care
543 lead agencies, and other provider organizations; faculty from
544 the institute consisting of public and private universities
545 offering degrees in social work established pursuant to s.
546 1004.615,; or any other person with the required expertise. The

547 majority of the team must reside in judicial circuits outside
 548 the location of the incident. The secretary shall appoint a team
 549 leader for each group assigned to an investigation.

550 (4) An investigation shall be initiated as soon as
 551 possible, but not later than 2 business days after the case is
 552 reported to the department. A preliminary report on each case
 553 shall be provided to the secretary no later than 30 days after
 554 the investigation begins.

555 (5) Each member of the team is authorized to access all
 556 information in the case file.

557 (6) All employees of the department or other state
 558 agencies and all personnel from contracted provider
 559 organizations must cooperate with the investigation by
 560 participating in interviews and timely responding to any
 561 requests for information.

562 (7) The secretary shall develop cooperative agreements
 563 with other entities and organizations as necessary to facilitate
 564 the work of the team.

565 (8) The members of the team may be reimbursed by the
 566 department for per diem, mileage, and other reasonable expenses
 567 as provided in s. 112.061. The department may also reimburse the
 568 team member's employer for the associated salary and benefits
 569 during the time the team member is fulfilling the duties
 570 required under this section.

571 (9) Upon completion of the investigation, the department
 572 shall make the team's final report available on its website.

573 (10) The secretary, in conjunction with the institute
 574 established pursuant to s. 1004.615, shall develop guidelines
 575 for investigations conducted by critical incident rapid response
 576 teams and provide training to team members. Such guidelines must
 577 direct the teams in the conduct of a root-cause analysis that
 578 identifies, classifies, and attributes responsibility for both
 579 direct and latent causes for the death or other incident,
 580 including organizational factors, preconditions, and specific
 581 acts or omissions resulting from either error or a violation of
 582 procedures.

583 (11) The secretary shall appoint an advisory committee
 584 made up of experts in child protection and child welfare to
 585 conduct an independent review of investigative reports from the
 586 critical incident rapid response teams and make recommendations
 587 to improve policies and practices related to child protection
 588 and child welfare services. By October 1 of each year, the
 589 advisory committee shall submit a report to the secretary that
 590 includes findings and recommendations. The secretary shall
 591 submit the report to the Governor, the President of the Senate,
 592 and the Speaker of the House of Representatives.

593 Section 5. Section 39.2022, Florida Statutes, is created
 594 to read:

595 39.2022 Public disclosure of reported child deaths.-

596 (1) It is the intent of the Legislature to provide prompt
 597 disclosure of the basic facts of all deaths of children from
 598 birth through 18 years of age that occur in this state and that

599 are reported to the department's central abuse hotline.
 600 Disclosure shall be posted on the department's public website.
 601 This section does not limit the public access to records under
 602 any other provision of law.

603 (2) If a child death is reported to the central abuse
 604 hotline, the department shall post on its website all of the
 605 following:

606 (a) Age, race, and gender of the child.

607 (b) Date of the child's death.

608 (c) Allegations of the cause of death or the preliminary
 609 cause of death, until verified, at which time the verified cause
 610 of death shall also be posted.

611 (d) County and placement of the child at the time of the
 612 incident leading to the child's death, if applicable.

613 (e) Name of the community-based care lead agency, case
 614 management agency, or out-of-home licensing agency involved with
 615 the child, family, or licensed caregiver, if applicable.

616 (f) Whether the child has been the subject of any prior
 617 verified reports to the department's central abuse hotline.

618 Section 6. Subsections (9) and (14) of section 39.301,
 619 Florida Statutes, are amended to read:

620 39.301 Initiation of protective investigations.—

621 (9)(a) For each report received from the central abuse
 622 hotline and accepted for investigation, the department or the
 623 sheriff providing child protective investigative services under
 624 s. 39.3065, shall perform the following child protective

625 investigation activities to determine child safety:

626 1. Conduct a review of all relevant, available information

627 specific to the child and family and alleged maltreatment;

628 family child welfare history; local, state, and federal criminal

629 records checks; and requests for law enforcement assistance

630 provided by the abuse hotline. Based on a review of available

631 information, including the allegations in the current report, a

632 determination shall be made as to whether immediate consultation

633 should occur with law enforcement, the child protection team, a

634 domestic violence shelter or advocate, or a substance abuse or

635 mental health professional. Such consultations should include

636 discussion as to whether a joint response is necessary and

637 feasible. A determination shall be made as to whether the person

638 making the report should be contacted before the face-to-face

639 interviews with the child and family members.

640 2. Conduct face-to-face interviews with the child; other

641 siblings, if any; and the parents, legal custodians, or

642 caregivers.

643 3. Assess the child's residence, including a determination

644 of the composition of the family and household, including the

645 name, address, date of birth, social security number, sex, and

646 race of each child named in the report; any siblings or other

647 children in the same household or in the care of the same

648 adults; the parents, legal custodians, or caregivers; and any

649 other adults in the same household.

650 4. Determine whether there is any indication that any

651 child in the family or household has been abused, abandoned, or
 652 neglected; the nature and extent of present or prior injuries,
 653 abuse, or neglect, and any evidence thereof; and a determination
 654 as to the person or persons apparently responsible for the
 655 abuse, abandonment, or neglect, including the name, address,
 656 date of birth, social security number, sex, and race of each
 657 such person.

658 5. Complete assessment of immediate child safety for each
 659 child based on available records, interviews, and observations
 660 with all persons named in subparagraph 2. and appropriate
 661 collateral contacts, which may include other professionals. The
 662 department's child protection investigators are hereby
 663 designated a criminal justice agency for the purpose of
 664 accessing criminal justice information to be used for enforcing
 665 this state's laws concerning the crimes of child abuse,
 666 abandonment, and neglect. This information shall be used solely
 667 for purposes supporting the detection, apprehension,
 668 prosecution, pretrial release, posttrial release, or
 669 rehabilitation of criminal offenders or persons accused of the
 670 crimes of child abuse, abandonment, or neglect and may not be
 671 further disseminated or used for any other purpose.

672 6. Document the present and impending dangers to each
 673 child based on the identification of inadequate protective
 674 capacity through utilization of a standardized safety assessment
 675 instrument. If present or impending danger is identified, the
 676 child protective investigator must implement a safety plan that

677 is specific, sufficient, feasible, and sustainable in response
 678 to the realities of the present or impending danger. A safety
 679 plan may be exclusively an in-home plan, an out-of-home plan, or
 680 a combination of both. The child protective investigator shall
 681 collaborate with the community-based care lead agency in the
 682 development of the safety plan as necessary to ensure that the
 683 safety plan is specific, sufficient, feasible, and sustainable.
 684 A safety plan may not rely on promissory commitments by the
 685 parent, caregiver, or legal custodian who is currently not able
 686 to protect the child or on services that are not available or
 687 will not result in the safety of the child. A safety plan may
 688 not be implemented if for any reason the parents, guardian, or
 689 legal custodian lacks the capacity or ability to comply with the
 690 plan. If the department is not able to develop a plan that is
 691 specific, sufficient, feasible, and sustainable, the department
 692 shall file a petition for adjudication of dependency. A child
 693 protective investigator shall support the implementation of
 694 separate safety plans for the perpetrator of domestic violence
 695 and the parent who is a victim of domestic violence, as defined
 696 in s. 741.28. The safety plan for the parent who is a victim of
 697 domestic violence shall not be shared with the perpetrator. The
 698 child protective investigator shall monitor the implementation
 699 of the plan as necessary to ensure child safety until the case
 700 is transferred to the lead agency, at which time the lead agency
 701 shall monitor the implementation. If a parent, guardian, or
 702 legal custodian fails to comply with the safety plan, the

703 department shall file a petition for adjudication of dependency.

704 a. If present danger is identified, the child protective
 705 investigator shall create and implement a safety plan before
 706 leaving the home or the location where there is present danger.

707 b. If impending danger is identified, the child protective
 708 investigator shall create and implement a safety plan as soon as
 709 necessary to protect the safety of the child. The child
 710 protective investigator may modify the plan if he or she
 711 identifies additional impending danger.

712 ~~(b) Upon completion of the immediate safety assessment,~~
 713 ~~the department shall determine the additional activities~~
 714 ~~necessary to assess impending dangers, if any, and close the~~
 715 ~~investigation.~~

716 (b)(e) For each report received from the central abuse
 717 hotline, the department or the sheriff providing child
 718 protective investigative services under s. 39.3065, shall
 719 determine the protective, treatment, and ameliorative services
 720 necessary to safeguard and ensure the child's safety and well-
 721 being and development, and cause the delivery of those services
 722 through the early intervention of the department or its agent.
 723 As applicable, child protective investigators must inform
 724 parents and caregivers how and when to use the injunction
 725 process under s. 741.30 to remove a perpetrator of domestic
 726 violence from the home as an intervention to protect the child.

727 1. If the department or the sheriff providing child protective
 728 investigative services determines that the interests of the

729 child and the public will be best served by providing the child
 730 care or other treatment voluntarily accepted by the child and
 731 the parents or legal custodians, the parent or legal custodian
 732 and child may be referred for such care, case management, or
 733 other community resources.

734 2. If the department or the sheriff providing child
 735 protective investigative services determines that the child is
 736 in need of protection and supervision, the department may file a
 737 petition for dependency.

738 3. If a petition for dependency is not being filed by the
 739 department, the person or agency originating the report shall be
 740 advised of the right to file a petition pursuant to this part.

741 4. At the close of an investigation, the department or the
 742 sheriff providing child protective services shall provide to the
 743 person who is alleged to have caused the abuse, neglect, or
 744 abandonment and the parent or legal custodian a summary of
 745 findings from the investigation and provide information about
 746 their right to access confidential reports in accordance with s.
 747 39.202.

748 (14)(a) If the department or its agent determines that a
 749 child requires immediate or long-term protection through+
 750 ~~1-~~ medical or other health care+ or
 751 ~~2-~~ homemaker care, day care, protective supervision, or
 752 other services to stabilize the home environment, including
 753 intensive family preservation services through the Intensive
 754 Crisis Counseling Program, such services shall first be offered

755 for voluntary acceptance unless:

756 1. There are high-risk factors that may impact the ability
 757 of the parents or legal custodians to exercise judgment. Such
 758 factors may include the parents' or legal custodians' young age
 759 or history of substance abuse, mental illness, or domestic
 760 violence; or

761 2. There is a high likelihood of lack of compliance with
 762 voluntary services, and such noncompliance would result in the
 763 child being unsafe.

764 (b) The parents or legal custodians shall be informed of
 765 the right to refuse services, as well as the responsibility of
 766 the department to protect the child regardless of the acceptance
 767 or refusal of services. If the services are refused, a
 768 collateral contact shall include a relative, if the protective
 769 investigator has knowledge of and the ability to contact a
 770 relative. If the services are refused and the department deems
 771 that the child's need for protection ~~se~~ requires services, the
 772 department shall take the child into protective custody or
 773 petition the court as provided in this chapter. At any time
 774 after the commencement of a protective investigation, a relative
 775 may submit in writing to the protective investigator or case
 776 manager a request to receive notification of all proceedings and
 777 hearings in accordance with s. 39.502. The request shall include
 778 the relative's name, address, and phone number and the
 779 relative's relationship to the child. The protective
 780 investigator or case manager shall forward such request to the

781 attorney for the department. The failure to provide notice to
 782 either a relative who requests it pursuant to this subsection or
 783 to a relative who is providing out-of-home care for a child may
 784 not result in any previous action of the court at any stage or
 785 proceeding in dependency or termination of parental rights under
 786 any part of this chapter being set aside, reversed, modified, or
 787 in any way changed absent a finding by the court that a change
 788 is required in the child's best interests.

789 (c) The department, in consultation with the judiciary,
 790 shall adopt by rule:

791 1. Criteria that are factors requiring that the department
 792 take the child into custody, petition the court as provided in
 793 this chapter, or, if the child is not taken into custody or a
 794 petition is not filed with the court, conduct an administrative
 795 review. Such factors must include, but are not limited to,
 796 noncompliance with a safety plan or the case plan developed by
 797 the department, or its agent, and the family under this chapter,
 798 and prior abuse reports with findings that involve the child,
 799 the child's sibling, or the child's caregiver.

800 2. Requirements that if after an administrative review the
 801 department determines not to take the child into custody or
 802 petition the court, the department shall document the reason for
 803 its decision in writing and include it in the investigative
 804 file. For all cases that were accepted by the local law
 805 enforcement agency for criminal investigation pursuant to
 806 subsection (2), the department must include in the file written

807 | documentation that the administrative review included input from
 808 | law enforcement. In addition, for all cases that must be
 809 | referred to child protection teams pursuant to s. 39.303(2) and
 810 | (3), the file must include written documentation that the
 811 | administrative review included the results of the team's
 812 | evaluation. ~~Factors that must be included in the development of~~
 813 | ~~the rule include noncompliance with the case plan developed by~~
 814 | ~~the department, or its agent, and the family under this chapter~~
 815 | ~~and prior abuse reports with findings that involve the child or~~
 816 | ~~caregiver.~~

817 | Section 7. Section 39.303, Florida Statutes, is amended to
 818 | read:

819 | 39.303 Child protection teams; services; eligible cases.-
 820 | The Children's Medical Services Program in the Department of
 821 | Health shall develop, maintain, and coordinate the services of
 822 | one or more multidisciplinary child protection teams in each of
 823 | the service districts of the Department of Children and Families
 824 | ~~Family Services~~. Such teams may be composed of appropriate
 825 | representatives of school districts and appropriate health,
 826 | mental health, social service, legal service, and law
 827 | enforcement agencies. ~~The Legislature finds that optimal~~
 828 | ~~coordination of child protection teams and sexual abuse~~
 829 | ~~treatment programs requires collaboration between~~ The Department
 830 | of Health and the Department of Children and Families ~~Family~~
 831 | ~~Services~~. ~~The two departments~~ shall maintain an interagency
 832 | agreement that establishes protocols for oversight and

833 operations of child protection teams and sexual abuse treatment
 834 programs. The State Surgeon General and the Deputy Secretary for
 835 Children's Medical Services, in consultation with the Secretary
 836 of Children and Families ~~Family Services~~, shall maintain the
 837 responsibility for the screening, employment, and, if necessary,
 838 the termination of child protection team medical directors, at
 839 headquarters and in the 15 districts. Child protection team
 840 medical directors shall be responsible for oversight of the
 841 teams in the districts.

842 (1) The Department of Health shall use ~~utilize~~ and convene
 843 the teams to supplement the assessment and protective
 844 supervision activities of the family safety and preservation
 845 program of the Department of Children and Families ~~Family~~
 846 ~~Services~~. ~~Nothing in~~ This section does not ~~shall be construed to~~
 847 remove or reduce the duty and responsibility of any person to
 848 report pursuant to this chapter all suspected or actual cases of
 849 child abuse, abandonment, or neglect or sexual abuse of a child.
 850 The role of the teams shall be to support activities of the
 851 program and to provide services deemed by the teams to be
 852 necessary and appropriate to abused, abandoned, and neglected
 853 children upon referral. The specialized diagnostic assessment,
 854 evaluation, coordination, consultation, and other supportive
 855 services that a child protection team shall be capable of
 856 providing include, but are not limited to, the following:

857 (a) Medical diagnosis and evaluation services, including
 858 provision or interpretation of X rays and laboratory tests, and

859 related services, as needed, and documentation of related
 860 findings ~~relative thereto~~.

861 (b) Telephone consultation services in emergencies and in
 862 other situations.

863 (c) Medical evaluation related to abuse, abandonment, or
 864 neglect, as defined by policy or rule of the Department of
 865 Health.

866 (d) Such psychological and psychiatric diagnosis and
 867 evaluation services for the child or the child's parent or
 868 parents, legal custodian or custodians, or other caregivers, or
 869 any other individual involved in a child abuse, abandonment, or
 870 neglect case, as the team may determine to be needed.

871 (e) Expert medical, psychological, and related
 872 professional testimony in court cases.

873 (f) Case staffings to develop treatment plans for children
 874 whose cases have been referred to the team. A child protection
 875 team may provide consultation with respect to a child who is
 876 alleged or is shown to be abused, abandoned, or neglected, which
 877 consultation shall be provided at the request of a
 878 representative of the family safety and preservation program or
 879 at the request of any other professional involved with a child
 880 or the child's parent or parents, legal custodian or custodians,
 881 or other caregivers. In every such child protection team case
 882 staffing, consultation, or staff activity involving a child, a
 883 family safety and preservation program representative shall
 884 attend and participate.

885 (g) Case service coordination and assistance, including
 886 the location of services available from other public and private
 887 agencies in the community.

888 (h) Such training services for program and other employees
 889 of the Department of Children and Families ~~Family Services~~,
 890 employees of the Department of Health, and other medical
 891 professionals as is deemed appropriate to enable them to develop
 892 and maintain their professional skills and abilities in handling
 893 child abuse, abandonment, and neglect cases.

894 (i) Educational and community awareness campaigns on child
 895 abuse, abandonment, and neglect in an effort to enable citizens
 896 more successfully to prevent, identify, and treat child abuse,
 897 abandonment, and neglect in the community.

898 (j) Child protection team assessments that include, as
 899 appropriate, medical evaluations, medical consultations, family
 900 psychosocial interviews, specialized clinical interviews, or
 901 forensic interviews.

902
 903 All medical personnel participating on a child protection team
 904 must successfully complete the required child protection team
 905 training curriculum as set forth in protocols determined by the
 906 Deputy Secretary for Children's Medical Services and the
 907 Statewide Medical Director for Child Protection. A child
 908 protection team that is evaluating a report of medical neglect
 909 and assessing the health care needs of a medically complex child
 910 shall involve a physician who has experience in treating

911 | children with the same condition. Such physician may include,
 912 | but not be limited to, a physician who is a member of the child
 913 | protection team, the child's treating physician, a physician
 914 | within the Children's Medical Services network, or a specialist.

915 | (2) The child abuse, abandonment, and neglect reports that
 916 | must be referred by the department to child protection teams of
 917 | the Department of Health for an assessment and other appropriate
 918 | available support services as set forth in subsection (1) must
 919 | include cases involving:

920 | (a) Injuries to the head, bruises to the neck or head,
 921 | burns, or fractures in a child of any age.

922 | (b) Bruises anywhere on a child 5 years of age or under.

923 | (c) Any report alleging sexual abuse of a child.

924 | (d) Any sexually transmitted disease in a prepubescent
 925 | child.

926 | (e) Reported malnutrition of a child and failure of a
 927 | child to thrive.

928 | (f) Reported medical neglect of a child.

929 | (g) Any family in which one or more children have been
 930 | pronounced dead on arrival at a hospital or other health care
 931 | facility, or have been injured and later died, as a result of
 932 | suspected abuse, abandonment, or neglect, when any sibling or
 933 | other child remains in the home.

934 | (h) Symptoms of serious emotional problems in a child when
 935 | emotional or other abuse, abandonment, or neglect is suspected.

936 | (3) All abuse and neglect cases transmitted for

937 investigation to a district by the hotline must be
 938 simultaneously transmitted to the Department of Health child
 939 protection team for review. For the purpose of determining
 940 whether face-to-face medical evaluation by a child protection
 941 team is necessary, all cases transmitted to the child protection
 942 team which meet the criteria in subsection (2) must be timely
 943 reviewed by:

944 (a) A physician licensed under chapter 458 or chapter 459
 945 who holds board certification in pediatrics and is a member of a
 946 child protection team;

947 (b) A physician licensed under chapter 458 or chapter 459
 948 who holds board certification in a specialty other than
 949 pediatrics, who may complete the review only when working under
 950 the direction of a physician licensed under chapter 458 or
 951 chapter 459 who holds board certification in pediatrics and is a
 952 member of a child protection team;

953 (c) An advanced registered nurse practitioner licensed
 954 under chapter 464 who has a specialty ~~speciality~~ in pediatrics
 955 or family medicine and is a member of a child protection team;

956 (d) A physician assistant licensed under chapter 458 or
 957 chapter 459, who may complete the review only when working under
 958 the supervision of a physician licensed under chapter 458 or
 959 chapter 459 who holds board certification in pediatrics and is a
 960 member of a child protection team; or

961 (e) A registered nurse licensed under chapter 464, who may
 962 complete the review only when working under the direct

963 supervision of a physician licensed under chapter 458 or chapter
 964 459 who holds certification in pediatrics and is a member of a
 965 child protection team.

966 (4) A face-to-face medical evaluation by a child
 967 protection team is not necessary when:

968 (a) The child was examined for the alleged abuse or
 969 neglect by a physician who is not a member of the child
 970 protection team, and a consultation between the child protection
 971 team board-certified pediatrician, advanced registered nurse
 972 practitioner, physician assistant working under the supervision
 973 of a child protection team board-certified pediatrician, or
 974 registered nurse working under the direct supervision of a child
 975 protection team board-certified pediatrician, and the examining
 976 physician concludes that a further medical evaluation is
 977 unnecessary;

978 (b) The child protective investigator, with supervisory
 979 approval, has determined, after conducting a child safety
 980 assessment, that there are no indications of injuries as
 981 described in paragraphs (2)(a)-(h) as reported; or

982 (c) The child protection team board-certified
 983 pediatrician, as authorized in subsection (3), determines that a
 984 medical evaluation is not required.

985

986 Notwithstanding paragraphs (a), (b), and (c), a child protection
 987 team pediatrician, as authorized in subsection (3), may
 988 determine that a face-to-face medical evaluation is necessary.

989 (5) In all instances in which a child protection team is
 990 providing certain services to abused, abandoned, or neglected
 991 children, other offices and units of the Department of Health,
 992 and offices and units of the Department of Children and Families
 993 ~~Family Services~~, shall avoid duplicating the provision of those
 994 services.

995 (6) The Department of Health child protection team quality
 996 assurance program and the Family Safety Program Office of the
 997 Department of Children and Families ~~Family Services' Family~~
 998 ~~Safety Program Office quality assurance program~~ shall
 999 collaborate to ensure referrals and responses to child abuse,
 1000 abandonment, and neglect reports are appropriate. Each quality
 1001 assurance program shall include a review of records in which
 1002 there are no findings of abuse, abandonment, or neglect, and the
 1003 findings of these reviews shall be included in each department's
 1004 quality assurance reports.

1005 Section 8. Section 39.3068, Florida Statutes, is created
 1006 to read:

1007 39.3068 Reports of medical neglect.-

1008 (1) Upon receiving a report alleging medical neglect, the
 1009 department or sheriff's office shall assign the case to a child
 1010 protective investigator who has specialized training in
 1011 addressing medical neglect or working with medically complex
 1012 children.

1013 (2) The child protective investigator who has interacted
 1014 with the child and the child's family shall promptly contact and

1015 provide information to the child protection team. The child
 1016 protection team shall assist the child protective investigator
 1017 in identifying immediate responses to address the medical needs
 1018 of the child with the priority of maintaining the child in the
 1019 home if the parents will be able to meet the needs of the child
 1020 with additional services. The child protective investigator and
 1021 the child protection team must use a family-centered approach to
 1022 assess the capacity of the family to meet those needs. A family-
 1023 centered approach is intended to increase independence on the
 1024 part of the family, accessibility to programs and services
 1025 within the community, and collaboration between families and
 1026 their service providers. The ethnic, cultural, economic, racial,
 1027 social, and religious diversity of families must be respected
 1028 and considered in the development and provision of services.

1029 (3) The child shall be evaluated by the child protection
 1030 team as soon as practicable. After receipt of the report from
 1031 the child protection team, the department shall convene a case
 1032 staffing which shall be attended, at a minimum, by the child
 1033 protective investigator; department legal staff; and
 1034 representatives from the child protection team that evaluated
 1035 the child, Children's Medical Services, the Agency for Health
 1036 Care Administration, the community-based care lead agency, and
 1037 any providers of services to the child. However, the Agency for
 1038 Health Care Administration is not required to attend the
 1039 staffing if the child is not Medicaid-eligible. The staffing
 1040 shall consider, at a minimum, which services are available,

1041 given the family's eligibility for services, which services are
 1042 effective in addressing conditions leading to medical neglect
 1043 allegations, and which services would enable the child to safely
 1044 remain at home. If such services are available and effective,
 1045 they shall be provided.

1046 Section 9. Paragraph (h) of subsection (8) and subsection
 1047 (9) of section 39.402, Florida Statutes, are amended to read:

1048 39.402 Placement in a shelter.—

1049 (8)

1050 (h) The order for placement of a child in shelter care
 1051 must identify the parties present at the hearing and must
 1052 contain written findings:

1053 1. That placement in shelter care is necessary based on
 1054 the criteria in subsections (1) and (2).

1055 2. That placement in shelter care is in the best interest
 1056 of the child.

1057 3. That continuation of the child in the home is contrary
 1058 to the welfare of the child because the home situation presents
 1059 a substantial and immediate danger to the child's physical,
 1060 mental, or emotional health or safety which cannot be mitigated
 1061 by the provision of preventive services.

1062 4. That based upon the allegations of the petition for
 1063 placement in shelter care, there is probable cause to believe
 1064 that the child is dependent or that the court needs additional
 1065 time, which may not exceed 72 hours, in which to obtain and
 1066 review documents pertaining to the family in order to

1067 | appropriately determine the risk to the child.

1068 | 5. That the department has made reasonable efforts to
 1069 | prevent or eliminate the need for removal of the child from the
 1070 | home. A finding of reasonable effort by the department to
 1071 | prevent or eliminate the need for removal may be made and the
 1072 | department is deemed to have made reasonable efforts to prevent
 1073 | or eliminate the need for removal if:

1074 | a. The first contact of the department with the family
 1075 | occurs during an emergency;

1076 | b. The appraisal of the home situation by the department
 1077 | indicates that the home situation presents a substantial and
 1078 | immediate danger to the child's physical, mental, or emotional
 1079 | health or safety which cannot be mitigated by the provision of
 1080 | preventive services;

1081 | c. The child cannot safely remain at home, either because
 1082 | there are no preventive services that can ensure the health and
 1083 | safety of the child or because, even with appropriate and
 1084 | available services being provided, the health and safety of the
 1085 | child cannot be ensured; or

1086 | d. The parent or legal custodian is alleged to have
 1087 | committed any of the acts listed as grounds for expedited
 1088 | termination of parental rights in s. 39.806(1)(f)-(i).

1089 | 6. That the department has made reasonable efforts to keep
 1090 | siblings together if they are removed and placed in out-of-home
 1091 | care unless such placement is not in the best interest of each
 1092 | child. The department shall report to the court its efforts to

1093 place siblings together unless the court finds that such
 1094 placement is not in the best interest of a child or his or her
 1095 sibling.

1096 ~~7.6.~~ That the court notified the parents, relatives that
 1097 are providing out-of-home care for the child, or legal
 1098 custodians of the time, date, and location of the next
 1099 dependency hearing and of the importance of the active
 1100 participation of the parents, relatives that are providing out-
 1101 of-home care for the child, or legal custodians in all
 1102 proceedings and hearings.

1103 ~~8.7.~~ That the court notified the parents or legal
 1104 custodians of their right to counsel to represent them at the
 1105 shelter hearing and at each subsequent hearing or proceeding,
 1106 and the right of the parents to appointed counsel, pursuant to
 1107 the procedures set forth in s. 39.013.

1108 ~~9.8.~~ That the court notified relatives who are providing
 1109 out-of-home care for a child as a result of the shelter petition
 1110 being granted that they have the right to attend all subsequent
 1111 hearings, to submit reports to the court, and to speak to the
 1112 court regarding the child, if they so desire.

1113 (9) (a) At any shelter hearing, the department shall
 1114 provide to the court a recommendation for scheduled contact
 1115 between the child and parents, if appropriate. The court shall
 1116 determine visitation rights absent a clear and convincing
 1117 showing that visitation is not in the best interest of the
 1118 child. Any order for visitation or other contact must conform to

1119 | ~~the provisions of s. 39.0139.~~ If visitation is ordered but will
 1120 | not commence within 72 hours of the shelter hearing, the
 1121 | department shall provide justification to the court.

1122 | (b) If siblings who are removed from the home cannot be
 1123 | placed together, the department shall provide to the court a
 1124 | recommendation for frequent visitation or other ongoing
 1125 | interaction between the siblings unless this interaction would
 1126 | be contrary to a sibling's safety or well-being. If visitation
 1127 | among siblings is ordered but will not commence within 72 hours
 1128 | after the shelter hearing, the department shall provide
 1129 | justification to the court for the delay.

1130 | Section 10. Paragraph (d) of subsection (3) of section
 1131 | 39.501, Florida Statutes, is amended to read:

1132 | 39.501 Petition for dependency.—

1133 | (3)

1134 | (d) The petitioner must state in the petition, if known,
 1135 | whether:

1136 | 1. A parent or legal custodian named in the petition has
 1137 | previously unsuccessfully participated in voluntary services
 1138 | offered by the department;

1139 | 2. A parent or legal custodian named in the petition has
 1140 | participated in mediation and whether a mediation agreement
 1141 | exists;

1142 | 3. A parent or legal custodian has rejected the voluntary
 1143 | services offered by the department;

1144 | 4. A parent or legal custodian named in the petition has

1145 not fully complied with a safety plan; or

1146 ~~5.4.~~ The department has determined that voluntary services
 1147 are not appropriate for the parent or legal custodian and the
 1148 reasons for such determination.

1149

1150 If the department is the petitioner, it shall provide all safety
 1151 assessments and safety plans involving the parent or legal
 1152 custodian to the court.

1153 Section 11. Subsections (3) and (4) of section 39.604,
 1154 Florida Statutes, are amended to read:

1155 39.604 Rilya Wilson Act; short title; legislative intent;
 1156 requirements; attendance and reporting responsibilities.-

1157 (3) REQUIREMENTS.-A child from birth to the age of ~~who is~~
 1158 ~~age 3 years to~~ school entry, under court-ordered ~~court ordered~~
 1159 protective supervision or in the custody of the Family Safety
 1160 Program Office of the Department of Children and Families ~~Family~~
 1161 ~~Services~~ or a community-based lead agency, and enrolled in a
 1162 licensed early education or child care program must attend ~~be~~
 1163 ~~enrolled to participate in~~ the program 5 days a week.

1164 Notwithstanding ~~the requirements of~~ s. 39.202, the Department of
 1165 Children and Families ~~Family Services~~ must notify operators of
 1166 the licensed early education or child care program, subject to
 1167 the reporting requirements of this act, of the enrollment of any
 1168 child from birth to the age of ~~age 3 years to~~ school entry,
 1169 under court-ordered ~~court ordered~~ protective supervision or in
 1170 the custody of the Family Safety Program Office of the

1171 Department of Children and Families ~~Family Services~~ or a
 1172 community-based lead agency. When a child is enrolled in an
 1173 early education or child care program regulated by the
 1174 department, the child's attendance in the program must be a
 1175 required action in the safety plan or the case plan developed
 1176 for the a child pursuant to this chapter ~~who is enrolled in a~~
 1177 ~~licensed early education or child care program must contain the~~
 1178 ~~participation in this program as a required action.~~ An exemption
 1179 to participating in the licensed early education or child care
 1180 program 5 days a week may be granted by the court.

1181 (4) ATTENDANCE AND REPORTING REQUIREMENTS.—

1182 (a) A child enrolled in a licensed early education or
 1183 child care program who meets the requirements of subsection (3)
 1184 may not be withdrawn from the program without the prior written
 1185 approval of the Family Safety Program Office of the Department
 1186 of Children and Families ~~Family Services~~ or the community-based
 1187 lead agency.

1188 (b)1. If a child covered by this section is absent from
 1189 the program on a day when he or she is supposed to be present,
 1190 the person with whom the child resides must report the absence
 1191 to the program by the end of the business day. If the person
 1192 with whom the child resides, whether the parent or caregiver,
 1193 fails to timely report the absence, the absence is considered to
 1194 be unexcused. The program shall report any unexcused absence or
 1195 seven consecutive excused absences of a child who is enrolled in
 1196 the program and covered by this act to the local designated

1197 staff of the Family Safety Program Office of the Department of
 1198 Children and Families ~~Family Services~~ or the community-based
 1199 lead agency by the end of the business day following the
 1200 unexcused absence or seventh consecutive excused absence.

1201 2. The department or community-based lead agency shall
 1202 conduct a site visit to the residence of the child upon
 1203 receiving a report of two consecutive unexcused absences or
 1204 seven consecutive excused absences.

1205 3. If the site visit results in a determination that the
 1206 child is missing, the department or community-based lead agency
 1207 shall report the child as missing to a law enforcement agency
 1208 and proceed with the necessary actions to locate the child
 1209 pursuant to procedures for locating missing children.

1210 4. If the site visit results in a determination that the
 1211 child is not missing, the parent or caregiver shall be notified
 1212 that failure to ensure that the child attends the licensed early
 1213 education or child care program is a violation of the safety
 1214 plan or the case plan. If more than two site visits are
 1215 conducted pursuant to this subsection, staff shall initiate
 1216 action to notify the court of the parent or caregiver's
 1217 noncompliance with the case plan.

1218 Section 12. Paragraph (c) of subsection (2) and paragraph
 1219 (a) of subsection (3) of section 39.701, Florida Statutes, are
 1220 amended to read:

1221 39.701 Judicial review.—

1222 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF

1223 AGE.—

1224 (c) Review determinations.—The court and any citizen
 1225 review panel shall take into consideration the information
 1226 contained in the social services study and investigation and all
 1227 medical, psychological, and educational records that support the
 1228 terms of the case plan; testimony by the social services agency,
 1229 the parent, the foster parent or legal custodian, the guardian
 1230 ad litem or surrogate parent for educational decisionmaking if
 1231 one has been appointed for the child, and any other person
 1232 deemed appropriate; and any relevant and material evidence
 1233 submitted to the court, including written and oral reports to
 1234 the extent of their probative value. These reports and evidence
 1235 may be received by the court in its effort to determine the
 1236 action to be taken with regard to the child and may be relied
 1237 upon to the extent of their probative value, even though not
 1238 competent in an adjudicatory hearing. In its deliberations, the
 1239 court and any citizen review panel shall seek to determine:

- 1240 1. If the parent was advised of the right to receive
 1241 assistance from any person or social service agency in the
 1242 preparation of the case plan.
- 1243 2. If the parent has been advised of the right to have
 1244 counsel present at the judicial review or citizen review
 1245 hearings. If not so advised, the court or citizen review panel
 1246 shall advise the parent of such right.
- 1247 3. If a guardian ad litem needs to be appointed for the
 1248 child in a case in which a guardian ad litem has not previously

1249 | been appointed or if there is a need to continue a guardian ad
 1250 | litem in a case in which a guardian ad litem has been appointed.

1251 | 4. Who holds the rights to make educational decisions for
 1252 | the child. If appropriate, the court may refer the child to the
 1253 | district school superintendent for appointment of a surrogate
 1254 | parent or may itself appoint a surrogate parent under the
 1255 | Individuals with Disabilities Education Act and s. 39.0016.

1256 | 5. The compliance or lack of compliance of all parties
 1257 | with applicable items of the case plan, including the parents'
 1258 | compliance with child support orders.

1259 | 6. The compliance or lack of compliance with a visitation
 1260 | contract between the parent and the social service agency for
 1261 | contact with the child, including the frequency, duration, and
 1262 | results of the parent-child visitation and the reason for any
 1263 | noncompliance.

1264 | 7. The frequency, kind, and duration of contacts among
 1265 | siblings who have been separated during placement, as well as
 1266 | any efforts undertaken to reunite separated siblings if doing so
 1267 | is in the best interest of the child.

1268 | 8.7. The compliance or lack of compliance of the parent in
 1269 | meeting specified financial obligations pertaining to the care
 1270 | of the child, including the reason for failure to comply, if
 1271 | applicable ~~such is the case.~~

1272 | 9.8. Whether the child is receiving safe and proper care
 1273 | according to s. 39.6012, including, but not limited to, the
 1274 | appropriateness of the child's current placement, including

1275 whether the child is in a setting that is as family-like and as
 1276 close to the parent's home as possible, consistent with the
 1277 child's best interests and special needs, and including
 1278 maintaining stability in the child's educational placement, as
 1279 documented by assurances from the community-based care provider
 1280 that:

1281 a. The placement of the child takes into account the
 1282 appropriateness of the current educational setting and the
 1283 proximity to the school in which the child is enrolled at the
 1284 time of placement.

1285 b. The community-based care agency has coordinated with
 1286 appropriate local educational agencies to ensure that the child
 1287 remains in the school in which the child is enrolled at the time
 1288 of placement.

1289 ~~10.9.~~ A projected date likely for the child's return home
 1290 or other permanent placement.

1291 ~~11.10.~~ When appropriate, the basis for the unwillingness
 1292 or inability of the parent to become a party to a case plan. The
 1293 court and the citizen review panel shall determine if the
 1294 efforts of the social service agency to secure party
 1295 participation in a case plan were sufficient.

1296 ~~12.11.~~ For a child who has reached 13 years of age but is
 1297 not yet 18 years of age, the adequacy of the child's preparation
 1298 for adulthood and independent living.

1299 ~~13.12.~~ If amendments to the case plan are required.
 1300 Amendments to the case plan must be made under s. 39.6013.

1301 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—
 1302 (a) In addition to the review and report required under
 1303 paragraphs (1)(a) and (2)(a), respectively, the court shall hold
 1304 a judicial review hearing within 90 days after a child's 17th
 1305 birthday. The court shall also issue an order, separate from the
 1306 order on judicial review, that the disability of nonage of the
 1307 child has been removed pursuant to ss. 743.044, 743.045, and
 1308 743.046, and for any of these disabilities that the court finds
 1309 is in the child's best interest to remove. The court ~~s. 743.045~~
 1310 ~~and~~ shall continue to hold timely judicial review hearings. If
 1311 necessary, the court may review the status of the child more
 1312 frequently during the year before the child's 18th birthday. At
 1313 each review hearing held under this subsection, in addition to
 1314 any information or report provided to the court by the foster
 1315 parent, legal custodian, or guardian ad litem, the child shall
 1316 be given the opportunity to address the court with any
 1317 information relevant to the child's best interest, particularly
 1318 in relation to independent living transition services. The
 1319 department shall include in the social study report for judicial
 1320 review written verification that the child has:
 1321 1. A current Medicaid card and all necessary information
 1322 concerning the Medicaid program sufficient to prepare the child
 1323 to apply for coverage upon reaching the age of 18, if such
 1324 application is appropriate.
 1325 2. A certified copy of the child's birth certificate and,
 1326 if the child does not have a valid driver license, a Florida

1327 identification card issued under s. 322.051.

1328 3. A social security card and information relating to
 1329 social security insurance benefits if the child is eligible for
 1330 those benefits. If the child has received such benefits and they
 1331 are being held in trust for the child, a full accounting of
 1332 these funds must be provided and the child must be informed as
 1333 to how to access those funds.

1334 4. All relevant information related to the Road-to-
 1335 Independence Program, including, but not limited to, eligibility
 1336 requirements, information on participation, and assistance in
 1337 gaining admission to the program. If the child is eligible for
 1338 the Road-to-Independence Program, he or she must be advised that
 1339 he or she may continue to reside with the licensed family home
 1340 or group care provider with whom the child was residing at the
 1341 time the child attained his or her 18th birthday, in another
 1342 licensed family home, or with a group care provider arranged by
 1343 the department.

1344 5. An open bank account or the identification necessary to
 1345 open a bank account and to acquire essential banking and
 1346 budgeting skills.

1347 6. Information on public assistance and how to apply for
 1348 public assistance.

1349 7. A clear understanding of where he or she will be living
 1350 on his or her 18th birthday, how living expenses will be paid,
 1351 and the educational program or school in which he or she will be
 1352 enrolled.

1353 8. Information related to the ability of the child to
 1354 remain in care until he or she reaches 21 years of age under s.
 1355 39.013.

1356 9. A letter providing the dates that the child is under
 1357 the jurisdiction of the court.

1358 10. A letter stating that the child is in compliance with
 1359 financial aid documentation requirements.

1360 11. The child's educational records.

1361 12. The child's entire health and mental health records.

1362 13. The process for accessing his or her case file.

1363 14. A statement encouraging the child to attend all
 1364 judicial review hearings occurring after the child's 17th
 1365 birthday.

1366 Section 13. Subsection (2) of section 39.802, Florida
 1367 Statutes, is amended to read:

1368 39.802 Petition for termination of parental rights;
 1369 filing; elements.-

1370 (2) The form of the petition is governed by the Florida
 1371 Rules of Juvenile Procedure. The petition must be in writing and
 1372 signed by the petitioner ~~or, if the department is the~~
 1373 ~~petitioner, by an employee of the department,~~ under oath stating
 1374 the petitioner's good faith in filing the petition.

1375 Section 14. Paragraph (g) of subsection (1) of section
 1376 63.212, Florida Statutes, is amended to read:

1377 63.212 Prohibited acts; penalties for violation.-

1378 (1) It is unlawful for any person:

1379 (g) Except an adoption entity, to advertise or offer to
 1380 the public, in any way, by any medium whatever that a minor is
 1381 available for adoption or that a minor is sought for adoption;
 1382 and, further, it is unlawful for any person to publish or
 1383 broadcast any such advertisement or assist an unlicensed person
 1384 or entity in publishing or broadcasting any such advertisement
 1385 without including a Florida license number of the agency or
 1386 attorney placing the advertisement.

1387 1. Only a person who is an attorney licensed to practice
 1388 law in this state or an adoption entity licensed under the laws
 1389 of this state may place a paid advertisement or paid listing of
 1390 the person's telephone number, on the person's own behalf, in a
 1391 telephone directory that:

- 1392 a. A child is offered or wanted for adoption; or
- 1393 b. The person is able to place, locate, or receive a child
 1394 for adoption.

1395 2. A person who publishes a telephone directory that is
 1396 distributed in this state+

1397 ~~a-~~ shall include, at the beginning of any classified
 1398 heading for adoption and adoption services, a statement that
 1399 informs directory users that only attorneys licensed to practice
 1400 law in this state and licensed adoption entities may legally
 1401 provide adoption services under state law.

1402 3.b. A person who places ~~may publish~~ an advertisement
 1403 described in subparagraph 1. in a ~~the~~ telephone directory must
 1404 include only if the advertisement contains the following

1405 information:

1406 (I) For an attorney licensed to practice law in this
1407 state, the person's Florida Bar number.

1408 (II) For a child placing agency licensed under the laws of
1409 this state, the number on the person's adoption entity license.

1410 Section 15. Subsection (1) and paragraph (c) of subsection
1411 (3) of section 383.402, Florida Statutes, are amended to read:

1412 383.402 Child abuse death review; State Child Abuse Death
1413 Review Committee; local child abuse death review committees.—

1414 (1) It is the intent of the Legislature to establish a
1415 statewide multidisciplinary, multiagency child abuse death
1416 assessment and prevention system that consists of state and
1417 local review committees. The state and local review committees
1418 shall review the facts and circumstances of all deaths of
1419 children from birth through age 18 which occur in this state and
1420 are reported to the central abuse hotline of the Department of

1421 Children and Families ~~as the result of verified child abuse or~~
1422 ~~neglect~~. The purpose of the review shall be to:

1423 (a) Achieve a greater understanding of the causes and
1424 contributing factors of deaths resulting from child abuse.

1425 (b) Whenever possible, develop a communitywide approach to
1426 address such cases and contributing factors.

1427 (c) Identify any gaps, deficiencies, or problems in the
1428 delivery of services to children and their families by public
1429 and private agencies which may be related to deaths that are the
1430 result of child abuse.

1431 (d) Make and implement recommendations for changes in law,
 1432 rules, and policies, as well as develop practice standards that
 1433 support the safe and healthy development of children and reduce
 1434 preventable child abuse deaths.

1435 (3) The State Child Abuse Death Review Committee shall:

1436 (c) Prepare an annual statistical report on the incidence
 1437 and causes of death resulting from reported child abuse in the
 1438 state during the prior calendar year. The state committee shall
 1439 submit a copy of the report by October 1 ~~December 31~~ of each
 1440 year to the Governor, the President of the Senate, and the
 1441 Speaker of the House of Representatives. The report must include
 1442 recommendations for state and local action, including specific
 1443 policy, procedural, regulatory, or statutory changes, and any
 1444 other recommended preventive action.

1445 Section 16. Subsection (5) of section 402.40, Florida
 1446 Statutes, is amended, and paragraph (g) is added to subsection
 1447 (3) of that section, to read:

1448 402.40 Child welfare training and certification.—

1449 (3) THIRD-PARTY CREDENTIALING ENTITIES.—The department
 1450 shall approve one or more third-party credentialing entities for
 1451 the purpose of developing and administering child welfare
 1452 certification programs for persons who provide child welfare
 1453 services. A third-party credentialing entity shall request such
 1454 approval in writing from the department. In order to obtain
 1455 approval, the third-party credentialing entity must:

1456 (g) Maintain an advisory committee, including

1457 representatives from each region of the department, each
 1458 sheriff's office providing child protective services, and each
 1459 community-based care lead agency, who shall be appointed by the
 1460 organization they represent. The third-party credentialing
 1461 entity may appoint additional members to the advisory committee.

1462 (5) CORE COMPETENCIES AND SPECIALIZATIONS.—

1463 (a) The Department of Children and Families ~~Family~~
 1464 ~~Services~~ shall approve the core competencies and related
 1465 preservice curricula that ensures that each person delivering
 1466 child welfare services obtains the knowledge, skills, and
 1467 abilities to competently carry out his or her work
 1468 responsibilities.

1469 (b) The identification of these core competencies and
 1470 development of preservice curricula shall be a collaborative
 1471 effort that includes professionals who have expertise in child
 1472 welfare services, department-approved third-party credentialing
 1473 entities, and providers that will be affected by the curriculum,
 1474 including, but not limited to, representatives from the
 1475 community-based care lead agencies, sheriffs' offices conducting
 1476 child protection investigations, and child welfare legal
 1477 services providers.

1478 (c) Community-based care agencies, sheriffs' offices, and
 1479 the department may contract for the delivery of preservice and
 1480 any additional training for persons delivering child welfare
 1481 services if the curriculum satisfies the department-approved
 1482 core competencies.

1483 (d) The department may also approve certifications
 1484 involving specializations in serving specific populations or in
 1485 skills relevant to child protection to be awarded to persons
 1486 delivering child welfare services by a third-party credentialing
 1487 entity approved pursuant to subsection (3).

1488 ~~(e)(d)~~ Department-approved credentialing entities shall,
 1489 for a period of at least 12 months after implementation of the
 1490 third-party child welfare certification programs, grant
 1491 reciprocity and award a child welfare certification to
 1492 individuals who hold current department-issued child welfare
 1493 certification in good standing, at no cost to the department or
 1494 the certificateholder.

1495 Section 17. Section 402.402, Florida Statutes, is created
 1496 to read:

1497 402.402 Child protection and child welfare personnel;
 1498 attorneys employed by the department.-

1499 (1) DEFINITIONS.--As used in this section, the term:

1500 (a) "Child protection and child welfare personnel"
 1501 includes child protective investigators and child protective
 1502 investigator supervisors employed by the department or,
 1503 beginning July 1, 2018, a sheriff's office, and case managers
 1504 and case manager supervisors employed by a community-based care
 1505 lead agency or a subcontractor of a community-based care lead
 1506 agency.

1507 (b) "Human services-related field" means psychology,
 1508 sociology, counseling, special education, human development,

1509 child development, family development, marriage and family
 1510 therapy, and nursing.

1511 (c) "Relevant coursework" means coursework that imparts
 1512 knowledge and leads to the development of skills with direct
 1513 application to the child protection and child welfare field from
 1514 a college or university social work program accredited by the
 1515 Council on Social Work Education.

1516 (2) CHILD PROTECTION AND CHILD WELFARE PERSONNEL
 1517 REQUIREMENTS.—

1518 (a) Child protection and child welfare personnel hired on
 1519 or after July 1, 2014, must have one of the following:

1520 1. A bachelor's degree or a master's degree in social work
 1521 from a college or university social work program accredited by
 1522 the Council on Social Work Education. The individual shall have
 1523 at least 12 credit hours of relevant coursework.

1524 2. A bachelor's degree or a master's degree in a human
 1525 services-related field and at least 12 credit hours of relevant
 1526 coursework.

1527 3. A bachelor's degree or a master's degree in a human
 1528 services-related field. Within 3 years after hire, the
 1529 individual must complete 12 credit hours of relevant coursework.
 1530 The sequence of courses may be designed to provide in-depth
 1531 knowledge in serving a specific subpopulation or developing a
 1532 specific set of skills relevant to child protection and child
 1533 welfare. The department shall consult with the Florida Institute
 1534 for Child Welfare established pursuant to s. 1004.615 to

1535 identify courses available through the consortium of public and
 1536 private universities in the state offering degrees in social
 1537 work that fulfill this requirement.

1538 4. At a minimum, a bachelor's degree and 5 years of
 1539 experience directly relevant to child protection, if the
 1540 individual will be employed as a child protective investigator
 1541 or child protective investigator supervisor, or child welfare,
 1542 if the individual will be employed as a case manager or case
 1543 manager supervisor, and demonstrated competence regarding
 1544 required skills and aptitudes.

1545 (b) All child protective investigators and child
 1546 protective investigation supervisors employed by the department
 1547 or a sheriff's office must complete specialized training either
 1548 focused on serving a specific population, including, but not
 1549 limited to, medically fragile children, sexually exploited
 1550 children, children under 3 years of age, or families with a
 1551 history of domestic violence, mental illness, or substance
 1552 abuse, or focused on performing certain aspects of child
 1553 protection practice, including, but not limited to,
 1554 investigation techniques and analysis of family dynamics. The
 1555 specialized training may be used to fulfill continuing education
 1556 requirements under s. 402.40(3)(e). Individuals hired before
 1557 July 1, 2014, shall complete the specialized training by June
 1558 30, 2016, and individuals hired on or after July 1, 2014, shall
 1559 complete the specialized training within 2 years after hire. An
 1560 individual may receive specialized training in multiple areas.

1561 (3) ATTORNEYS EMPLOYED BY THE DEPARTMENT TO HANDLE CHILD
 1562 WELFARE CASES.—Attorneys employed by the department to handle
 1563 child welfare cases hired on or after July 1, 2014, shall:

1564 (a) Receive, at a minimum, the same core preservice
 1565 training provided to child protective investigators.

1566 (b) Within 60 days after hire, shadow an experienced child
 1567 protective investigator and an experienced case manager for at
 1568 least 8 hours each.

1569 Section 18. Section 402.403, Florida Statutes, is created
 1570 to read:

1571 402.403 Child Protection and Child Welfare Personnel
 1572 Tuition Exemption Program.—

1573 (1) There is established within the department the Child
 1574 Protection and Child Welfare Personnel Tuition Exemption Program
 1575 for the purpose of recruiting and retaining high-performing
 1576 individuals who are employed as child protection and child
 1577 welfare personnel, as defined in s. 402.402, and who do not have
 1578 a bachelor's degree or a master's degree in social work or the
 1579 required hours of relevant coursework, as defined in and
 1580 required by s. 402.402.

1581 (2) The employer of the child protection and child welfare
 1582 personnel may approve the exemption from tuition and fees for a
 1583 state university for child protection and child welfare
 1584 personnel who:

1585 (a) Have been employed as child protection and child
 1586 welfare personnel for at least 1 year and who are determined by

1587 their employers to have a high level of performance.

1588 (b) Are accepted in an upper-division undergraduate or
 1589 graduate level college or university social work program
 1590 accredited by the Council on Social Work Education which leads
 1591 to either a bachelor's degree or a master's degree in social
 1592 work, or who are completing 12 credit hours of relevant
 1593 coursework as required under s. 402.402(2)(a)3.

1594 Section 19. Section 402.404, Florida Statutes, is created
 1595 to read:

1596 402.404 Child Protective Investigator and Supervisor
 1597 Student Loan Forgiveness Program.—

1598 (1) There is established within the department the Child
 1599 Protective Investigator and Supervisor Student Loan Forgiveness
 1600 Program. The purpose of the program is to increase employment
 1601 and retention of high-performing individuals who have either a
 1602 bachelor's degree or a master's degree in social work as a child
 1603 protective investigator or child protective investigation
 1604 supervisor with the department or the sheriff's office by making
 1605 payments toward loans received by students from federal or state
 1606 programs or commercial lending institutions for the support of
 1607 prior postsecondary study in accredited social work programs.

1608 (2) To be eligible for the program, a candidate must be
 1609 employed as a child protective investigator or a child
 1610 protective investigation supervisor by the department or,
 1611 beginning July 1, 2018, by a sheriff's office for at least 1
 1612 year, must be determined by the department or the sheriff's

1613 office to have a high level of performance, and must have
 1614 graduated from an accredited social work program with either a
 1615 bachelor's degree or a master's degree in social work.

1616 (3) Only loans to pay the costs of tuition, books, fees,
 1617 and living expenses shall be covered.

1618 (4) The department may make loan payments of up to \$3,000
 1619 each year for up to 4 years on behalf of selected graduates of
 1620 an accredited social work program from the funds appropriated
 1621 for this purpose. All payments are contingent upon continued
 1622 proof of employment as a child protective investigator or a
 1623 child protective investigation supervisor with the department or
 1624 the sheriff's office and shall be made directly to the holder of
 1625 the loan.

1626 (5) A student who receives a tuition exemption pursuant to
 1627 s. 402.403 is not eligible to participate in the Child
 1628 Protective Investigator and Supervisor Student Loan Forgiveness
 1629 Program.

1630 (6) A community-based care lead agency may provide loan
 1631 forgiveness for case managers and case manager supervisors whom
 1632 it employs or who are employed by its subcontractors.

1633 Section 20. Section 409.165, Florida Statutes, is amended
 1634 to read:

1635 409.165 Alternate care for children.—

1636 (1) Within funds appropriated, the department shall
 1637 establish and supervise a program of emergency shelters, runaway
 1638 shelters, foster homes, group homes, agency-operated group

1639 treatment homes, nonpsychiatric residential group care
 1640 facilities, psychiatric residential treatment facilities, and
 1641 other appropriate facilities to provide shelter and care for
 1642 dependent children who must be placed away from their families.
 1643 The department, in accordance with outcome ~~established~~ goals
 1644 established in s. 409.986, shall contract for the provision of
 1645 such shelter and care by counties, municipalities, nonprofit
 1646 corporations, and other entities capable of providing needed
 1647 services if:

1648 (a) The services ~~se~~ provided comply with all department
 1649 standards, policies, and procedures ~~are available~~;

1650 (b) The services can be ~~se~~ provided at a reasonable cost
 1651 ~~are more cost effective than those provided by the department~~;
 1652 and

1653 (c) Unless otherwise provided by law, such providers of
 1654 shelter and care are licensed by the department.

1655
 1656 ~~It is the legislative intent that the~~

1657 (2) Funds appropriated for the alternate care of children
 1658 as described in this section may be used to meet the needs of
 1659 children in their own homes or those of relatives if the
 1660 children can be safely served in such settings ~~their own homes,~~
 1661 ~~or the homes of relatives,~~ and the expenditure of funds in such
 1662 manner is equal to or less than the cost of out-of-home
 1663 placement ~~calculated by the department to be an eventual cost~~
 1664 ~~savings over placement of children.~~

1665 (3)(2) The department shall ~~may~~ cooperate with all child
 1666 service institutions or agencies within the state which meet the
 1667 department's standards in order to maintain a comprehensive,
 1668 coordinated, and inclusive system for promoting and protecting
 1669 the well-being of children, consistent with the goals
 1670 established in s. 409.986 ~~rules for proper care and supervision~~
 1671 ~~prescribed by the department for the well-being of children.~~

1672 (a) The department shall work with the Department of
 1673 Health in the development, utilization, and monitoring of
 1674 medical foster homes for medically complex children.

1675 (b) The department shall work with the Agency for Health
 1676 Care Administration and the Agency for Persons with Disabilities
 1677 to provide such home and community-based services as may be
 1678 necessary to maintain medically complex children in the least
 1679 restrictive and most nurturing environment.

1680 (4)(3) With the written consent of parents, custodians, or
 1681 guardians, or in accordance with those provisions in chapter 39
 1682 that relate to dependent children, the department, under rules
 1683 properly adopted, may place a child:

1684 (a) With a relative;

1685 (b) With an adult nonrelative approved by the court for
 1686 long-term custody;

1687 (c) With a person who is considering the adoption of a
 1688 child in the manner provided for by law;

1689 (d) When limited, except as provided in paragraph (b), to
 1690 temporary emergency situations, with a responsible adult

HB 7169

2014

1691 approved by the court;
 1692 (e) With a person or family approved by the department to
 1693 serve as a medical foster home;
 1694 (f)~~(e)~~ With a person or agency licensed by the department
 1695 in accordance with s. 409.175; or
 1696 (g)~~(f)~~ In a subsidized independent living situation,
 1697 subject to the provisions of s. 409.1451(4) (c),
 1698
 1699 under such conditions as are determined to be for the best
 1700 interests or the welfare of the child. Any child placed in an
 1701 institution or in a family home by the department or its agency
 1702 may be removed by the department or its agency, and such other
 1703 disposition may be made as is for the best interest of the
 1704 child, including transfer of the child to another institution,
 1705 another home, or the home of the child. Expenditure of funds
 1706 appropriated for out-of-home care can be used to meet the needs
 1707 of a child in the child's own home or the home of a relative if
 1708 the child can be safely served in the child's own home or that
 1709 of a relative if placement can be avoided by the expenditure of
 1710 such funds, and if the expenditure of such funds in this manner
 1711 is equal to or less than the cost of out-of-home placement
 1712 ~~calculated by the department to be a potential cost savings.~~
 1713 Section 21. Paragraph (c) of subsection (2) of section
 1714 409.967, Florida Statutes, is amended to read:
 1715 409.967 Managed care plan accountability.-
 1716 (2) The agency shall establish such contract requirements

1717 as are necessary for the operation of the statewide managed care
 1718 program. In addition to any other provisions the agency may deem
 1719 necessary, the contract must require:

1720 (c) Access.—

1721 1. The agency shall establish specific standards for the
 1722 number, type, and regional distribution of providers in managed
 1723 care plan networks to ensure access to care for both adults and
 1724 children. Each plan must maintain a regionwide network of
 1725 providers in sufficient numbers to meet the access standards for
 1726 specific medical services for all recipients enrolled in the
 1727 plan. The exclusive use of mail-order pharmacies may not be
 1728 sufficient to meet network access standards. Consistent with the
 1729 standards established by the agency, provider networks may
 1730 include providers located outside the region. A plan may
 1731 contract with a new hospital facility before the date the
 1732 hospital becomes operational if the hospital has commenced
 1733 construction, will be licensed and operational by January 1,
 1734 2013, and a final order has issued in any civil or
 1735 administrative challenge. Each plan shall establish and maintain
 1736 an accurate and complete electronic database of contracted
 1737 providers, including information about licensure or
 1738 registration, locations and hours of operation, specialty
 1739 credentials and other certifications, specific performance
 1740 indicators, and such other information as the agency deems
 1741 necessary. The database must be available online to both the
 1742 agency and the public and have the capability to compare the

1743 availability of providers to network adequacy standards and to
 1744 accept and display feedback from each provider's patients. Each
 1745 plan shall submit quarterly reports to the agency identifying
 1746 the number of enrollees assigned to each primary care provider.

1747 2. Each managed care plan must publish any prescribed drug
 1748 formulary or preferred drug list on the plan's website in a
 1749 manner that is accessible to and searchable by enrollees and
 1750 providers. The plan must update the list within 24 hours after
 1751 making a change. Each plan must ensure that the prior
 1752 authorization process for prescribed drugs is readily accessible
 1753 to health care providers, including posting appropriate contact
 1754 information on its website and providing timely responses to
 1755 providers. For Medicaid recipients diagnosed with hemophilia who
 1756 have been prescribed anti-hemophilic-factor replacement
 1757 products, the agency shall provide for those products and
 1758 hemophilia overlay services through the agency's hemophilia
 1759 disease management program.

1760 3. Managed care plans, and their fiscal agents or
 1761 intermediaries, must accept prior authorization requests for any
 1762 service electronically.

1763 4. Managed care plans serving children in the care and
 1764 custody of the Department of Children and Families must maintain
 1765 complete medical, dental, and behavioral health information and
 1766 provide such information to the department for inclusion in the
 1767 state's child welfare data system. Using such documentation, the
 1768 agency and the department shall determine the plan's compliance

1769 with standards for access to medical, dental, and behavioral
 1770 health services; the use of psychotropic medications; and
 1771 followup on all medically necessary services recommended as a
 1772 result of early and periodic screening, diagnosis, and
 1773 treatment.

1774 Section 22. Part V of chapter 409, Florida Statutes,
 1775 consisting of ss. 409.986-409.998, is created and entitled
 1776 "COMMUNITY-BASED CHILD WELFARE."

1777 Section 23. Section 409.986, Florida Statutes, is created
 1778 to read:

1779 409.986 Legislative findings and intent; child protection
 1780 and child welfare outcomes; definitions.-

1781 (1) LEGISLATIVE FINDINGS AND INTENT.-

1782 (a) It is the intent of the Legislature that the
 1783 Department of Children and Families provide child protection and
 1784 child welfare services to children through contracting with
 1785 community-based care lead agencies. It is the further intent of
 1786 the Legislature that communities have responsibility for and
 1787 participate in ensuring safety, permanence, and well-being for
 1788 all children in the state.

1789 (b) The Legislature finds that when private entities
 1790 assume responsibility for the care of children in the child
 1791 protection and child welfare system, adequate oversight of the
 1792 programmatic, administrative, and fiscal operation of those
 1793 entities is essential. The Legislature further finds that the
 1794 appropriate care of children is ultimately the responsibility of

1795 the state and that outsourcing such care does not relieve the
 1796 state of its responsibility to ensure that appropriate care is
 1797 provided.

1798 (2) CHILD PROTECTION AND CHILD WELFARE OUTCOMES.—It is the
 1799 goal of the department to achieve the following outcomes in
 1800 conjunction with the community-based care lead agency,
 1801 community-based subcontractors, and the community alliance:

1802 (a) Children are first and foremost protected from abuse
 1803 and neglect.

1804 (b) Children are safely maintained in their homes, if
 1805 possible and appropriate.

1806 (c) Services are provided to protect children and prevent
 1807 their removal from their home.

1808 (d) Children have permanency and stability in their living
 1809 arrangements.

1810 (e) Family relationships and connections are preserved for
 1811 children.

1812 (f) Families have enhanced capacity to provide for their
 1813 children's needs.

1814 (g) Children receive appropriate services to meet their
 1815 educational needs.

1816 (h) Children receive adequate services to meet their
 1817 physical and mental health needs.

1818 (i) Children develop the capacity for independent living
 1819 and competence as an adult.

1820 (3) DEFINITIONS.—As used in this part, except as otherwise

1821 provided, the term:

1822 (a) "Care" means services of any kind that are designed to
 1823 facilitate a child remaining safely in his or her own home,
 1824 returning safely to his or her own home if he or she is removed
 1825 from the home, or obtaining an alternative permanent home if he
 1826 or she cannot remain at home or be returned home. The term
 1827 includes, but is not be limited to, prevention, diversion, and
 1828 related services.

1829 (b) "Child" or "children" has the same meaning as provided
 1830 in s. 39.01.

1831 (c) "Community alliance" or "alliance" means the group of
 1832 stakeholders, community leaders, client representatives, and
 1833 funders of human services established pursuant to s. 20.19(5) to
 1834 provide a focal point for community participation and oversight
 1835 of community-based services.

1836 (d) "Community-based care lead agency" or "lead agency"
 1837 means a single entity with which the department has a contract
 1838 for the provision of care for children in the child protection
 1839 and child welfare system in a community that is no smaller than
 1840 a county and no larger than two contiguous judicial circuits.
 1841 The secretary of the department may authorize more than one
 1842 eligible lead agency within a single county if doing so will
 1843 result in more effective delivery of services to children.

1844 (e) "Dependent child" means a child who is determined by
 1845 the court to be in need of care due to allegations of abuse,
 1846 neglect, or abandonment.

1847 (f) "Related services" includes, but is not limited to,
 1848 family preservation, independent living, emergency shelter,
 1849 residential group care, foster care, therapeutic foster care,
 1850 intensive residential treatment, foster care supervision, case
 1851 management, coordination of mental health services,
 1852 postplacement supervision, permanent foster care, and family
 1853 reunification.

1854 Section 24. Section 409.987, Florida Statutes, is created
 1855 to read:

1856 409.987 Lead agency procurement.-

1857 (1) Community-based care lead agencies shall be procured
 1858 by the department through a competitive process as required by
 1859 chapter 287.

1860 (2) The department shall produce a schedule for the
 1861 procurement of community-based care lead agencies and provide
 1862 the schedule to the community alliances established pursuant to
 1863 s. 409.998 and post the schedule on the department's website.

1864 (3) Notwithstanding s. 287.057, the department shall use
 1865 5-year contracts with lead agencies.

1866 (4) In order to serve as a lead agency, an entity must:

1867 (a) Be organized as a Florida corporation or a
 1868 governmental entity.

1869 (b) Be governed by a board of directors or a board
 1870 committee composed of board members. The membership of the board
 1871 of directors or board committee must be described in the bylaws
 1872 or articles of incorporation of each lead agency, which must

1873 provide that at least 75 percent of the membership of the board
 1874 of directors or board committee must be composed of persons
 1875 residing in this state, and at least 51 percent of the state
 1876 residents on the board of directors must reside within the
 1877 service area of the lead agency. However, for procurements of
 1878 lead agency contracts initiated on or after July 1, 2014:

1879 1. At least 75 percent of the membership of the board of
 1880 directors must be persons residing in this state, and at least
 1881 51 percent of the membership of the board of directors must be
 1882 persons residing within the service area of the lead agency. If
 1883 a board committee governs the lead agency, 100 percent of its
 1884 membership must be persons residing within the service area of
 1885 the lead agency.

1886 2. The powers of the board of directors or board committee
 1887 must include, but need not be limited to, approving the lead
 1888 agency's budget and setting the lead agency's operational policy
 1889 and procedures. A board of directors must additionally have the
 1890 power to hire the lead agency's executive director, unless a
 1891 board committee governs the lead agency, in which case the board
 1892 committee must have the power to confirm the selection of the
 1893 lead agency's executive director.

1894 (c) Demonstrate financial responsibility through an
 1895 organized plan for regular fiscal audits and the posting of a
 1896 performance bond.

1897 (5) The department's procurement team procuring any lead
 1898 agencies' contracts must include individuals from the community

1899 alliance in the area to be served under the contract. All
 1900 meetings at which vendors make presentations to or negotiate
 1901 with the procurement team shall be held in the area to be served
 1902 by the contract.

1903 Section 25. Section 409.988, Florida Statutes, is created
 1904 to read:

1905 409.988 Lead agency duties; general provisions.-

1906 (1) DUTIES.-A lead agency:

1907 (a) Shall serve all children referred as a result of a
 1908 report of abuse, neglect, or abandonment to the department's
 1909 central abuse hotline, including, but not limited to, children
 1910 who are the subjects of verified reports and children who are
 1911 not the subjects of verified reports but who are at moderate to
 1912 extremely high risk of abuse, neglect, or abandonment, as
 1913 determined using the department's risk assessment instrument,
 1914 regardless of the level of funding allocated to the lead agency
 1915 by the state if all related funding is transferred. The lead
 1916 agency may also serve children who have not been subjects of
 1917 reports of abuse, neglect, or abandonment, but who are at risk
 1918 of abuse, neglect, or abandonment, to prevent their entry into
 1919 the child protection and child welfare system.

1920 (b) Shall provide accurate and timely information
 1921 necessary for oversight by the department pursuant to the child
 1922 welfare results-oriented accountability system required by s.

1923 409.997.

1924 (c) Shall follow the financial guidelines developed by the

1925 department and provide for a regular independent auditing of its
 1926 financial activities. Such financial information shall be
 1927 provided to the community alliance established under s. 409.998.

1928 (d) Shall post on its website the current budget for the
 1929 lead agency, including the salaries, bonuses, and other
 1930 compensation paid, by position, for the agency's chief executive
 1931 officer, chief financial officer, chief operating officer, or
 1932 their equivalents.

1933 (e) Shall prepare all judicial reviews, case plans, and
 1934 other reports necessary for court hearings for dependent
 1935 children, except those related to the investigation of a
 1936 referral from the department's central abuse hotline, and shall
 1937 provide testimony as required for dependency court proceedings.
 1938 This duty does not include the preparation of legal pleadings or
 1939 other legal documents, which shall remain the responsibility of
 1940 the department.

1941 (f) Shall ensure that all individuals providing care for
 1942 dependent children receive appropriate training and meet the
 1943 minimum employment standards established by the department.

1944 (g) Shall maintain eligibility to receive all available
 1945 federal child welfare funds.

1946 (h) Shall maintain written agreements with Healthy
 1947 Families Florida lead entities in its service area pursuant to
 1948 s. 409.153 to promote cooperative planning for the provision of
 1949 prevention and intervention services.

1950 (i) Shall comply with federal and state statutory

1951 requirements and agency rules in the provision of contractual
 1952 services.

1953 (j) May subcontract for the provision of services required
 1954 by the contract with the lead agency and the department;
 1955 however, the subcontracts must specify how the provider will
 1956 contribute to the lead agency meeting the performance standards
 1957 established pursuant to the child welfare results-oriented
 1958 accountability system required by s. 409.997. The lead agency
 1959 shall directly provide no more than 35 percent of all child
 1960 welfare services provided.

1961 (k) Shall post on its website by the 15th day of each
 1962 month at a minimum the information contained in subparagraphs
 1963 1.-4. for the preceding calendar month regarding its case
 1964 management services. The following information shall be reported
 1965 by each individual subcontracted case management provider, by
 1966 the lead agency, if the lead agency provides case management
 1967 services, and in total for all case management services
 1968 subcontracted or directly provided by the lead agency:

1969 1. The average caseload of case managers, including only
 1970 filled positions;

1971 2. The turnover rate for case managers and case management
 1972 supervisors for the previous 12 months;

1973 3. The percentage of required home visits completed; and

1974 4. The performance on outcome measures required pursuant
 1975 to s. 409.997 for the previous 12 months.

1976 (2) LICENSURE.-

HB 7169

2014

1977 (a) A lead agency must be licensed as a child-caring or
 1978 child-placing agency by the department under this chapter.

1979 (b) Each foster home, therapeutic foster home, emergency
 1980 shelter, or other placement facility operated by the lead agency
 1981 must be licensed by the department under chapter 402 or this
 1982 chapter.

1983 (c) Substitute care providers who are licensed under s.
 1984 409.175 and who have contracted with a lead agency are also
 1985 authorized to provide registered or licensed family day care
 1986 under s. 402.313 if such care is consistent with federal law and
 1987 if the home has met the requirements of s. 402.313.

1988 (d) In order to eliminate or reduce the number of
 1989 duplicate inspections by various program offices, the department
 1990 shall coordinate inspections required for licensure of agencies
 1991 under this subsection.

1992 (e) The department may adopt rules to administer this
 1993 subsection.

1994 (3) SERVICES.—A lead agency must serve dependent children
 1995 through services that are supported by research or are best
 1996 child welfare practices. The agency may also provide innovative
 1997 services, including, but not limited to, family-centered,
 1998 cognitive-behavioral, trauma-informed interventions designed to
 1999 mitigate out-of-home placements.

2000 (4) LEAD AGENCY ACTING AS GUARDIAN.—

2001 (a) If a lead agency or other provider has accepted case
 2002 management responsibilities for a child who is sheltered or

2003 found to be dependent and who is assigned to the care of the
 2004 lead agency or other provider, the agency or provider may act as
 2005 the child's guardian for the purpose of registering the child in
 2006 school if a parent or guardian of the child is unavailable and
 2007 his or her whereabouts cannot reasonably be ascertained.

2008 (b) The lead agency or other provider may also seek
 2009 emergency medical attention for the child, but only if a parent
 2010 or guardian of the child is unavailable, the parent or
 2011 guardian's whereabouts cannot reasonably be ascertained, and a
 2012 court order for such emergency medical services cannot be
 2013 obtained because of the severity of the emergency or because it
 2014 is after normal working hours.

2015 (c) A lead agency or other provider may not consent to
 2016 sterilization, abortion, or termination of life support.

2017 (d) If a child's parents' rights have been terminated, the
 2018 lead agency shall act as guardian of the child in all
 2019 circumstances.

2020 Section 26. Section 409.990, Florida Statutes, is created
 2021 to read:

2022 409.990 Funding for lead agencies.—A contract established
 2023 between the department and a lead agency must be funded by a
 2024 grant of general revenue, other applicable state funds, or
 2025 applicable federal funding sources.

2026 (1) The method of payment for a fixed-price contract with
 2027 a lead agency must provide for a 2-month advance payment at the
 2028 beginning of each fiscal year and equal monthly payments

2029 thereafter.

2030 (2) Notwithstanding s. 215.425, all documented federal
 2031 funds earned for the current fiscal year by the department and
 2032 lead agencies that exceed the amount appropriated by the
 2033 Legislature shall be distributed to all entities that
 2034 contributed to the excess earnings based on a schedule and
 2035 methodology developed by the department and approved by the
 2036 Executive Office of the Governor.

2037 (a) Distribution shall be pro rata based on total earnings
 2038 and shall be made only to those entities that contributed to
 2039 excess earnings.

2040 (b) Excess earnings of lead agencies shall be used only in
 2041 the service district in which they were earned.

2042 (c) Additional state funds appropriated by the Legislature
 2043 for lead agencies or made available pursuant to the budgetary
 2044 amendment process described in s. 216.177 shall be transferred
 2045 to the lead agencies.

2046 (d) The department shall amend a lead agency's contract to
 2047 permit expenditure of the funds.

2048 (3) Notwithstanding any other provision of this section,
 2049 the amount of the annual contract for a lead agency may be
 2050 increased by excess federal funds earned in accordance with s.
 2051 216.181(11).

2052 (4) Each contract with a lead agency shall provide for the
 2053 payment by the department to the lead agency of a reasonable
 2054 administrative cost in addition to funding for the provision of

2055 services.

2056 (5) A lead agency may carry forward documented unexpended
 2057 state funds from one fiscal year to the next; however, the
 2058 cumulative amount carried forward may not exceed 8 percent of
 2059 the total contract. Any unexpended state funds in excess of that
 2060 percentage must be returned to the department.

2061 (a) The funds carried forward may not be used in any way
 2062 that would create increased recurring future obligations, and
 2063 such funds may not be used for any type of program or service
 2064 that is not currently authorized by the existing contract with
 2065 the department.

2066 (b) Expenditures of funds carried forward must be
 2067 separately reported to the department.

2068 (c) Any unexpended funds that remain at the end of the
 2069 contract period shall be returned to the department.

2070 (d) Funds carried forward may be retained through any
 2071 contract renewals and any new procurements as long as the same
 2072 lead agency is retained by the department.

2073 (6) It is the intent of the Legislature to improve
 2074 services and local participation in community-based care
 2075 initiatives by fostering community support and providing
 2076 enhanced prevention and in-home services, thereby reducing the
 2077 risk otherwise faced by lead agencies. A community partnership
 2078 matching grant program is established and shall be operated by
 2079 the department to encourage local participation in community-
 2080 based care for children in the child welfare system. A

2081 children's services council or another local entity that makes a
 2082 financial commitment to a community-based care lead agency may
 2083 be eligible for a matching grant. The total amount of the local
 2084 contribution may be matched on a one-to-one basis up to a
 2085 maximum annual amount of \$500,000 per lead agency. Awarded
 2086 matching grant funds may be used for any prevention or in-home
 2087 services that can be reasonably expected to reduce the number of
 2088 children entering the child welfare system. Funding available
 2089 for the matching grant program is subject to legislative
 2090 appropriation of nonrecurring funds provided for this purpose.

2091 (7)(a) The department, in consultation with the Florida
 2092 Coalition for Children, Inc., shall develop and implement a
 2093 community-based care risk pool initiative to mitigate the
 2094 financial risk to eligible lead agencies. This initiative must
 2095 include:

2096 1. A risk pool application and protocol developed by the
 2097 department that outlines submission criteria, including, but not
 2098 limited to, financial and program management, descriptive data
 2099 requirements, and timeframes for submission of applications.
 2100 Requests for funding from risk pool applicants must be based on
 2101 relevant and verifiable service trends and changes that have
 2102 occurred during the current fiscal year. The application must
 2103 confirm that expenditure of approved risk pool funds by the lead
 2104 agency will be completed within the current fiscal year.

2105 2. A risk pool peer review committee, appointed by the
 2106 secretary and consisting of department staff and representatives

2107 from at least three nonapplicant lead agencies, that reviews and
 2108 assesses all risk pool applications. Upon completion of each
 2109 application review, the peer review committee shall report its
 2110 findings and recommendations to the secretary, providing, at a
 2111 minimum, the following information:

2112 a. Justification for the specific funding amount required
 2113 by the risk pool applicant based on the current year's service
 2114 trend data, including validation that the applicant's financial
 2115 need was caused by circumstances beyond the control of the lead
 2116 agency management;

2117 b. Verification that the proposed use of risk pool funds
 2118 meets at least one of the purposes in paragraph (c); and

2119 c. Evidence of technical assistance provided in an effort
 2120 to avoid the need to access the risk pool and recommendations
 2121 for technical assistance to the lead agency to ensure that risk
 2122 pool funds are expended effectively and that the agency's need
 2123 for future risk pool funding is diminished.

2124 (b) Upon approval by the secretary of a risk pool
 2125 application, the department may request funds from the risk pool
 2126 in accordance with s. 216.181(6) (a).

2127 (c) The purposes for which the community-based care risk
 2128 pool shall be used include:

2129 1. Significant changes in the number or composition of
 2130 clients eligible to receive services.

2131 2. Significant changes in the services that are eligible
 2132 for reimbursement.

2133 3. Continuity of care in the event of failure,
 2134 discontinuance of service, or financial misconduct by a lead
 2135 agency.

2136 4. Significant changes in the mix of available funds.

2137 (d) The department may also request in its annual
 2138 legislative budget request, and the Governor may recommend, that
 2139 the funding necessary to carry out paragraph (c) be appropriated
 2140 to the department. In addition, the department may request the
 2141 allocation of funds from the community-based care risk pool in
 2142 accordance with s. 216.181(6)(a). Funds from the pool may be
 2143 used to match available federal dollars.

2144 1. Such funds shall constitute partial security for
 2145 contract performance by lead agencies and shall be used to
 2146 offset the need for a performance bond.

2147 2. The department may separately require a bond to
 2148 mitigate the financial consequences of potential acts of
 2149 malfeasance or misfeasance or criminal violations by the service
 2150 provider.

2151 Section 27. Section 409.16713, Florida Statutes, is
 2152 transferred, renumbered as section 409.991, Florida Statutes,
 2153 and paragraph (a) of subsection (1) of that section is amended
 2154 to read:

2155 409.991 ~~409.16713~~ Allocation of funds for community-based
 2156 care lead agencies.—

2157 (1) As used in this section, the term:

2158 (a) "Core services funding" means all funds allocated to

2159 community-based care lead agencies operating under contract with
 2160 the department pursuant to s. 409.987 ~~s. 409.1671~~, with the
 2161 following exceptions:

- 2162 1. Funds appropriated for independent living;
- 2163 2. Funds appropriated for maintenance adoption subsidies;
- 2164 3. Funds allocated by the department for protective
 2165 investigations training;
- 2166 4. Nonrecurring funds;
- 2167 5. Designated mental health wrap-around services funds;
- 2168 and
- 2169 6. Funds for special projects for a designated community-
 2170 based care lead agency.

2171 Section 28. Section 409.992, Florida Statutes, is created
 2172 to read:

2173 409.992 Lead agency expenditures.—

2174 (1) The procurement of commodities or contractual services
 2175 by lead agencies shall be governed by the financial guidelines
 2176 developed by the department which comply with applicable state
 2177 and federal law and follow good business practices. Pursuant to
 2178 s. 11.45, the Auditor General may provide technical advice in
 2179 the development of the financial guidelines.

2180 (2) Notwithstanding any other provision of law, a
 2181 community-based care lead agency may make expenditures for staff
 2182 cellular telephone allowances, contracts requiring deferred
 2183 payments and maintenance agreements, security deposits for
 2184 office leases, related agency professional membership dues other

2185 than personal professional membership dues, promotional
 2186 materials, and grant writing services. Expenditures for food and
 2187 refreshments, other than those provided to clients in the care
 2188 of the agency or to foster parents, adoptive parents, and
 2189 caseworkers during training sessions, are not allowable.

2190 (3) A lead community-based care agency and its
 2191 subcontractors are exempt from state travel policies as provided
 2192 in s. 112.061(3)(a) for their travel expenses incurred in order
 2193 to comply with the requirements of this section.

2194 Section 29. Section 409.993, Florida Statutes, is created
 2195 to read:

2196 409.993 Lead agencies and subcontractor liability.-

2197 (1) FINDINGS.-

2198 (a) The Legislature finds that the state has traditionally
 2199 provided foster care services to children who are the
 2200 responsibility of the state. As such, foster children have not
 2201 had the right to recover for injuries beyond the limitations
 2202 specified in s. 768.28. The Legislature has determined that
 2203 foster care and related services should be outsourced pursuant
 2204 to this section and that the provision of such services is of
 2205 paramount importance to the state. The purpose of such
 2206 outsourcing is to increase the level of safety, security, and
 2207 stability of children who are or become the responsibility of
 2208 the state. One of the components necessary to secure a safe and
 2209 stable environment for such children is the requirement that
 2210 private providers maintain liability insurance. As such,

2211 insurance needs to be available and remain available to
 2212 nongovernmental foster care and related services providers
 2213 without the resources of such providers being significantly
 2214 reduced by the cost of maintaining such insurance.

2215 (b) The Legislature further finds that, by requiring the
 2216 following minimum levels of insurance, children in outsourced
 2217 foster care and related services will gain increased protection
 2218 and rights of recovery in the event of injury than currently
 2219 provided in s. 768.28.

2220 (2) LEAD AGENCY LIABILITY.—

2221 (a) Other than an entity to which s. 768.28 applies, an
 2222 eligible community-based care lead agency, or its employees or
 2223 officers, except as otherwise provided in paragraph (b), must,
 2224 as a part of its contract, obtain a minimum of \$1 million per
 2225 claim and \$3 million per incident in general liability insurance
 2226 coverage. The department shall verify the community-based care
 2227 lead agency's insurance coverage through its monitoring
 2228 processes. The community-based care lead agency must also
 2229 require that staff who transport client children and families in
 2230 their personal automobiles in order to carry out their job
 2231 responsibilities obtain minimum bodily injury liability
 2232 insurance in the amount of \$100,000 per claim and \$300,000 per
 2233 incident on their personal automobiles. In lieu of personal
 2234 motor vehicle insurance, the lead agency's casualty, liability,
 2235 or motor vehicle insurance carrier may provide nonowned
 2236 automobile liability coverage. Such insurance provides liability

2237 insurance for automobiles that the provider uses in connection
 2238 with the agency's business but does not own, lease, rent, or
 2239 borrow. Such coverage includes automobiles owned by the
 2240 employees of the lead agency or a member of the employee's
 2241 household but only while the automobiles are used in connection
 2242 with the agency's business. The nonowned automobile coverage for
 2243 the lead agency applies as excess coverage over any other
 2244 collectible insurance. The personal automobile policy for the
 2245 employee of the lead agency must be primary insurance, and the
 2246 nonowned automobile coverage of the agency acts as excess
 2247 insurance to the primary insurance. The lead agency shall
 2248 provide a minimum limit of \$1 million in nonowned automobile
 2249 coverage. In a tort action brought against such an eligible
 2250 community-based care lead agency or employee, net economic
 2251 damages shall be limited to \$1 million per liability claim and
 2252 \$100,000 per automobile claim, including, but not limited to,
 2253 past and future medical expenses, wage loss, and loss of earning
 2254 capacity, offset by any collateral source payment paid or
 2255 payable. In any tort action brought against such an eligible
 2256 community-based care lead agency, noneconomic damages shall be
 2257 limited to \$200,000 per claim. A claim bill may be brought on
 2258 behalf of a claimant pursuant to s. 768.28 for any amount
 2259 exceeding the limits specified in this paragraph. Any offset of
 2260 collateral source payments made as of the date of the settlement
 2261 or judgment shall be in accordance with s. 768.76. The
 2262 community-based care lead agency is not liable in tort for the

2263 acts or omissions of its subcontractors or the officers, agents,
 2264 or employees of its subcontractors.

2265 (b) The liability of an eligible community-based care lead
 2266 agency described in this section shall be exclusive and in place
 2267 of all other liability of such lead agency. The same immunities
 2268 from liability enjoyed by such lead agencies shall extend to
 2269 each employee of the lead agency when such employee is acting in
 2270 furtherance of the agency's business, including the
 2271 transportation of clients served, as described in this
 2272 subsection, in privately owned vehicles. Such immunities are not
 2273 applicable to a lead agency or an employee who acts in a
 2274 culpably negligent manner or with willful and wanton disregard
 2275 or unprovoked physical aggression if such acts result in injury
 2276 or death or if such acts proximately cause such injury or death.
 2277 Such immunities are not applicable to employees of the same lead
 2278 agency when each is operating in the furtherance of the agency's
 2279 business but they are assigned primarily to unrelated work
 2280 within private or public employment. The same immunity
 2281 provisions enjoyed by a lead agency also apply to any sole
 2282 proprietor, partner, corporate officer or director, supervisor,
 2283 or other person who in the course and scope of his or her duties
 2284 acts in a managerial or policymaking capacity and the conduct
 2285 that caused the alleged injury arose within the course and scope
 2286 of those managerial or policymaking duties. As used in this
 2287 subsection and subsection (3), the term "culpably negligent
 2288 manner" means reckless indifference or grossly careless

2289 disregard of human life.
 2290 (3) SUBCONTRACTOR LIABILITY.—
 2291 (a) A subcontractor of an eligible community-based care
 2292 lead agency that is a direct provider of foster care and related
 2293 services to children and families, and its employees or
 2294 officers, except as otherwise provided in paragraph (b), must,
 2295 as a part of its contract, obtain a minimum of \$1 million per
 2296 claim and \$3 million per incident in general liability insurance
 2297 coverage. The subcontractor of an eligible community-based care
 2298 lead agency must also require that staff who transport client
 2299 children and families in their personal automobiles in order to
 2300 carry out their job responsibilities obtain minimum bodily
 2301 injury liability insurance in the amount of \$100,000 per claim
 2302 and \$300,000 per incident on their personal automobiles. In lieu
 2303 of personal motor vehicle insurance, the subcontractor's
 2304 casualty, liability, or motor vehicle insurance carrier may
 2305 provide nonowned automobile liability coverage. Such insurance
 2306 provides liability insurance for automobiles that the
 2307 subcontractor uses in connection with the subcontractor's
 2308 business but does not own, lease, rent, or borrow. Such coverage
 2309 includes automobiles owned by the employees of the subcontractor
 2310 or a member of the employee's household but only while the
 2311 automobiles are used in connection with the subcontractor's
 2312 business. The nonowned automobile coverage for the subcontractor
 2313 applies as excess coverage over any other collectible insurance.
 2314 The personal automobile policy for the employee of the

2315 subcontractor shall be primary insurance, and the nonowned
 2316 automobile coverage of the subcontractor acts as excess
 2317 insurance to the primary insurance. The subcontractor shall
 2318 provide a minimum limit of \$1 million in nonowned automobile
 2319 coverage. In a tort action brought against such subcontractor or
 2320 employee, net economic damages shall be limited to \$1 million
 2321 per liability claim and \$100,000 per automobile claim,
 2322 including, but not limited to, past and future medical expenses,
 2323 wage loss, and loss of earning capacity, offset by any
 2324 collateral source payment paid or payable. In a tort action
 2325 brought against such subcontractor, noneconomic damages shall be
 2326 limited to \$200,000 per claim. A claims bill may be brought on
 2327 behalf of a claimant pursuant to s. 768.28 for any amount
 2328 exceeding the limits specified in this paragraph. Any offset of
 2329 collateral source payments made as of the date of the settlement
 2330 or judgment shall be in accordance with s. 768.76.

2331 (b) The liability of a subcontractor of an eligible
 2332 community-based care lead agency that is a direct provider of
 2333 foster care and related services as described in this section
 2334 shall be exclusive and in place of all other liability of such
 2335 provider. The same immunities from liability enjoyed by such
 2336 subcontractor provider shall extend to each employee of the
 2337 subcontractor when such employee is acting in furtherance of the
 2338 subcontractor's business, including the transportation of
 2339 clients served, as described in this subsection, in privately
 2340 owned vehicles. Such immunities are not applicable to a

2341 subcontractor or an employee who acts in a culpably negligent
 2342 manner or with willful and wanton disregard or unprovoked
 2343 physical aggression if such acts result in injury or death or if
 2344 such acts proximately cause such injury or death. Such
 2345 immunities are not applicable to employees of the same
 2346 subcontractor when each is operating in the furtherance of the
 2347 subcontractor's business but they are assigned primarily to
 2348 unrelated works within private or public employment. The same
 2349 immunity provisions enjoyed by a subcontractor also apply to any
 2350 sole proprietor, partner, corporate officer or director,
 2351 supervisor, or other person who in the course and scope of his
 2352 or her duties acts in a managerial or policymaking capacity and
 2353 the conduct that caused the alleged injury arose within the
 2354 course and scope of those managerial or policymaking duties.

2355 Section 30. Section 409.1675, Florida Statutes, is
 2356 transferred, renumbered as section 409.994, Florida Statutes,
 2357 and amended to read:

2358 409.994 ~~409.1675~~ ~~Lead~~ Community-based care lead agencies
 2359 ~~providers~~; receivership.-

2360 (1) The Department of Children and Families ~~Family~~
 2361 ~~Services~~ may petition a court of competent jurisdiction for the
 2362 appointment of a receiver for a ~~lead~~ community-based care lead
 2363 agency provider established pursuant to s. 409.987 if ~~s.~~
 2364 ~~409.1671~~ when any of the following conditions exist:

2365 (a) The lead agency ~~community-based provider~~ is operating
 2366 without a license as a child-placing agency.

2367 (b) The lead agency ~~community-based provider~~ has given
 2368 less than 120 days' notice of its intent to cease operations,
 2369 and arrangements have not been made for another lead agency
 2370 ~~community-based provider~~ or for the department to continue the
 2371 uninterrupted provision of services.

2372 (c) The department determines that conditions exist in the
 2373 lead agency ~~community-based provider~~ which present an imminent
 2374 danger to the health, safety, or welfare of the dependent
 2375 children under that agency's ~~provider's~~ care or supervision.
 2376 Whenever possible, the department shall make a reasonable effort
 2377 to facilitate the continued operation of the program.

2378 (d) The lead agency ~~community-based provider~~ cannot meet
 2379 its current financial obligations to its employees, contractors,
 2380 or foster parents. Issuance of bad checks or the existence of
 2381 delinquent obligations for payment of salaries, utilities, or
 2382 invoices for essential services or commodities shall constitute
 2383 prima facie evidence that the lead agency ~~community-based~~
 2384 ~~provider~~ lacks the financial ability to meet its financial
 2385 obligations.

2386 (2)(a) The petition for receivership shall take precedence
 2387 over other court business unless the court determines that some
 2388 other pending proceeding, having statutory precedence, has
 2389 priority.

2390 (b) A hearing shall be conducted within 5 days after the
 2391 filing of the petition, at which time interested parties shall
 2392 have the opportunity to present evidence as to whether a

2393 receiver should be appointed. The department shall give
 2394 reasonable notice of the hearing on the petition to the lead
 2395 agency ~~community-based provider~~.

2396 (c) The court shall grant the petition upon finding that
 2397 one or more of the conditions in subsection (1) exists and the
 2398 continued existence of the condition or conditions jeopardizes
 2399 the health, safety, or welfare of dependent children. A receiver
 2400 may be appointed ex parte when the court determines that one or
 2401 more of the conditions in subsection (1) exists. After such
 2402 finding, the court may appoint any person, including an employee
 2403 of the department who is qualified by education, training, or
 2404 experience to carry out the duties of the receiver pursuant to
 2405 this section, except that the court may ~~shall~~ not appoint any
 2406 member of the governing board or any officer of the lead agency
 2407 ~~community-based provider~~. The receiver may be selected from a
 2408 list of persons qualified to act as receivers which is developed
 2409 by the department and presented to the court with each petition
 2410 of receivership.

2411 (d) A receiver may be appointed for up to 90 days, and the
 2412 department may petition the court for additional 30-day
 2413 extensions. Sixty days after appointment of a receiver and every
 2414 30 days thereafter until the receivership is terminated, the
 2415 department shall submit to the court an assessment of the lead
 2416 agency's ~~community-based provider's~~ ability to ensure the
 2417 health, safety, and welfare of the dependent children under its
 2418 supervision.

2419 (3) The receiver shall take such steps as are reasonably
 2420 necessary to ensure the continued health, safety, and welfare of
 2421 the dependent children under the supervision of the lead agency
 2422 ~~community-based provider~~ and shall exercise those powers and
 2423 perform those duties set out by the court, including, but not
 2424 limited to:

2425 (a) Taking such action as is reasonably necessary to
 2426 protect or conserve the assets or property of the lead agency
 2427 ~~community-based provider~~. The receiver may use the assets and
 2428 property and any proceeds from any transfer thereof only in the
 2429 performance of the powers and duties provided ~~set forth~~ in this
 2430 section and by order of the court.

2431 (b) Using the assets of the lead agency ~~community-based~~
 2432 ~~provider~~ in the provision of care and services to dependent
 2433 children.

2434 (c) Entering into contracts and hiring agents and
 2435 employees to carry out the powers and duties of the receiver
 2436 under this section.

2437 (d) Having full power to direct, manage, hire, and
 2438 discharge employees of the lead agency ~~community-based provider~~.
 2439 The receiver shall hire and pay new employees at the rate of
 2440 compensation, including benefits, approved by the court.

2441 (e) Honoring all leases, mortgages, and contractual
 2442 obligations of the lead agency ~~community-based provider~~, but
 2443 only to the extent of payments that become due during the period
 2444 of the receivership.

2445 (4) (a) The receiver shall deposit funds received in a
 2446 separate account and shall use this account for all
 2447 disbursements.

2448 (b) A payment to the receiver of any sum owing to the lead
 2449 agency ~~community-based provider~~ shall discharge any obligation
 2450 to the provider to the extent of the payment.

2451 (5) A receiver may petition the court for temporary relief
 2452 from obligations entered into by the lead agency ~~community-based~~
 2453 ~~provider~~ if the rent, price, or rate of interest required to be
 2454 paid under the agreement was substantially in excess of a
 2455 reasonable rent, price, or rate of interest at the time the
 2456 contract was entered into, or if any material provision of the
 2457 agreement was unreasonable when compared to contracts negotiated
 2458 under similar conditions. Any relief in this form provided by
 2459 the court shall be limited to the life of the receivership,
 2460 unless otherwise determined by the court.

2461 (6) The court shall set the compensation of the receiver,
 2462 which shall be considered a necessary expense of a receivership
 2463 and may grant to the receiver such other authority necessary to
 2464 ensure the health, safety, and welfare of the children served.

2465 (7) A receiver may be held liable in a personal capacity
 2466 only for the receiver's own gross negligence, intentional acts,
 2467 or breaches of fiduciary duty. This section may ~~shall~~ not be
 2468 interpreted to be a waiver of sovereign immunity should the
 2469 department be appointed receiver.

2470 (8) If the receiver is not the department, the court may

2471 require a receiver to post a bond to ensure the faithful
 2472 performance of these duties.

2473 (9) The court may terminate a receivership when:

2474 (a) The court determines that the receivership is no
 2475 longer necessary because the conditions that gave rise to the
 2476 receivership no longer exist; or

2477 (b) The department has entered into a contract with a new
 2478 lead agency ~~community-based provider~~ pursuant to s. 409.987 s.
 2479 ~~409.1671~~, and that contractor is ready and able to assume the
 2480 duties of the previous lead agency ~~provider~~.

2481 (10) Within 30 days after the termination, unless this
 2482 time period is extended by the court, the receiver shall give
 2483 the court a complete accounting of all property of which the
 2484 receiver has taken possession, of all funds collected and
 2485 disbursed, and of the expenses of the receivership.

2486 (11) ~~Nothing in~~ This section does not ~~shall be construed~~
 2487 ~~to~~ relieve any employee of the lead agency ~~community-based~~
 2488 ~~provider~~ placed in receivership of any civil or criminal
 2489 liability incurred, or any duty imposed by law, by reason of
 2490 acts or omissions of the employee before ~~prior to~~ the
 2491 appointment of a receiver, ~~and, nor shall anything contained in~~
 2492 this section does not ~~be construed to~~ suspend during the
 2493 receivership any obligation of the employee for payment of taxes
 2494 or other operating or maintenance expenses of the lead agency
 2495 ~~community-based provider~~ or for the payment of mortgages or
 2496 liens. The lead agency ~~community-based provider~~ shall retain the

2497 right to sell or mortgage any facility under receivership,
 2498 subject to the prior approval of the court that ordered the
 2499 receivership.

2500 Section 31. Section 409.996, Florida Statutes, is created
 2501 to read:

2502 409.996 Duties of the Department of Children and
 2503 Families.—The department shall contract for the delivery,
 2504 administration, or management of care for children in the child
 2505 protection and child welfare system. In doing so, the department
 2506 retains responsibility for the quality of contracted services
 2507 and programs and shall ensure that services are delivered in
 2508 accordance with applicable federal and state statutes and
 2509 regulations.

2510 (1) The department shall enter into contracts with lead
 2511 agencies to perform the duties of a lead agency pursuant to s.
 2512 409.988. At a minimum, the contracts must:

2513 (a) Provide for the services needed to accomplish the
 2514 duties established in s. 409.988 and provide information to the
 2515 department that is necessary to meet the requirements for a
 2516 quality assurance program pursuant to subsection (18) and the
 2517 child welfare results-oriented accountability system pursuant to
 2518 s. 409.997.

2519 (b) Provide for graduated penalties for failure to comply
 2520 with contract terms. Such penalties may include financial
 2521 penalties, enhanced monitoring and reporting, corrective action
 2522 plans, and early termination of contracts or other appropriate

2523 action to ensure contract compliance.

2524 (c) Ensure that the lead agency shall furnish current and
 2525 accurate information on its activities in all cases in client
 2526 case records in the state's statewide automated child welfare
 2527 information system.

2528 (d) Specify the procedures to be used by the parties to
 2529 resolve differences in interpreting the contract or to resolve
 2530 disputes as to the adequacy of the parties' compliance with
 2531 their respective obligations under the contract.

2532 (2) The department must adopt written policies and
 2533 procedures for monitoring the contract for delivery of services
 2534 by lead agencies which must be posted on the department's
 2535 website. These policies and procedures must, at a minimum,
 2536 address the evaluation of fiscal accountability and program
 2537 operations, including provider achievement of performance
 2538 standards, provider monitoring of subcontractors, and timely
 2539 follow up of corrective actions for significant monitoring
 2540 findings related to providers and subcontractors. These policies
 2541 and procedures must also include provisions for reducing the
 2542 duplication of the department's program monitoring activities
 2543 both internally and with other agencies, to the extent possible.
 2544 The department's written procedures must ensure that the written
 2545 findings, conclusions, and recommendations from monitoring the
 2546 contract for services of lead agencies are communicated to the
 2547 director of the provider agency and the community alliance as
 2548 expeditiously as possible.

2549 (3) The department shall receive federal and state funds
 2550 as appropriated for the operation of the child welfare system
 2551 and shall transmit these funds to the lead agencies as agreed to
 2552 in the contract. The department retains responsibility for the
 2553 appropriate spending of these funds. The department shall
 2554 monitor lead agencies to assess compliance with the financial
 2555 guidelines established pursuant to s. 409.992 and other
 2556 applicable state and federal laws.

2557 (4) The department shall provide technical assistance and
 2558 consultation to lead agencies in the provision of care to
 2559 children in the child protection and child welfare system.

2560 (5) The department retains the responsibility for the
 2561 review, approval or denial, and issuances of all foster home
 2562 licenses.

2563 (6) The department shall process all applications
 2564 submitted by lead agencies for the Interstate Compact on the
 2565 Placement of Children and the Interstate Compact on Adoption and
 2566 Medical Assistance.

2567 (7) The department shall assist lead agencies with access
 2568 to and coordination with other service programs within the
 2569 department.

2570 (8) The department shall determine Medicaid eligibility
 2571 for all referred children and shall coordinate services with the
 2572 Agency for Health Care Administration.

2573 (9) The department shall develop, in cooperation with the
 2574 lead agencies and the third-party credentialing entity approved

2575 pursuant to s. 402.40(3), a standardized competency-based
 2576 curriculum for certification training for child protection
 2577 staff.

2578 (10) The department shall maintain the statewide adoptions
 2579 website and provide information and training to the lead
 2580 agencies relating to the website.

2581 (11) The department shall provide training and assistance
 2582 to lead agencies regarding the responsibility of lead agencies
 2583 relating to children receiving supplemental security income,
 2584 social security, railroad retirement, or veterans' benefits.

2585 (12) With the assistance of a lead agency, the department
 2586 shall develop and implement statewide and local interagency
 2587 agreements needed to coordinate services for children and
 2588 parents involved in the child welfare system who are also
 2589 involved with the Agency for Persons with Disabilities, the
 2590 Department of Juvenile Justice, the Department of Education, the
 2591 Department of Health, and other governmental organizations that
 2592 share responsibilities for children or parents in the child
 2593 welfare system.

2594 (13) With the assistance of a lead agency, the department
 2595 shall develop and implement a working agreement between the lead
 2596 agency and the substance abuse and mental health managing entity
 2597 to integrate services and supports for children and parents
 2598 serviced in the child welfare system.

2599 (14) The department shall work with the Agency for Health
 2600 Care Administration to provide each Medicaid-eligible child with

2601 early and periodic screening, diagnosis, and treatment,
 2602 including 72-hour screening, periodic child health checkups, and
 2603 prescribed follow up for ordered services, including, but not
 2604 limited to, medical, dental, and vision care.

2605 (15) The department shall assist lead agencies in
 2606 developing an array of services in compliance with the Title IV-
 2607 E waiver and shall monitor the provision of such services.

2608 (16) The department shall provide a mechanism to allow
 2609 lead agencies to request a waiver of department policies and
 2610 procedures that create inefficiencies or inhibit the performance
 2611 of the lead agency's duties.

2612 (17) The department shall directly or through contract
 2613 provide attorneys to prepare and present cases in dependency
 2614 court and shall ensure that the court is provided with adequate
 2615 information for informed decisionmaking in dependency cases,
 2616 including a fact sheet for each case that lists the names and
 2617 contact information for any child protective investigator, child
 2618 protective investigation supervisor, case manager, and case
 2619 manager supervisor, and the regional department official
 2620 responsible for the lead agency contract. For the Sixth Judicial
 2621 Circuit, the department shall contract with the state attorney
 2622 for the provision of these services.

2623 (18) The department, in consultation with lead agencies,
 2624 shall establish a quality assurance program for contracted
 2625 services to dependent children. The quality assurance program
 2626 shall be based on standards established by federal and state law

2627 and national accrediting organizations.

2628 (a) The department must evaluate each lead agency under
 2629 contract at least annually. These evaluations shall cover the
 2630 programmatic, operational, and fiscal operations of the lead
 2631 agency and must be consistent with the child welfare results-
 2632 oriented accountability system required by s. 409.997. The
 2633 department must consult with dependency judges in the circuit or
 2634 circuits served by the lead agency on the performance of the
 2635 lead agency.

2636 (b) The department shall, to the extent possible, use
 2637 independent financial audits provided by the lead agency to
 2638 eliminate or reduce the ongoing contract and administrative
 2639 reviews conducted by the department. If the department
 2640 determines that such independent financial audits are
 2641 inadequate, other audits, as necessary, may be conducted by the
 2642 department. This paragraph does not abrogate the requirements of
 2643 s. 215.97.

2644 (c) The department may suggest additional items to be
 2645 included in such independent financial audits to meet the
 2646 department's needs.

2647 (d) The department may outsource programmatic,
 2648 administrative, or fiscal monitoring oversight of lead agencies.

2649 (e) A lead agency must assure that all subcontractors are
 2650 subject to the same quality assurance activities as the lead
 2651 agency.

2652 Section 32. Section 409.997, Florida Statutes, is created

2653 to read:

2654 409.997 Child welfare results-oriented accountability
 2655 system.-

2656 (1) The department and its contract providers, including
 2657 lead agencies, community-based care providers, and other
 2658 community partners participating in the state's child protection
 2659 and child welfare system, share the responsibility for achieving
 2660 the outcome goals specified in s. 409.986(2).

2661 (2) In order to assess the achievement of the outcome
 2662 goals specified in s. 409.986(2), the department shall maintain
 2663 a comprehensive, results-oriented accountability system that
 2664 monitors the use of resources, the quality and amount of
 2665 services provided, and child and family outcomes through data
 2666 analysis, research review, evaluation, and quality improvement.
 2667 The system shall provide information about individual entities'
 2668 performance as well as the performance of groups of entities
 2669 working together as an integrated system of care on a local,
 2670 regional, and statewide basis. In maintaining the accountability
 2671 system, the department shall:

2672 (a) Identify valid and reliable outcome measures for each
 2673 of the goals specified in this subsection. The outcome data set
 2674 must consist of a limited number of understandable measures
 2675 using available data to quantify outcomes as children move
 2676 through the system of care. Such measures may aggregate multiple
 2677 variables that affect the overall achievement of the outcome
 2678 goals. Valid and reliable measures must be based on adequate

2679 sample sizes, be gathered over suitable time periods, and
 2680 reflect authentic rather than spurious results, and may not be
 2681 susceptible to manipulation.

2682 (b) Implement a monitoring system to track the identified
 2683 outcome measures on a statewide, regional, and provider-specific
 2684 basis. The monitoring system must identify trends and chart
 2685 progress toward achievement of the goals specified in this
 2686 section. The requirements of the monitoring system may be
 2687 incorporated into the quality assurance program required under
 2688 s. 409.996(18).

2689 (c) Develop and maintain an analytical system that builds
 2690 on the outcomes monitoring system to assess the statistical
 2691 validity of observed associations between child welfare
 2692 interventions and the measured outcomes. The analysis must use
 2693 quantitative methods to adjust for variations in demographic or
 2694 other conditions. The analysis must include longitudinal studies
 2695 to evaluate longer term outcomes such as continued safety,
 2696 family permanence, and transition to self-sufficiency. The
 2697 analysis may also include qualitative research methods to
 2698 provide insight into statistical patterns.

2699 (d) Develop and maintain a program of research review to
 2700 identify interventions that are supported by evidence as
 2701 causally linked to improved outcomes.

2702 (e) Support an ongoing process of evaluation to determine
 2703 the efficacy and effectiveness of various interventions.
 2704 Efficacy evaluation is intended to determine the validity of a

2705 causal relationship between an intervention and an outcome.
 2706 Effectiveness evaluation is intended to determine the extent to
 2707 which the results can be generalized.

2708 (f) Develop and maintain an inclusive, interactive, and
 2709 evidence-supported program of quality improvement that promotes
 2710 individual skill building as well as organizational learning.

2711 (g) Develop and implement a method for making the results
 2712 of the accountability system transparent for all parties
 2713 involved in the child welfare system as well as policymakers and
 2714 the public. The presentation shall provide a comprehensible,
 2715 visual report card for the state and each community-based care
 2716 region, indicating the current status relative to each goal and
 2717 trends in that status over time. The presentation shall identify
 2718 and report outcome measures that assess the performance of the
 2719 department, community-based care lead agency, and its
 2720 subcontractors working together as an integrated system of care.

2721 (3) The department shall establish a technical advisory
 2722 panel consisting of representatives from the Florida Institute
 2723 for Child Welfare established pursuant to s. 1004.615, lead
 2724 agencies, community-based care providers, other contract
 2725 providers, community alliances, and family representatives. The
 2726 President of the Senate and the Speaker of the House of
 2727 Representatives shall each appoint a member to serve as a
 2728 legislative liaison to the panel. The technical advisory panel
 2729 shall advise the department on meeting the requirements of this
 2730 section.

2731 (4) The accountability system may not rank or compare
 2732 performance among community-based care regions unless adequate
 2733 and specific adjustments are adopted that account for the
 2734 diversity in regions' demographics, resources, and other
 2735 relevant characteristics.

2736 (5) The results of the accountability system must provide
 2737 the basis for performance incentives if funds for such payments
 2738 are made available through the General Appropriations Act.

2739 (6) At least quarterly, the department shall make the
 2740 results of the accountability system available to the public
 2741 through publication on its website. The website must allow for
 2742 custom searches of the performance data.

2743 (7) By October 1 of each year, the department shall submit
 2744 a report on the statewide and individual community-based care
 2745 lead agency results for child protection and child welfare
 2746 systems. The department shall use the accountability system and
 2747 consult with the community alliance and the chief judge or
 2748 judges in the community-based care service area to prepare the
 2749 report. The report shall be submitted to the Governor, the
 2750 President of the Senate, and the Speaker of the House of
 2751 Representatives.

2752 Section 33. Section 409.998, Florida Statutes, is created
 2753 to read:

2754 409.998 Community-based care; oversight by community
 2755 alliances.—To provide independent, community-focused oversight
 2756 of child protection and child welfare services and the local

2757 system of community-based care, community alliances created in
 2758 s. 20.19(5) shall, with the assistance of the department,
 2759 perform the following duties:

2760 (1) Conduct a needs assessment and establish community
 2761 priorities for child protection and child welfare services.

2762 (2) Review the performance of the department, the
 2763 sheriff's office, if the office provides child protective
 2764 services, and the lead agency individually and as an integrated
 2765 system of care, and advise the department, the sheriff's office,
 2766 if applicable, and the lead agency regarding concerns and
 2767 suggested areas of improvement.

2768 (3) Recommend a competitive procurement for the lead
 2769 agency if programmatic or financial performance is poor. The
 2770 community alliance shall make recommendations on the development
 2771 of the procurement document for such competitive procurement and
 2772 may suggest specific requirements relating to local needs and
 2773 services.

2774 (4) Recommend a contract extension for the lead agency if
 2775 programmatic and financial performance is superior.

2776 (5) In partnership with the Florida Institute for Child
 2777 Welfare established pursuant to s. 1004.615, develop
 2778 recommendations and submit such recommendations to the
 2779 department and the community-based care lead agency to improve
 2780 child protection and child welfare policies and practices.

2781 (6) Promote greater community involvement in community-
 2782 based care through participation in community-based care lead

2783 agency services and activities, recruitment and retention of
 2784 community volunteers, and public awareness efforts.

2785 Section 34. Section 827.10, Florida Statutes, is created
 2786 to read:

2787 827.10 Unlawful abandonment of a child.-

2788 (1) As used in this section, the term:

2789 (a) "Abandons" or "abandonment" means to leave a child in
 2790 a place or with a person other than a relative with the intent
 2791 not to return to the child and with the intent not to provide
 2792 for the care of the child.

2793 (b) "Care" means support and services necessary to
 2794 maintain the child's physical and mental health, including, but
 2795 not limited to, food, nutrition, clothing, shelter, supervision,
 2796 medicine, and medical services that a prudent person would
 2797 consider essential for the well-being of the child.

2798 (c) "Caregiver" has the same meaning as provided in s.
 2799 39.01(10).

2800 (d) "Child" means a child for whose care the caregiver is
 2801 legally responsible.

2802 (e) "Relative" has the same meaning as provided in s.
 2803 39.01(64).

2804 (2) A caregiver who abandons a child under circumstances
 2805 in which the caregiver knew or should have known that the
 2806 abandonment exposes the child to unreasonable risk of harm
 2807 commits a felony of the third degree, punishable as provided in
 2808 s. 775.082, s. 775.083, or s. 775.084.

2809 (3) This section does not apply to a person who surrenders
 2810 a newborn infant in compliance with s. 383.50.

2811 (4) This section does not preclude prosecution for a
 2812 criminal act under any other law, including, but not limited to,
 2813 prosecution of child abuse or neglect of a child under s.
 2814 827.03.

2815 Section 35. Section 1004.615, Florida Statutes, is created
 2816 to read:

2817 1004.615 Florida Institute for Child Welfare.-

2818 (1) There is established the Florida Institute for Child
 2819 Welfare within the Florida State University College of Social
 2820 Work. The purpose of the institute is to advance the well-being
 2821 of children and families by improving the performance of child
 2822 protection and child welfare services through research, policy
 2823 analysis, evaluation, and leadership development. The institute
 2824 shall consist of a consortium of public and private universities
 2825 offering degrees in social work and shall be housed within the
 2826 Florida State University College of Social Work.

2827 (2) Using such resources as authorized in the General
 2828 Appropriations Act, the Department of Children and Families
 2829 shall contract with the institute for performance of the duties
 2830 described in subsection (4).

2831 (3) The institute shall work with the department, sheriffs
 2832 providing child protective investigative services, community-
 2833 based care lead agencies, community-based care provider
 2834 organizations, the court system, the Department of Juvenile

2835 Justice, the federally recognized statewide association for
 2836 Florida's certified domestic violence centers, and other
 2837 partners who contribute to and participate in providing child
 2838 protection and child welfare services.

2839 (4) The institute shall:

2840 (a) Maintain a program of research that contributes to
 2841 scientific knowledge and informs both policy and practice
 2842 related to child safety, permanency, and child and family well-
 2843 being.

2844 (b) Advise the department and other organizations
 2845 participating in the child protection and child welfare system
 2846 regarding scientific evidence on policy and practice related to
 2847 child safety, permanency, and child and family well-being.

2848 (c) Provide advice regarding management practices and
 2849 administrative processes used by the department and other
 2850 organizations participating in the child protection and child
 2851 welfare system and recommend improvements that reduce
 2852 burdensome, ineffective requirements for frontline staff and
 2853 their supervisors while enhancing their ability to effectively
 2854 investigate, analyze, problem-solve, and supervise.

2855 (d) Assess the performance of child protection and child
 2856 welfare services based on specific outcome measures.

2857 (e) Evaluate the scope and effectiveness of preservice and
 2858 inservice training for child protection and child welfare
 2859 employees and advise and assist the department in efforts to
 2860 improve such training.

2861 (f) Assess the readiness of social work graduates to
 2862 assume job responsibilities in the child protection and child
 2863 welfare system and identify gaps in education that can be
 2864 addressed through the modification of curricula or the
 2865 establishment of industry certifications.

2866 (g) Develop and maintain a program of professional support
 2867 including training courses and consulting services that assist
 2868 both individuals and organizations in implementing adaptive and
 2869 resilient responses to workplace stress.

2870 (h) Participate in the department's critical incident
 2871 response team, assist in the preparation of reports about such
 2872 incidents, and support the committee review of reports and
 2873 development of recommendations.

2874 (i) Identify effective policies and promising practices,
 2875 including, but not limited to, innovations in coordination
 2876 between entities participating in the child protection and child
 2877 welfare system, data analytics, working with the local
 2878 community, and management of human service organizations and
 2879 communicate these findings to the department and other
 2880 organizations participating in the child protection and child
 2881 welfare system.

2882 (5) The President of the Florida State University shall
 2883 appoint a director of the institute. The director must be a
 2884 child welfare professional with a doctoral degree in social work
 2885 who holds a faculty appointment in the Florida State University
 2886 College of Social Work. The institute shall be administered by

2887 the director, and the director's office shall be located at the
 2888 Florida State University. The director is responsible for
 2889 overall management of the institute and for developing and
 2890 executing the work of the institute consistent with the
 2891 responsibilities in subsection (4). The director shall engage
 2892 individuals in other state universities with accredited colleges
 2893 of social work to participate in the institute. Individuals from
 2894 other university programs relevant to the institute's work,
 2895 including, but not limited to, economics, management, law,
 2896 medicine, and education, may also be invited by the director to
 2897 contribute to the institute. The universities involved in the
 2898 institute shall provide facilities, staff, and other resources
 2899 to the institute to establish statewide access to institute
 2900 programs and services.

2901 (6) By October 1 of each year, the institute shall provide
 2902 a written report to the Governor, the President of the Senate,
 2903 and the Speaker of the House of Representatives that outlines
 2904 its activities in the preceding year, reports significant
 2905 research findings, as well as results of other programs, and
 2906 provides specific recommendations for improving child protection
 2907 and child welfare services.

2908 (a) The institute shall include an evaluation of the
 2909 results of the educational and training requirements for child
 2910 protection and child welfare personnel established under this
 2911 act and recommendations for application of the results to child
 2912 protection personnel employed by sheriff's offices providing

2913 child protection services in its report due October 1, 2017.

2914 (b) The institute shall include an evaluation of the
 2915 effects of the other provisions of this act and recommendations
 2916 for improvements in child protection and child welfare services
 2917 in its report due October 1, 2018.

2918 (7)(a) The institute, or the Florida State University
 2919 College of Social Work until the institute is operational, shall
 2920 convene a task force to make recommendations for improving the
 2921 state's child welfare system. The task force shall include, but
 2922 not be limited to, representatives of the department, the
 2923 Department of Juvenile Justice, community-based care lead
 2924 agencies, the Florida Coalition for Children, Inc., child
 2925 welfare services providers, including case management providers,
 2926 the court system, the federally recognized statewide association
 2927 for Florida's certified domestic violence centers, and child
 2928 welfare advocates. The task force shall include individuals
 2929 working directly with children and families, administrators, and
 2930 experts. Individual members of the task force shall be
 2931 responsible for their own travel expenses. The task force may
 2932 meet in person, telephonically, through web-based technology, or
 2933 through any combination thereof.

2934 (b) The task force shall establish individual workgroups
 2935 on the following topics, which may include additional members
 2936 with directly relevant experience and expertise to make specific
 2937 recommendations:

2938 1. Reducing paperwork and increasing the retention of case

HB 7169

2014

2939 managers.

2940 2. Care of medically complex children within the child
 2941 welfare system, with the goal of allowing the child to remain in
 2942 the least restrictive and most nurturing environment.

2943 (c) The institute, or the Florida State University College
 2944 of Social Work until the institute is operational, shall submit
 2945 interim reports from the task force and workgroups by February
 2946 1, 2015, and final reports by November 1, 2015, to the Governor,
 2947 the President of the Senate, and the Speaker of the House of
 2948 Representatives.

2949 Section 36. Paragraph (h) is added to subsection (1) of
 2950 section 1009.25, Florida Statutes, to read:

2951 1009.25 Fee exemptions.—

2952 (1) The following students are exempt from the payment of
 2953 tuition and fees, including lab fees, at a school district that
 2954 provides workforce education programs, Florida College System
 2955 institution, or state university:

2956 (h) Pursuant to s. 402.403, child protection and child
 2957 welfare personnel, as defined in s. 402.402(1)(a), who are
 2958 enrolled in an accredited bachelor's degree or master's degree
 2959 in social work program or completing coursework required
 2960 pursuant to s. 402.402(2)(a)2. and 3., provided that the student
 2961 attains at least a grade of "B" in all courses for which tuition
 2962 and fees are exempted.

2963 Section 37. Section 409.1671, Florida Statutes, is
 2964 repealed.

2965 Section 38. Section 409.16745, Florida Statutes, is
 2966 repealed.

2967 Section 39. Paragraph (g) of subsection (1) of section
 2968 39.201, Florida Statutes, is amended to read:

2969 39.201 Mandatory reports of child abuse, abandonment, or
 2970 neglect; mandatory reports of death; central abuse hotline.—

2971 (1)

2972 (g) Nothing in this chapter or in the contracting with
 2973 community-based care providers for foster care and related
 2974 services as specified in s. 409.987 ~~s. 409.1671~~ shall be
 2975 construed to remove or reduce the duty and responsibility of any
 2976 person, including any employee of the community-based care
 2977 provider, to report a suspected or actual case of child abuse,
 2978 abandonment, or neglect or the sexual abuse of a child to the
 2979 department's central abuse hotline.

2980 Section 40. Paragraph (a) of subsection (1) of section
 2981 409.16713, Florida Statutes, is amended to read:

2982 409.16713 Allocation of funds for community-based care
 2983 lead agencies.—

2984 (1) As used in this section, the term:

2985 (a) "Core services funding" means all funds allocated to
 2986 community-based care lead agencies operating under contract with
 2987 the department pursuant to s. 409.987 ~~s. 409.1671~~, with the
 2988 following exceptions:

- 2989 1. Funds appropriated for independent living;
- 2990 2. Funds appropriated for maintenance adoption subsidies;

- 2991 3. Funds allocated by the department for protective
 2992 investigations training;
 2993 4. Nonrecurring funds;
 2994 5. Designated mental health wrap-around services funds;
 2995 and
 2996 6. Funds for special projects for a designated community-
 2997 based care lead agency.

2998 Section 41. Subsection (1) and paragraph (b) of subsection
 2999 (9) of section 409.1675, Florida Statutes, are amended to read:

3000 409.1675 Lead community-based providers; receivership.—

3001 (1) The Department of Children and Families ~~Family~~
 3002 ~~Services~~ may petition a court of competent jurisdiction for the
 3003 appointment of a receiver for a lead community-based provider
 3004 established pursuant to s. 409.987 ~~s. 409.1671~~ when any of the
 3005 following conditions exist:

3006 (a) The lead community-based provider is operating without
 3007 a license as a child-placing agency.

3008 (b) The lead community-based provider has given less than
 3009 120 days' notice of its intent to cease operations, and
 3010 arrangements have not been made for another lead community-based
 3011 provider or for the department to continue the uninterrupted
 3012 provision of services.

3013 (c) The department determines that conditions exist in the
 3014 lead community-based provider which present an imminent danger
 3015 to the health, safety, or welfare of the dependent children
 3016 under that provider's care or supervision. Whenever possible,

HB 7169

2014

3017 the department shall make a reasonable effort to facilitate the
 3018 continued operation of the program.

3019 (d) The lead community-based provider cannot meet its
 3020 current financial obligations to its employees, contractors, or
 3021 foster parents. Issuance of bad checks or the existence of
 3022 delinquent obligations for payment of salaries, utilities, or
 3023 invoices for essential services or commodities shall constitute
 3024 prima facie evidence that the lead community-based provider
 3025 lacks the financial ability to meet its financial obligations.

3026 (9) The court may terminate a receivership when:

3027 (b) The department has entered into a contract with a new
 3028 lead community-based provider pursuant to s. 409.987 ~~s.~~
 3029 ~~409.1671~~, and that contractor is ready and able to assume the
 3030 duties of the previous provider.

3031 Section 42. Subsections (1), (3), and (5) of section
 3032 409.1676, Florida Statutes, are amended to read:

3033 409.1676 Comprehensive residential group care services to
 3034 children who have extraordinary needs.—

3035 (1) It is the intent of the Legislature to provide
 3036 comprehensive residential group care services, including
 3037 residential care, case management, and other services, to
 3038 children in the child protection system who have extraordinary
 3039 needs. These services are to be provided in a residential group
 3040 care setting by a not-for-profit corporation or a local
 3041 government entity under a contract with the Department of
 3042 Children and Families ~~Family Services~~ or by a lead agency as

3043 described in s. 409.987 ~~s. 409.1671~~. These contracts should be
 3044 designed to provide an identified number of children with access
 3045 to a full array of services for a fixed price. Further, it is
 3046 the intent of the Legislature that the Department of Children
 3047 and Families ~~Family Services~~ and the Department of Juvenile
 3048 Justice establish an interagency agreement by December 1, 2002,
 3049 which describes respective agency responsibilities for referral,
 3050 placement, service provision, and service coordination for
 3051 dependent and delinquent youth who are referred to these
 3052 residential group care facilities. The agreement must require
 3053 interagency collaboration in the development of terms,
 3054 conditions, and performance outcomes for residential group care
 3055 contracts serving the youth referred who have been adjudicated
 3056 both dependent and delinquent.

3057 (3) The department, in accordance with a specific
 3058 appropriation for this program, shall contract with a not-for-
 3059 profit corporation, a local government entity, or the lead
 3060 agency that has been established in accordance with s. 409.987
 3061 ~~s. 409.1671~~ for the performance of residential group care
 3062 services described in this section. A lead agency that is
 3063 currently providing residential care may provide this service
 3064 directly with the approval of the local community alliance. The
 3065 department or a lead agency may contract for more than one site
 3066 in a county if that is determined to be the most effective way
 3067 to achieve the goals set forth in this section.

3068 (5) The department may transfer all casework

3069 responsibilities for children served under this program to the
 3070 entity that provides this service, including case management and
 3071 development and implementation of a case plan in accordance with
 3072 current standards for child protection services. When the
 3073 department establishes this program in a community that has a
 3074 lead agency as described in s. 409.987 ~~s. 409.1671~~, the casework
 3075 responsibilities must be transferred to the lead agency.

3076 Section 43. Subsection (2) of section 409.1677, Florida
 3077 Statutes, is amended to read:

3078 409.1677 Model comprehensive residential services
 3079 programs.—

3080 (2) The department shall establish a model comprehensive
 3081 residential services program in Manatee and Miami-Dade Counties
 3082 through a contract with the designated lead agency established
 3083 in accordance with s. 409.987 ~~s. 409.1671~~ or with a private
 3084 entity capable of providing residential group care and home-
 3085 based care and experienced in the delivery of a range of
 3086 services to foster children, if no lead agency exists. These
 3087 model programs are to serve that portion of eligible children
 3088 within each county which is specified in the contract, based on
 3089 funds appropriated, to include a full array of services for a
 3090 fixed price. The private entity or lead agency is responsible
 3091 for all programmatic functions necessary to carry out the intent
 3092 of this section.

3093 Section 44. Subsection (24) of section 409.906, Florida
 3094 Statutes, is amended to read:

3095 409.906 Optional Medicaid services.—Subject to specific
 3096 appropriations, the agency may make payments for services which
 3097 are optional to the state under Title XIX of the Social Security
 3098 Act and are furnished by Medicaid providers to recipients who
 3099 are determined to be eligible on the dates on which the services
 3100 were provided. Any optional service that is provided shall be
 3101 provided only when medically necessary and in accordance with
 3102 state and federal law. Optional services rendered by providers
 3103 in mobile units to Medicaid recipients may be restricted or
 3104 prohibited by the agency. Nothing in this section shall be
 3105 construed to prevent or limit the agency from adjusting fees,
 3106 reimbursement rates, lengths of stay, number of visits, or
 3107 number of services, or making any other adjustments necessary to
 3108 comply with the availability of moneys and any limitations or
 3109 directions provided for in the General Appropriations Act or
 3110 chapter 216. If necessary to safeguard the state's systems of
 3111 providing services to elderly and disabled persons and subject
 3112 to the notice and review provisions of s. 216.177, the Governor
 3113 may direct the Agency for Health Care Administration to amend
 3114 the Medicaid state plan to delete the optional Medicaid service
 3115 known as "Intermediate Care Facilities for the Developmentally
 3116 Disabled." Optional services may include:

3117 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency
 3118 for Health Care Administration, in consultation with the
 3119 Department of Children and Families ~~Family Services~~, may
 3120 establish a targeted case-management project in those counties

3121 identified by the Department of Children and Families ~~Family~~
 3122 ~~Services~~ and for all counties with a community-based child
 3123 welfare project, as authorized under s. 409.987 ~~s. 409.1671~~,
 3124 which have been specifically approved by the department. The
 3125 covered group of individuals who are eligible to receive
 3126 targeted case management include children who are eligible for
 3127 Medicaid; who are between the ages of birth through 21; and who
 3128 are under protective supervision or postplacement supervision,
 3129 under foster-care supervision, or in shelter care or foster
 3130 care. The number of individuals who are eligible to receive
 3131 targeted case management is limited to the number for whom the
 3132 Department of Children and Families ~~Family Services~~ has matching
 3133 funds to cover the costs. The general revenue funds required to
 3134 match the funds for services provided by the community-based
 3135 child welfare projects are limited to funds available for
 3136 services described under s. 409.990 ~~s. 409.1671~~. The Department
 3137 of Children and Families ~~Family Services~~ may transfer the
 3138 general revenue matching funds as billed by the Agency for
 3139 Health Care Administration.

3140 Section 45. Paragraph (d) of subsection (1) of section
 3141 420.628, Florida Statutes, is amended to read:

3142 420.628 Affordable housing for children and young adults
 3143 leaving foster care; legislative findings and intent.—

3144 (1)

3145 (d) The Legislature intends that the Florida Housing
 3146 Finance Corporation, agencies within the State Housing

HB 7169

2014

3147 Initiative Partnership Program, local housing finance agencies,
 3148 public housing authorities, and their agents, and other
 3149 providers of affordable housing coordinate with the Department
 3150 of Children and Families ~~Family Services~~, their agents, and
 3151 community-based care providers who provide services under s.
 3152 409.987 ~~s. 409.1671~~ to develop and implement strategies and
 3153 procedures designed to make affordable housing available
 3154 whenever and wherever possible to young adults who leave the
 3155 child welfare system.

3156 Section 46. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 1

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: Appropriations Committee
2 Representative Hudson offered the following:

Amendment

Remove lines 337-353 and insert:

6 (f) Access to sufficient supports and services for
7 medically complex children to allow them to remain in the least
8 restrictive and most nurturing environment, which includes
9 services in an amount and scope comparable to those the child
10 would receive in out-of-home care placement.

11 (4) SERVICES FOR MEDICALLY COMPLEX CHILDREN. The
12 department shall maintain a program of family-centered services
13 and supports for medically complex children. The purpose of the
14 program is to prevent abuse and neglect of medically complex
15 children while enhancing the capacity of families to provide for
16 their children's needs. Program services must include outreach,
17 early intervention, and provision of other supports and services

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 1

18 to meet the child's needs. The department shall collaborate with
19 all relevant state and local agencies to provide needed
20 services.

21

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 3

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: Appropriations Committee
2 Representative Hudson offered the following:

Amendment (with title amendment)

Remove lines 1763-1773 and insert:

3
4 **Amendment (with title amendment)**
5 Remove lines 1763-1773 and insert:
6 4. The department and the Agency for Health Care
7 Administration shall jointly produce a report including detailed
8 operational and spending plans for requiring managed care plans
9 -serving children in the care and custody of the department to
10 provide complete medical, dental and behavioral health
11 information for inclusion in the state's child welfare data
12 system. The report shall, at a minimum, identify a range of
13 possible methods of sharing this information, document existing
14 methods used by managed care plans to share this information
15 with the department or community-based care organizations, and
16 identify ways to build upon existing methods. The department

Amendment No. 3

17 shall submit the report to the President of the Senate and the
18 Speaker of the House of Representatives by December 1, 2014.

19
20

21
22

23

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

24

Remove lines 83-85 and insert:

25

children; amending s. 409.967; requiring report regarding

26

managed care plans' provision of health information; specifying

27

requirements for the report; creating part V of

28

Amendment No. 4

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: Appropriations Committee
 2 Representative Hudson offered the following:

Amendment (with title amendment)

Remove lines 2661-2751 and insert:

6 (2) The department shall issue a request for information
 7 for a comprehensive, results-oriented accountability system to
 8 assess the achievement of the outcome goals specified in s.
 9 409.986(2). The department shall use the request for
 10 information to identify system development and implementation
 11 approaches, technical and operational solutions, timeframes for
 12 implementation, pricing and costs and implementation
 13 considerations; assess respondents' experience in providing
 14 similar systems and interest in providing this system; and
 15 generate any other information determined by the department to
 16 be of use in establishing the system. The purpose of the system
 17 is to monitor and measure the use of resources, the quality and

Amendment No. 4

18 amount of services provided, and child and family outcomes
19 through data analysis, research review and evaluation. The
20 system shall provide information about individual entities'
21 performance as well as the performance of groups of entities
22 working together as an integrated system of care on a local,
23 regional, and statewide basis. Data generated by the system
24 shall inform the department's development and maintenance of an
25 inclusive, interactive, and evidence-supported program of
26 quality improvement that promotes individual skill building as
27 well as organizational learning. Additionally, data generated by
28 the system shall provide the basis for performance incentives if
29 funds for such payments are made available through the General
30 Appropriations Act. The request for information shall generate
31 information for a system that must incorporate, at a minimum:

32 (a) Valid and reliable outcome measures for each of the
33 goals specified in this subsection. The outcome data set must
34 consist of a limited number of understandable measures using
35 available data to quantify outcomes as children move through the
36 system of care. Such measures may aggregate multiple variables
37 that affect the overall achievement of the outcome goals. Valid
38 and reliable measures must be based on adequate sample sizes, be
39 gathered over suitable time periods, and reflect authentic
40 rather than spurious results, and may not be susceptible to
41 manipulation.

42 (b) A monitoring system to track the identified outcome
43 measures on a statewide, regional, and provider-specific basis.

Amendment No. 4

44 The monitoring system must identify trends and chart progress
45 toward achievement of the goals specified in this section. The
46 accountability system may not rank or compare performance among
47 community-based care regions unless adequate and specific
48 adjustments are adopted that account for the diversity in
49 regions' demographics, resources, and other relevant
50 characteristics. The requirements of the monitoring system may
51 be incorporated into the quality assurance program required
52 under s. 409.996(18).

53 (c) An analytical system that builds on the outcomes
54 monitoring system to assess the statistical validity of observed
55 associations between child welfare interventions and the
56 measured outcomes. The analysis must use quantitative methods to
57 adjust for variations in demographic or other conditions. The
58 analysis must include longitudinal studies to evaluate longer
59 term outcomes such as continued safety, family permanence, and
60 transition to self-sufficiency. The analysis may also include
61 qualitative research methods to provide insight into statistical
62 patterns.

63 (d) A program of research review to identify interventions
64 that are supported by evidence as causally linked to improved
65 outcomes.

66 (e) An ongoing process of evaluation to determine the
67 efficacy and effectiveness of various interventions. Efficacy
68 evaluation is intended to determine the validity of a causal
69 relationship between an intervention and an outcome.

Amendment No. 4

70 Effectiveness evaluation is intended to determine the extent to
71 which the results can be generalized.

72 (f) A method for making the results of the accountability
73 system transparent for all parties involved in the child welfare
74 system as well as policymakers and the public, which shall be
75 made available to the public at least quarterly through
76 publication on the department's website in a manner that allows
77 custom searches of the performance data. The presentation of the
78 data shall provide a comprehensible, visual report card for the
79 state and each community-based care region, indicating the
80 current status relative to each goal and trends in that status
81 over time. The presentation shall identify and report outcome
82 measures that assess the performance of the department,
83 community-based care lead agency, and its subcontractors working
84 together as an integrated system of care.

85 (g) Collaboration with the department to produce an annual
86 report on the statewide and individual community-based care lead
87 agency results for child protection and child welfare systems.
88 The department shall use the accountability system and consult
89 with the community alliance and the dependency judge or judges
90 in the community-based care service area to prepare the report,
91 and shall submit the report to the Governor, the President of
92 the Senate, and the Speaker of the House of Representatives by
93 October 1 of each year.

94

Amendment No. 4

95 The department shall submit a report to the Governor, the
96 President of the Senate and the Speaker of the House of
97 Representatives by February 1, 2015, summarizing the responses
98 to the request for information required by this section, and
99 providing the department's recommendations regarding
100 procurement, expected system costs, and implementation of the
101 system.

102 (3) The department shall establish a technical advisory
103 panel consisting of representatives from the Florida Institute
104 for Child Welfare established pursuant to s. 1004.615, lead
105 agencies, community-based care providers, other contract
106 providers, community alliances, and family representatives. The
107 President of the Senate and the Speaker of the House of
108 Representatives shall each appoint a member to serve as a
109 legislative liaison to the panel. The technical advisory panel
110 shall advise the department on meeting the requirements of this
111 section.

112
113
114
115
116 -----
117 **T I T L E A M E N D M E N T**

118 Remove lines 122-126 and insert:

119 department to issue a request for information for an
120 accountability system; establishing requirements and for the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 4

121 request for information; requiring an annual report to the
122 Governor and the Legislature; requiring a report to the Governor
123 and Legislature on the results of the request for information;
124 requiring the department to establish a technical advisory
125 panel; creating
126

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 5

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: Appropriations Committee
2 Representative Hudson offered the following:

3
4 **Amendment (with title amendment)**

5 Between lines 3155 and 3156, insert:

6 Section 46. For the 2014-2015 fiscal year, the sum of
7 \$3,291,903 in recurring funds and \$85,161 in nonrecurring funds
8 from the General Revenue Fund, and \$560,000 in recurring funds
9 from the Federal Grants Trust fund, are appropriated to the
10 Department of Children and Families and 21.0 full-time
11 equivalent positions and associated salary rate of 999,991 are
12 authorized, for the purpose of implementing the provisions of
13 this act.

14 Section 47. For the 2014-2015 fiscal year, \$122,936 of
15 recurring funds for the General Revenue Fund are appropriated to
16 the Department of Health for the purpose of implementing this
17 act.

238673 - h7169-line3155 Hudson5.docx

Published On: 4/20/2014 4:45:05 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 5

18
19
20
21
22
23
24
25
26

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

Remove line 149 and insert:

420.628, F.S.; conforming cross-references; providing
appropriations; providing

Amendment No. 6

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: Appropriations Committee
2 Representative Harrell offered the following:

Amendment

Remove lines 548-588 and insert:

the location of the incident. The secretary shall appoint the
team leader and members of each group assigned to an
investigation.

(4) An investigation shall be initiated as soon as
possible, but not later than 2 business days after the case is
reported to the department. A preliminary report on each case
shall be provided to the secretary no later than 30 days after
the investigation begins.

(5) Each member of the team is authorized to access all
information in the case file.

(6) All employees of the department or other state
agencies and all personnel from contracted provider

Amendment No. 6

18 organizations must cooperate with the investigation by
19 participating in interviews and timely responding to any
20 requests for information. However, records or information of
21 contracted provider organizations made confidential or
22 privileged by state or federal law may be shared among team
23 members but not outside the team.

24 (7) The secretary shall develop cooperative agreements
25 with other entities and organizations as necessary to facilitate
26 the work of the team.

27 (8) The members of the team may be reimbursed by the
28 department for per diem, mileage, and other reasonable expenses
29 as provided in s. 112.061. The department may also reimburse the
30 team member's employer for the associated salary and benefits
31 during the time the team member is fulfilling the duties
32 required under this section.

33 (9) Upon completion of the investigation, the department
34 shall make the team's final report available on its website.

35 (10) The secretary, in conjunction with the institute
36 established pursuant to s. 1004.615, shall develop guidelines
37 for investigations conducted by critical incident rapid response
38 teams and provide training to team members. Such guidelines must
39 direct the teams in the conduct of a root-cause analysis that
40 identifies, classifies, and attributes responsibility for both
41 direct and latent causes for the death or other incident,
42 including organizational factors, preconditions, and specific
43 acts or omissions resulting from either error or a violation of

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 6

44 procedures. The department shall ensure that each team member
45 receives training on the guidelines prior to conducting an
46 investigation.

47 (11) The secretary shall appoint an advisory committee to
48 conduct an independent review of investigative reports from the
49 critical incident rapid response teams and make recommendations
50 to improve policies and practices related to child protection
51 and child welfare services. The advisory committee shall
52 include, but not be limited to, a representative from the
53 institute established pursuant to s. 1004.615, an expert in
54 organizational management, the statewide medical director for
55 child protection or a designee, and an attorney with experience
56 in child welfare. By October 1 of each year, the

57

Amendment No. 7

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: Appropriations Committee
 2 Representative Harrell offered the following:

Amendment

5 Remove lines 1994-1999 and insert:

6 (3) SERVICES.—A lead agency shall prioritize the use of
 7 services supported by research, and shall use evidence-based
 8 services whenever possible. A decision to use a service that has
 9 not yet been substantiated to be effective through research
 10 shall be based on factors including, but not limited to, whether
 11 the theory on which the service is based and the service's
 12 practice are consistent with current knowledge about effective
 13 interventions, whether the service meets the specific needs of
 14 the children and families being served, and whether the agency
 15 can implement the service in a high-quality manner. A lead
 16 agency may not use a service if its effectiveness has been
 17 clearly disproven through research. Lead agencies shall work

050145 - h7169-line1994 Harrell2.docx

Published On: 4/20/2014 4:46:31 PM

Amendment No. 7

18 | with the institute established in s. 1004.615 to learn about
19 | advancements in research on services as well as innovative
20 | approaches.

21

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7169 (2014)

Amendment No. 8

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: Appropriations Committee
2 Representative Harrell offered the following:

3
4
5
6
7
8
9

Amendment

Remove line 2523 and insert:

action to ensure contract compliance. The financial penalties shall require a lead agency to reallocate funds from administrative costs to direct care for children.