

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Storms, Chair

Senator Hill, Vice Chair

MEETING DATE: Wednesday, March 9, 2011

TIME: 3:15 —5:15 p.m.

PLACE: James E. "Jim" King, Jr., Committee Room, 401 Senate Office Building

MEMBERS: Senator Storms, Chair; Senator Hill, Vice Chair; Senators Detert, Hays, and Rich

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 364 Latvala (Similar H 139)	Child Care Facilities; Provides for certain household children to be included in calculations regarding the capacity of licensed family day care homes and large family child care homes. Provides conditions for supervision of household children of operators of family day care homes and large family child care homes. Revises advertising requirements applicable to child care facilities. Provides penalties. Authorizes a cause of action against an unlicensed or unregistered individual if certain advertising requirements are not met, etc. CF 03/09/2011 Fav/CS CM JU BC	Fav/CS Yeas 4 Nays 0
2	SB 678 Richter (Identical H 4065, Compare H 1171, S 1658)	Local Long-term Care Ombudsman Councils; Repeals a provision relating to requirement that local ombudsman councils conduct onsite administrative assessments. Conforms a cross-reference. Removes a provision relating to onsite administrative assessments by local ombudsman council members, to conform. CF 03/09/2011 Temporarily Postponed HR BC	Temporarily Postponed
3	SB 682 Richter (Identical H 4061, Compare H 1171, S 1658)	State Long-term Care Ombudsman Program; Repeals a provision relating to data reports regarding complaints about and conditions in long-term care facilities. CF 03/09/2011 Temporarily Postponed HR BC	Temporarily Postponed
4	Consideration of proposed committee bill:		

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Wednesday, March 9, 2011, 3:15 —5:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	SPB 7056	Background Screening; Includes volunteers within the definition of the term "direct service provider" for purposes of background screening. Exempts a volunteer who meets certain criteria and a client's relative or spouse from the screening requirement. Exempts certain licensed professionals and persons screened as a licensure requirement from further screening under certain circumstances. Requires direct service providers working as of a certain date to be screened within a specified period. Provides a phase-in for screening direct service providers, etc.	Submitted as Committee Bill
5	Consideration of proposed committee bill (Interim Project 2011-105 - Differential Response to Reports of Child Abuse and Neglect):		
	SPB 7058	Child Protection; Requires the Secretary of Children and Family Services to establish the Child Protection Response Workgroup for the purpose of developing an implementation plan for a differential response system to be used in responding to reports of child abuse or neglect. Specifies the duties of the workgroup. Requires a report to the Legislature. Requires the Secretary of Children and Family Services to establish the Child Welfare Professional Advisory Council. Specifies the scope of work of the council. Provides for the secretary to appoint members to the council, etc.	Submitted as Committee Bill
6	Introduction of David E. Wilkins, Secretary Department of Children and Families		Discussed

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 364

INTRODUCER: Senator Latvala

SUBJECT: Child Care Facilities

DATE: March 10, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Fav/CS
2.			CM	
3.			JU	
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates a definition for “household children” in ch. 402, F.S., providing that the supervision of household children belonging to a family day care or large family child care home operator is to be left to the discretion of the operator, unless the children receive subsidized child care to be in the home. The bill also amends the definitions of “family day care home” and “large family child care home” to require that household children be included in the capacity calculation of those homes when the child is on the premises of the home or on a field trip with children enrolled in child care.

The bill also prohibits a person from advertising (or publishing an advertisement) for a child care facility, family day care home, or large family child care home without including the license or registration number of the facility or home.

This bill amends the following sections of the Florida Statutes: 402.302, 402.318, and 411.01.

II. Present Situation:

Child Care Facilities

Licensing of Child Care Facilities

Child care facilities in the state must meet licensing standards that are established by the Department of Children and Family Services (DCF or department).¹ Current law permits a county that meets or exceeds the state's minimum licensing requirements to designate a local agency to license child care facilities. If the county does not wish to administer its own child care licensing program, it can contract with DCF to delegate administration of the standards to the department.² Currently, DCF is responsible for administering child care licensing in 61 of Florida's 67 counties.³ The remaining six counties (Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota) administer their own inspections and licensure of child care facilities.⁴

Family Day Care Homes

Florida law defines a family day care home as "an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit."⁵ A family day care home is allowed to provide care for one of the following groups of children:

- A maximum of four children from birth to 12 months of age.
- A maximum of three children from birth to 12 months of age, and other children, for a total of six children.
- A maximum of six preschool children if all of them are older than 12 months of age.
- A maximum of 10 children if no more than five are preschool age and, of those five, no more than two are under 12 months of age.⁶

The above groups include children under 13 years of age who are related to the caregiver.

Current law requires a family day care home to have either a license or be registered. A family day care home is required to be licensed if they are presently licensed under a county license ordinance or if the board of county commissioners passes a resolution that family day care homes are to be licensed.

If a family day care home is not subject to licensure, then it must register annually with DCF. In order to register, the home must submit the following information:

¹ Section 402.305(1), F.S.

² Section 402.306(1), F.S.

³ Fla. Dep't of Children and Families, *Child Care Regulation, Licensing Information*, <http://www.dcf.state.fl.us/programs/childcare/licensing.shtml> (last visited Feb. 8, 2011).

⁴ *Id.*

⁵ Section 402.302(8), F.S.

⁶ *Id.*

- The name and address of the home.
- The name of the operator.
- The number of children served.
- Proof of a written plan to provide at least one other competent adult to be available in place of the operator in an emergency.
- Proof of screening and background checks.
- Proof of successful completion of the 30-hour training course.
- Proof that immunization records are kept current.
- Proof of completion of the required continuing education units or clock hours.⁷

Large Family Child Care Homes

A large family child care home is similar in definition to a family day care home, except that a large family child care home has at least two full-time child care personnel on the premises during the hours of operation.⁸ One of these persons must be the owner or occupant of the residence. In order to become a large family child care home, the home must have first operated as a licensed family day care home for two years and the operator must have a child development associate credential, or its equivalent, for one year.⁹ A large family child care home may provide care for one of the following groups of children, which includes children under the age of 13 who are related to the caregiver:

- A maximum of eight children from birth to 24 months of age.
- A maximum of 12 children, with no more than four children under 24 months of age.¹⁰

The department establishes by rule minimum standards for large family child care homes, which include requirements for staffing, maintenance of immunization records, minimum health standards, minimum safety standards, minimum square footage, and enforcement of these standards.¹¹

Supervision

The department has promulgated administrative rules related to the supervision of children and staffing requirements for family day cares and large family child care homes. These rules apply to all children in the home, including children related to the operator. Specifically, operators are responsible for the supervision of children at all times, including when the children are napping or sleeping. If the child is sleeping in a bedroom, the bedroom's door must remain open. During hours of operation, all children must have adult supervision, consisting of watching and directing their activities both indoors and outdoors. If a child is sick and placed in isolation, the child must remain within eyesight and hearing of the operator. Finally, children must be attended when being diapered or when changing clothes.¹²

⁷ Section 402.313(1)(a), F.S.

⁸ Section 402.302(9), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 402.3131(7), F.S.

¹² Rule 65C-20.009(5), F.A.C.

Advertising

Florida law requires that any advertisement for a child care facility include within the advertisement the state or local agency license number of the facility. Failure to do so is a misdemeanor of the first degree.¹³

III. Effect of Proposed Changes:

This bill creates the definition “household children” in ch. 402, F.S., to mean “children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home.” The bill provides that the supervision of household children belonging to a family day care or large family child care home operator is to be left to the discretion of the operator, unless the children receive subsidized child care to be in the home.

Current law requires that children under the age of 13 who are related to the caregiver be included in determining the number of children that can be cared for in a family day care home or large family child care home. This bill amends the definitions of “family day care home” and “large family child care home” to provide that “household children” under the age of 13 are included in the calculations to determine the maximum number of children that an operator can supervise at one time when that child is on the premises of the home or on a field trip with children enrolled in child care at the home. This change may in some instances lower the number of children a child care home operator can care for because the definition of “household children” includes children related to an adult household member of the home. For example, under the current law, if the operator of the home has a 12 year old child and the operator’s sister and niece also live in the home, the operator would only have to count his or her own child in determining the number of children that the operator can supervise. However, under the proposed changes in the bill, the operator would have to also include his or her niece in the calculation.

Additionally, according to the Department of Children and Family Services (DCF or department), creating the definition of “household children” may create confusion and leave an enforcement loophole. Specifically, “the bill’s intent appears to be that any child in the family day care home who is the provider’s responsibility must count against the home’s licensed child care capacity, but the definition of household children appears to exclude foster children, children unrelated to the owner/operator who may be in the home on a non-paying basis, children left in the care of the provider without legal documentation of guardianship, etc.”¹⁴

This bill also amends s. 402.318, F.S., by requiring family day care homes and large family child care homes to include their license or registration number in their advertisements. Additionally, the bill provides that a person may not publish an advertisement for a child care facility, family

¹³ Section 402.318, F.S. A first-degree misdemeanor is punishable by a term of imprisonment not to exceed one year, a \$1,000 fine, or both. See ss. 775.082 and 775.083, F.S.

¹⁴ Dep’t of Children and Family Services, *Staff Analysis and Economic Impact, SB 364* (Jan. 7, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

day care home, or large family child care home without including the license or registration number.

The bill makes technical and conforming changes.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Current law requires a “child care facility” to include its license number in any advertisement. This bill amends current law to extend advertising requirements on family day care homes and large family child care homes as well. To the extent that these homes are not considered child care facilities, and therefore are not currently required to place a license number in advertisements, the bill’s advertising requirements will be a new requirement on these homes.

C. Government Sector Impact:

According to the Department of Children and Family Services (DCF or department), it is unclear whether department staff will be required to monitor advertising venues to identify individuals who violate the advertising requirements created by the bill. If this is the case, the bill may create additional workload to the department in terms of verifying and reporting to the state attorney instances of advertisements without a license or regulation number.¹⁵

¹⁵ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Children and Family Services (DCF or department) is responsible for administering child care regulations throughout Florida, unless a county has chosen to assume this regulatory function pursuant to s. 402.306, F.S., which requires that a county meet or exceed prescribed state standards regarding state child care. Pinellas County is one of seven counties which have chosen to designate a local licensing agency to license child care facilities in that county. The Pinellas County Labor Board for Children's Centers and Family Day Care Homes is the licensing body in Pinellas County.¹⁶ According to DCF, "[f]amily day care home providers have raised questions to the Department regarding supervision restrictions that may be placed on the children of owners and operators of child care programs operating from their homes as there have been some restrictions, specifically in Pinellas County, which has local licensing authority. Pinellas County family day care home providers have challenged their local ordinance on this issue."¹⁷ In order for this bill to have effect in Pinellas County, the county's law that regulates children's centers and family day care homes will need to be amended.¹⁸

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The Committee Substitute deletes the cause of action against an unlicensed or unregistered person who violates the proposed advertising requirements.

B. Amendments:

None.

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

¹⁶ Gov't Efficiency and Accountability Council, The Florida House of Representatives, *House of Representatives Local Bill Staff Analysis, CS/HB 781* (March 14, 2007), available at <http://www.myfloridahouse.gov/Sections/Bills/bills.aspx> (last visited Feb. 11, 2011).

¹⁷ Dep't of Children and Family Services, *supra* note 14.

¹⁸ Special law 61-2681, Laws of Fla., as amended by section 1 of chapter 70-893, Laws of Fla.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2011	.	
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The Committee on Children, Families, and Elder Affairs (Hays)
recommended the following:

Senate Amendment

Delete lines 197 - 201

1
2
3

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 678

INTRODUCER: Senator Richter

SUBJECT: Local Long-Term Care Ombudsman Councils

DATE: March 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Pre-meeting
2.	_____	_____	HR	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Part I of ch. 400, F.S., creates the Office of State Long-Term Care Ombudsman to identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities. This bill repeals Florida law requiring the local councils to conduct an annual onsite administrative assessment of each long-term care facility within its jurisdiction.

This bill amends sections 400.0067 and 400.0069, Florida Statutes. This bill repeals section 400.0074, Florida Statutes.

II. Present Situation:

The federal Older Americans Act (OAA) requires each state to create a long-term care ombudsman program in order to be eligible to receive funding associated with programs under the OAA.¹ In Florida, the Long-Term Care Ombudsman Program (program) is a statewide, volunteer-based system of district councils that protect, defend, and advocate on behalf of long-term care facility residents, such as those living in nursing homes, assisted living facilities, and adult family-care homes.² The program is housed in the Department of Elder Affairs (DOEA) and is directed by the state long-term care ombudsman.³ Fifty-five percent of the program's funding comes from the federal OAA; the remaining balance is appropriated by the state.⁴

¹ 42 U.S.C. s. 3058.

² See Florida's Long-Term Care Ombudsman Program, *2009-2010 Annual Report*, available at <http://ombudsman.myflorida.com/Publications.php> (follow the "2009-2010 Annual Report" hyperlink) (last visited Feb. 17, 2011).

³ Section 400.0063, F.S.

⁴ *2009-2010 Annual Report*, *supra* note 2.

An ombudsman “is a specially trained and certified volunteer who has been given authority under federal and state law to identify, investigate and resolve complaints made by, or on behalf of, long-term care facility residents.”⁵ Florida law requires that the Office of State Long-Term Care Ombudsman (office) maintain a statewide system for collecting and analyzing data relating to complaints and conditions in long-term care facilities.⁶ The office must also publish the information pertaining to the number and types of complaints received by the program on a quarterly basis.⁷ Additionally, federal law requires the office to have a statewide data system to collect, analyze, and report data on residents, facilities, and complaints to federal officials as well as the National Ombudsman Resource Center.⁸

Ombudsmen also complete annual assessments of each long-term care facility in the state to ensure the health, safety, and welfare of the residents.⁹ No advance warning of the assessment is to be given to the long-term care facility. An ombudsman is not allowed to forcibly enter the facility to complete the assessment; however, the administrator of the facility commits a violation of part I of ch. 400, F.S., if the ombudsman is not allowed to enter the facility, and, in such circumstances, the Agency for Health Care Administration (AHCA) may use appropriate administrative remedies.¹⁰ The AHCA also conducts routine licensure and complaint surveys of nursing homes, assisted living facilities, and adult day care homes. As part of the survey process, AHCA must do offsite survey preparation, which includes a review of information about the facility prior to the survey. One of the sources of this information is the state long-term care ombudsman.¹¹

Currently, Florida has 376 volunteer long-term care ombudsmen organized in 17 district councils throughout the state.¹² During the 2009-2010 fiscal year, ombudsmen staff and volunteers:

- Investigated and resolved 9,098 complaints;
- Contributed over 20,000 hours of volunteer service to the residents;
- Saved the state over \$1.8 million in salaries and administrative costs for long-term care residents; and
- Completed 100 percent of the prescribed annual facility assessments.¹³

⁵ Florida’s Long-Term Care Ombudsman Program, *Residents and Families*, <http://ombudsman.myflorida.com/ResidentFam.php> (last visited Feb. 17, 2011).

⁶ Section 400.0089, F.S.

⁷ *Id.*

⁸ Dep’t of Elder Affairs, *2011 Legislative Bill Analysis SB 682* (Feb. 28, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs); *see also* 42 U.S.C. s. 3058g(c) and 42 U.S.C. s. 3058g(h)(1).

⁹ *Residents and Families*, *supra* note 5; *see also* s. 400.0074, F.S. For an entire list of responsibilities of an ombudsman, *see* s. 400.0065(1), F.S.

¹⁰ Section 400.0074, F.S.

¹¹ Agency for Health Care Admin., *2011 Bill Analysis & Economic Impact Statement HB 4065* (identical to SB 678) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹² *2009-2010 Annual Report*, *supra* note 2.

¹³ *Id.*

III. Effect of Proposed Changes:

This bill repeals s. 400.0074, F.S., which requires local ombudsman councils to complete annual administrative assessments of the long-term care facilities in their jurisdictions.

The bill also makes conforming changes to ss. 400.0067 and 400.0069, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

It is suggested that the reference to “administrative assessments” in s. 400.0061(2), F.S., also be deleted.

VII. Related Issues:

This bill repeals the Florida law requiring local ombudsman councils to complete annual administrative assessments of the long-term care facilities in their jurisdictions. However, under federal law, the Department of Elder Affairs must still ensure that the Office of the State Long-Term Care Ombudsman submits an annual report.¹⁴

¹⁴ See 42 U.S.C. s. 3058g(h)(1).

According to the Agency for Health Care Administration (AHCA), this bill will not affect the survey process conducted by AHCA for long-term care facilities.¹⁵

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

¹⁵ Agency for Health Care Admin., *supra* note 11.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 682

INTRODUCER: Senator Richter

SUBJECT: State Long-Term Care Ombudsman Program

DATE: March 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Pre-meeting
2.	_____	_____	HR	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Part I of ch. 400, F.S., creates the Office of State Long-Term Care Ombudsman to identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities. This bill repeals Florida law requiring this office to maintain a system to collect and analyze data relating to complaints and conditions of the long-term care facilities in the state.

This bill repeals section 400.0089, Florida Statutes.

II. Present Situation:

The federal Older Americans Act (OAA) requires each state to create a long-term care ombudsman program in order to be eligible to receive funding associated with programs under the OAA.¹ In Florida, the Long-Term Care Ombudsman Program (program) is a statewide, volunteer-based system of district councils that protect, defend, and advocate on behalf of long-term care facility residents, such as those living in nursing homes, assisted living facilities, and adult family-care homes.² The program is housed in the Department of Elder Affairs (DOEA) and is directed by the state long-term care ombudsman.³ Fifty-five percent of the program's funding comes from the federal OAA; the remaining balance is appropriated by the state.⁴

¹ 42 U.S.C. s. 3058.

² See Florida's Long-Term Care Ombudsman Program, *2009-2010 Annual Report*, available at <http://ombudsman.myflorida.com/Publications.php> (follow the "2009-2010 Annual Report" hyperlink) (last visited Feb. 17, 2011).

³ Section 400.0063, F.S.

⁴ *2009-2010 Annual Report*, *supra* note 2.

An ombudsman “is a specially trained and certified volunteer who has been given authority under federal and state law to identify, investigate and resolve complaints made by, or on behalf of, long-term care facility residents.”⁵ Ombudsmen also complete annual assessments of each long-term care facility in the state to ensure the health, safety, and welfare of the residents.⁶

Florida law requires that the Office of State Long-Term Care Ombudsman (office) maintain a statewide system for collecting and analyzing data relating to complaints and conditions in long-term care facilities.⁷ The office must also publish the information pertaining to the number and types of complaints received by the program on a quarterly basis.⁸ Additionally, federal law requires the office to have a statewide data system to collect, analyze, and report data on residents, facilities, and complaints to federal officials as well as the National Ombudsman Resource Center.⁹

Currently, Florida has 376 volunteer long-term care ombudsmen organized in 17 district councils throughout the state.¹⁰ During the 2009-2010 fiscal year, ombudsmen staff and volunteers:

- Investigated and resolved 9,098 complaints;
- Contributed over 20,000 hours of volunteer service to the residents;
- Saved the state over \$1.8 million in salaries and administrative costs for long-term care residents; and
- Completed 100 percent of the prescribed annual facility assessments.¹¹

III. Effect of Proposed Changes:

This bill repeals s. 400.0089, F.S., which requires the Office of State Long-Term Care Ombudsman to maintain a statewide uniform reporting system for collecting and analyzing data relating to complaints and conditions in long-term care facilities, and to publish quarterly information pertaining to the number and type of complaints received.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁵ Florida’s Long-Term Care Ombudsman Program, *Residents and Families*, <http://ombudsman.myflorida.com/ResidentFam.php> (last visited Feb. 17, 2011).

⁶ *Id.* For an entire list of responsibilities of an ombudsman, see s. 400.0065(1), F.S.

⁷ Section 400.0089, F.S.

⁸ *Id.*

⁹ Dep’t of Elder Affairs, *2011 Legislative Bill Analysis SB 682* (Feb. 28, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs); see also 42 U.S.C. s. 3058g(c) and 42 U.S.C. s. 3058g(h)(1).

¹⁰ *2009-2010 Annual Report*, *supra* note 2.

¹¹ *Id.*

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill repeals the requirement in Florida law for the Office of State Long-Term Care Ombudsman (office) to publish quarterly information pertaining to the number and type of complaints received by the ombudsman program. However, pursuant to federal law, the office will still be required to publish an annual report, which includes data concerning complaints.¹² Therefore, repealing s. 400.0089, F.S., will not relieve the state ombudsman and the office of the requirement to publish an annual report and to maintain a statewide uniform reporting system to analyze and collect data.¹³

Instead of repealing s. 400.0089, F.S., the Department of Elder Affairs (DOEA) recommends amending the statute so that the law requires that information focusing on the *disposition* of complaints also be provided on a quarterly basis.¹⁴ According to DOEA “[s]ince ombudsmen seek to resolve complaints to the residents’ satisfaction, focusing on the disposition is an important component of an ombudsman investigation.”¹⁵

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹² Dep’t of Elder Affairs, *supra* note 9.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

B. Amendments:

None.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7056

INTRODUCER: Senator Storms

SUBJECT: Background Screening

DATE: March 7, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill makes a number of changes to background screening requirements, primarily pertaining to individuals who work with Florida’s seniors. Those changes include:

- Exempting, from the definition of “direct service provider;” individuals who are related to the client, and volunteers who assist on an intermittent basis for less than 20 hours of direct, face-to-face contact with a client per month
- Exempting, from any additional Level 2 background screening requirements, an individual who was background screened pursuant to an Agency for Health Care Administration (AHCA) licensure requirement if they are providing a service within the scope of their licensed practice;
- Allowing the Department of Elder Affairs (DOEA) to adopt rules to implement a schedule to phase in the background screening of individuals serving as direct service providers on July 1, 2010. The phase in must be completed by July 1, 2012;
- Specifying that employers of direct service providers previously qualified for employment or volunteer work under Level 1 screening standards, and individuals required to be screened according to the Level 2 screening standards, shall be rescreened every five years, except in cases where fingerprints are electronically retained; and
- Removing a provision relating to criminal offenses that was inadvertently applied to DOEA.

This bill substantially amends s. 430.0402 of the Florida Statutes.

II. Present Situation:

The Florida Legislature in 1995 created standard procedures for the criminal history background screening of prospective employees in order to protect vulnerable persons, including children, the elderly, and the disabled. Over time, implementation and coordination issues arose as technology changed and agencies were reorganized.

To address these issues, the legislature enacted legislation in 2010 that substantially rewrote the requirements and procedures for background screening of the persons and businesses that deal primarily with vulnerable populations.¹ The bill provided that a “vulnerable person” includes minors and vulnerable adults as defined in s. 415.102(26), F.S. That section defines “vulnerable adult” as an adult “whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, long-term physical, or developmental disability or dysfunctioning, or brain damage, or the infirmities of aging.”² Primary changes made by the bill included:

- Requiring that no person required to be screened may be employed until the screening has been completed and it is determined that the person is qualified;
- Increasing all Level 1 screening to Level 2 screening. This did not require existing employees to be rescreened until they otherwise come up for rescreening pursuant to existing law;
- Requiring all fingerprint submissions to be done electronically by August 1, 2012, or sooner, should an agency decide to do so by rule. However, for those applying under AHCA, electronic prints were required as of August 1, 2010;
- Requiring certain personnel who deal substantially with vulnerable persons and who are not presently being screened, including persons who volunteer for more than 10 hours a month, to begin Level 2 screening. This includes homes for special services, transitional living facilities, prescribed pediatric extended care centers, and certain direct service providers under DOEA;
- Adding additional serious crimes to the list of disqualifying offenses for Level 1 and Level 2 screening;
- Authorizing agencies to request the retention of fingerprints by FDLE. The bill also provided for rulemaking and related implementation provisions for retention of fingerprints;
- Providing that an exemption for a disqualifying felony may not be granted until after at least three years from the completion of all sentencing sanctions for that felony;
- Requiring that all exemptions from disqualification be granted only by the agency head; and
- Rewriting all screening provisions for clarity and consistency.³

To implement these new requirements, DOEA adopted an emergency rule which required that all persons who come into direct contact with individuals receiving services provided through the department, whether as employee or volunteer, must undergo a level 2 background screening

¹ See Chapter 2010-114, L.O.F.

² *Id.*

³ *Id.*

prior to employment or volunteerism.⁴ Level 2 background screenings cost \$43.25 (the \$24 state fee, plus an additional \$19.25 for electronic fingerprints) or \$30.25 (\$24 plus \$6.25 for hard copy fingerprints).⁵ The department did not make additional funds available to its service providers for this purpose, and most providers have passed this cost on to their prospective employees and volunteers.

It has been reported that the expansion of Level 2 background screening on volunteers and Area Agency and service provider staff resulting from the 2010 legislation has dramatically impacted these types of service providers. These individuals would include Aging Resource Center staff and Meals on Wheels program volunteers who do not enter a senior's home.

The Meals on Wheels program is dependent on volunteers, and the program is currently losing volunteers who cannot afford to pay for the cost of a level 2 background screening. If this trend continues, and the program continues to lose volunteers or is unable to recruit new volunteers, frail, homebound seniors will not receive needed meals and their nutrition will suffer.

- Many service provider agencies have relationships with churches whose volunteers deliver several hundred meals during the holiday season. Under the new background screening requirements, these churches and civic organizations were unable to continue providing volunteers for holiday meal delivery.
- Senior centers, congregate meal sites, and health and wellness programs are also dependent on volunteer labor. It is feared that programs and activities will be curtailed or lost entirely if the volunteer force is further diminished.

The provisions of the 2010 legislation are also impacting the Home Care for the Elderly (HCE) caregivers. Many HCE caregivers are family members. These family members receive a small monthly stipend of \$106 to help care for a frail, aging family member at home, and many of these caregivers have been providing this care for years. The stipend is used to pay for a number of things, including, but not limited to, incontinence products, nutritional supplements, respite care, etc. The new Level 2 background screening requirement is applicable to these family members/caregivers as well.⁶

III. Effect of Proposed Changes:

The bill makes changes to the law related to background screening that include:

- Exempting, from the definition of "direct service provider;" individuals who are related to the client, and volunteers who assist on an intermittent basis for less than 20 hours of direct, face-to-face contact with a client per month
- Exempting, from any additional Level 2 background screening requirements, an individual who was background screened pursuant to an Agency for Health Care

⁴ See Rule 58ER10-1, F.A.C., effective August 1, 2010.

⁵ *Criminal History Record Checks/Background Checks Fact Sheet* January 4, 2011. Available at <http://www.fdle.state.fl.us/Content/getdoc/39b8f116-6d8b-4024-9a70-5d8cd2e34aa5/FAQ.aspx> (last visited March 3, 2011).

⁶ Meeting with representatives from the Area Agencies on Aging and the Community Care for the Elderly program. November 18, 2010.

Administration (AHCA) licensure requirement if they are providing a service within the scope of their licensed practice;

- Allowing the Department of Elder Affairs (DOEA) to adopt rules to implement a schedule to phase in the background screening of individuals serving as direct service providers on July 1, 2010. The phase in must be completed by July 1, 2012;
- Specifying that employers of direct service providers previously qualified for employment or volunteer work under Level 1 screening standards, and individuals required to be screened according to the Level 2 screening standards, shall be rescreened every five years, except in cases where fingerprints are electronically retained; and
- Removing a provision relating to criminal offenses that was inadvertently applied to DOEA.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will reduce the number of persons who will need to undergo background screening prior to working with vulnerable persons. The Level 2 screenings cost \$43.25 (the \$24 state fee, plus an additional \$19.25 for electronic fingerprints) or \$30.25 (\$24 plus \$6.25 for hard copy fingerprints).⁷ By decreasing the number of persons subject to screening, there will be less of a financial impact on employers and employees.

⁷Criminal History Record Checks / Background Checks Fact Sheet January 4, 2011. Available at: <http://www.fdle.state.fl.us/Content/getdoc/39b8f116-6d8b-4024-9a70-5d8cd2e34aa5/FAQ.aspx>. (Last visited March 3, 1011).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7058

INTRODUCER: Senator Storms

SUBJECT: Differential Response

DATE: March 8, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires the Department of Children and Family Services (DCF or department) to establish the Child Protective Response Workgroup (workgroup). The workgroup will develop a plan to allow the department to fully implement a differential response system for responding to reports of child abuse or neglect. The bill provides a minimum set of tasks for the workgroup, requires a report to the legislature by December 31, 2011, and specifies what must be included in the report.

The bill also requires the department to establish the Child Welfare Professional Advisory Council (council). The council will review and make recommendations relating to the education and qualifications of child welfare staff employed with the department, the sheriff's offices contracted to conduct child protective investigations, and the community-based care lead agencies and their contracted providers. The bill specifies a scope of work for the council, provides for members to be appointed by the secretary, specifies the entities that must be represented in the membership, and requires the department to provide administrative support. The bill specifies that the council members serve without compensation, but may be reimbursed for per diem if funds are available, and provides for an annual report to the legislature by December of each year, with the first report due by December 31, 2011.

II. Present Situation:

Differential Response

Differential response is a child protection services practice that allows more than one type of initial response to reports of child abuse and neglect. Also called “dual track,” “multiple track,” or “alternative response,” this approach recognizes variation in the types of reports and the value of responding differently to different types of cases. This approach is guided by the assumption that the use of a differential response system would allow agencies to protect children and support families in a less adversarial manner, while reserving agency resources for the more intensive, high-risk cases.¹

While definitions and approaches vary from state to state, a differential response system typically consists of two major types of response to reports of child abuse and neglect. The type of response chosen for each report begins with some entity determining how a call to the hotline will be handled. The report will either rise to the level of severe maltreatment or maltreatment that is potentially criminal and will receive an investigation response, or the report will involve low or moderate risk to the child and receive an assessment response.²

The Child Welfare League of America (CWLA) and The American Humane Association (AHA) identified core elements in a differential response system in an attempt to achieve definitional clarity and distinguish among the multitude of child protection reforms across state and county child welfare systems.³ These core elements include:

- The use of two or more discrete responses for intervention.
- The creation of multiple responses for reports of maltreatment that are screened in and accepted for response.
- The determination of the response assignment by the presence of imminent danger, level of risk, the number of previous reports, the source of the report, and/or presenting case characteristics such as type of alleged maltreatment and the age of the alleged victim.
- The ability to change the original response assignment based on additional information gathered during the investigation or assessment phase.

¹ Zielewski, E.H., Macomber, J., Bess, R. and Murray, J. (2006). Families’ Connections to Services in an Alternative Response System. The Urban Institute: Washington, D.C. Available at: http://www.americanhumane.org/assets/docs/protecting-children/PC-AR-families-connections_ui.pdf. (Last visited March 3, 2011.)

² Child Information Gateway. (2008). Differential Response to Reports of Child Abuse and Neglect. Washington, D.C.: U.S. Department of Health and Human Services. Available at: http://www.childwelfare.gov/pubs/issue_briefs/differential_response/differential_response.pdf. (Last visited March 3, 2011.) However, not all jurisdictions that employ a differential response system focus simply on choosing an assessment or investigation response. In some areas, there is more variation in types of response. Additional responses may include a resource referral/prevention response for reports that do not meet screening criteria for child protective services but suggest a need for community services, or a law enforcement response for cases that may require criminal charges.

³ Merkel-Holguin, L., Kaplan, C. and Kwak, A. (2006). National Study on Differential Response in Child Welfare, American Humane Association and Child Welfare League of America. Available at: <http://www.americanhumane.org/assets/docs/protecting-children/PC-DR-national-study2006.pdf>. (Last visited May 3, 2011).

- The establishment of multiple responses is codified in statute, policy and/or protocols.
- The ability of families who receive a non-investigatory response to accept or refuse the offered services after an assessment without consequence.
- No identification of perpetrators and victims when alleged reports of maltreatment receive a non-investigation response and services are offered without a formal determination of child maltreatment.⁴

While the use of a differential response system promises to better enable child protection agencies to protect children and strengthen families, implementing a differential response system poses many challenges. Crucial considerations for an efficient and successful differential response system include use of the most promising standardized tools; training and reinforcing the worker's use of a strength-based and non-adversarial model; and the availability of an adequate network of community services providers.⁵

In 1993, Florida was one of the first two states to implement a differential response system.⁶ The provisions in Florida law relating to the Family Service Response System (FSRS) constitute the assessment response of a differential response system. The approach provided for a nonadversarial response to reports of abuse and neglect by assessing for and delivering services to remove any determined risk, while providing support for the family.

The legislation allowed local HRS service districts the flexibility to design the FSRS to meet local community needs⁷ and required an ongoing community planning effort to include the approval of the recently established Health and Human Service Boards.⁸ The department began steps toward the implementation of FSRS in districts statewide. Despite positive findings reported in the 1996 outcome evaluation⁹ in some districts, difficulties identified during the course of the evaluation had a negative effect on the viability and support for FSRS.¹⁰

In addition to problems identified in the outcome evaluation, an assessment of dependency cases by Florida's Dependency Court Improvement Program (DCIP)¹¹ revealed enough judicial concern with the inconsistent implementation of the FSRS, and compromised child safety as a

⁴ *Id.*

⁵ Richardson, J. Differential Response: Literature Review, University of Illinois School of Social Work, Children and Family Research Center. November 2008.

⁶ The other state was Missouri. Missouri decided to expand its approach statewide after trying a pilot program in 14 counties. The approach has served as a model for differential response in other states. Crane, K. In Brief: Taking a Different Approach. National Conference of State Legislatures, January 2010. Available at: <http://www.ncsl.org/?tabid=19395>. (Last visited March 2, 2011.)

⁷ Section 415.5018, F.S. (1993).

⁸ *Id.*

⁹ Hernandez, M. and Barrett, B. Evaluation of Florida's Family Services Response System, Florida Mental Health Institute, University of South Florida, December 1996.

¹⁰ Alternative Response System Design Report, Prepared for the Florida Department of Children and Family Services by the Child Welfare Institute, December 2006.

¹¹ Florida's Dependency Court Improvement Program (DCIP) was established in 1995 when Congress funded a comprehensive research initiative to assess judicial management of foster care and adoption proceedings. The mandate to the highest court in every state was to assess the court's management of dependency cases to determine the level of compliance with the Adoption Assistance and Child Welfare Act and to develop an action plan to effect positive change in legislation, policy, judicial oversight, representation, and practice and procedure.

result of decisions being made by the HRS/DCF staff, that the DCIP recommended that Florida return to the use of a traditional protective investigation for all reports.¹²

During the 1998 session, legislation was enacted that incorporated all of the recommendations of the DCIP, as well as the mandated provisions of the newly enacted federal Adoption and Safe Families Act (ASFA), and Florida's version of a differential response system was repealed.¹³ As a result, all districts returned to the investigation of all child protective reports culminating in a finding associated with a child victim and perpetrator. Currently, Florida law does not allow for the use of a differential response system.

Child Welfare Staff

Experience in other states has shown that the need for a skilled workforce trained in strength-based and collaborative interventions with manageable workloads is central to the successful implementation of a differential response system. Because much of family assessment work depends on the ability to engage with families on an individual basis, workers are left with broad discretion in determining what services best fit the families' needs and how to link families to those services. Workers must have the appropriate skill set, support, and confidence to effectively do the work that a differential response system requires.¹⁴

According to the department, the minimum education and background requirements for child protective investigators are not specified in statute or rule.¹⁵ DCF's internal hiring practices have set educational requirements for new protective investigators, with candidates having any Bachelor's Degree and one year of child welfare related experience, or any Master's degree, which can substitute for the one year of child welfare experience. Preference is given to candidates with a human services related degree. The department is not involved in the hiring practices or standards established by the sheriff's offices.¹⁶

Currently, the department reports that they do not track the educational experience of protective investigators or community-based care (CBC) staff, but will be including that information in a future build of their learning management system. Anecdotally, the department believes that less than 25 percent of line staff have either BSWs or MSWs and less than 10 percent of supervisors have MSWs. CBCs report that they give preference to applicants who have social work degrees.¹⁷ There are, however, minimum training requirements that must be met in order to become Certified as a Child Welfare Professional, which is a requirement for being a protective

¹² Conversation with Kathleen Kearney, Chair of the Dependency Court Improvement Program (1996-1997), September 7, 2010.

¹³ Chapter 98-403, L.O.F. CS/HB 1019. Part III of chapter 39, F.S., entitled Protective Investigations, was created and all calls accepted by the hotline as reports were required to be investigated.

¹⁴ Richardson, J. Differential Response: Literature Review, University of Illinois School of Social Work, Children and Family Research Center. November 2008.

¹⁵ Rule does, however, require that personnel working in child placing agencies are required to have either a BSW, an MSW, or a degree in a related area of study depending on their job responsibilities. 65C-15.001, F.A.C.

¹⁶ Communication from the Department of Children and Family Services, Family Safety Office, September 16, 2010. Copy on file with the Committee on Children, Families, and Elder Affairs.

¹⁷ *Id.*

investigator, regardless of whether the protective investigator is an employee of the department or of a sheriff's office.¹⁸

A number of recent events would make it appear that in spite of the department's training and certification programs, the qualifications of child protective personnel to appropriately and adequately work with families may remain questionable:

- In the days following the death of Nubia Docter Barahona, DCF Secretary David Wilkins appointed a three- member panel to investigate the girl's death and her brother's severe abuse. During the three hearings held to date, panel members recounted all the warnings child welfare workers had received that Nubia was in jeopardy in her foster home.

The warnings began in 2004, when a nurse told a caseworker: "foster parent does not care for the child's well being," and continued for the next six years. DCF's top Miami administrator, Jacqui Colyer responded by saying, "We were getting signs early on, but we didn't tie it all together."¹⁹

Panel members have directed a series of assignments, including a review of the education, pay scale and training of caseworkers, investigators and supervisors.²⁰

- In a case from Charlotte County, a crime scene technician found a 10-year-old boy (T.M.B.) asleep inside the bathroom vanity and removed him from his home. His stepmother told detectives she had smeared feces and urine in his face, "like you would a dog," and slid peanut butter sandwiches under his door so she wouldn't have to see him.²¹

The boy had been seen by child welfare, school, medical and mental health officials, and law enforcement officers long before the arrests of his stepmother and father. The department's quality assurance report outlines many shortcomings:

- The child protective investigator, Gordon Smith failed to gauge the risk to the child, especially given his parent's admission they confined him for long periods to punish him.
- Smith said he had social services come to the home to provide such things as counseling. He blamed the system's bureaucracy for a communication gap. "If you don't hear anything back from the services, you assume everything is OK,

¹⁸ This training represents approximately 25 percent of the hours spent by a student in a BSW program with and Child Welfare Certificate. Information obtained from the College of Social Work, Florida State University, September 14, 2010. Copy on file with the Committee on Children, Families, and Elder Affairs.

¹⁹ Miami Herald, Before adoption, Nubia, brother told psychologist of morbid fears.

Available at: <http://www.miamiherald.com/2011/03/03/2095922/nubia-brother-told-psychologist.html#> (Last visited March 3, 2011).

²⁰ Department of Children and Family Services. Minutes from Department of Children and Families Barahona Investigative Team Meeting, Friday, February 25, 2011. Available at: <http://www.dcf.state.fl.us/initiatives/barahona/docs/meetings/MeetingSummary02-25-11.pdf>. (Last visited March 3, 2011).

²¹ The News Press. Exclusive: DCF missed clues of Port Charlotte boy's captivity. As father, stepmother await trial, questions linger for Florida agency. Available at: http://www.news-press.com/article/20110301/SS08/110227018/Exclusive-DCF-missed-clues-Port-Charlotte-boy-s-captivity?odyssey=mod_sectionstories. (Last visited March 3, 2011).

and that's the problem," he said. "I was relying on other people to tell me what was going on."

- Among other failings listed in the report: Smith neglected to question explanations for documented scratches on the boy's neck and thoroughly investigate a head injury. He failed to take the boy for mandatory interviews with a child protection team and asked for an exception to the process that would have brought an independent opinion.
- Smith did not remove the child in spite of the fact that the child continually expressed fear of his stepmother and stated he was afraid to be alone with her.^{22,23}

III. Effect of Proposed Changes:

The bill requires the department to establish a task force and an advisory council to address two issues raised in a Senate interim project report relating to differential response systems.²⁴

The bill requires the department to establish the Child Protective Response Workgroup (workgroup) for the purpose of developing a plan that will allow the department to fully implement a differential response system for responding to reports of child abuse or neglect. The bill provides minimum tasks for the workgroup that, at a minimum, include:

- An examination of best practices developed by other states that have successfully implemented a similar response system;
- An update and finalization of the work plan that was designed for the department by the Child Welfare Institute in 2006; and
- Consideration of the outcomes of the 2008 differential response pilots implemented by the department.

The bill requires a report to the legislature by December 31, 2011, that includes:

- A detailed list of tasks and a timeline for future implementation of a differential response system;
- The requirements and expectations for participation by community-based-care lead agencies;
- A plan to integrate the use of the sheriff's offices to conduct child protective investigations within the differential response system; and;
- A statewide survey of services available to families.

The bill also requires the department to establish the Child Welfare Professional Advisory Council (council) for the purpose of reviewing and making recommendations relating to the education and qualifications of child welfare staff employed with the department, the sheriff's

²² *Id.*

²³ Department of Children and Family Services. Quality Assurance Review, Suncoast Region Quality Assurance Unit. June 29, 2010.

²⁴ Senate Interim Project 2011-105. Differential Response To Reports Of Child Abuse And Neglect. Committee on Children, Families, and Elder Affairs. October 2010.

offices contracted to conduct child protective investigations, and the community-based care lead agencies and their contracted providers. The bill specifies a scope of work for the council that includes:

- Incentives necessary to hire and retain employees with bachelor's or master's degrees in social work;
- Incentives necessary to enable current staff to obtain a bachelor's or master's degree while continuing employment;
- An examination of child welfare certifications issued by either schools of social work, the department, or third party credentialing entities;
- An examination of hiring practices in other states that require all child welfare staff to hold degrees in social work, particularly those states that have privatized the provision of child welfare services, such as Kansas;
- An analysis of the benefits, including cost benefits, of having all child welfare staff hold a bachelor's or master's degree in social work from a degree program certified by the Council on Social Work Education or a degree from an accredited human services degree program; and
- An examination of ways to increase the amount of federal Title IV-E Child Welfare Program funding for social work education available to Florida.

The bill provides for members to be appointed by the secretary and specifies the entities that must be represented in the membership, to include representatives from:

- The headquarters and circuit offices of the department;
- Community-based care lead agencies;
- The sheriff's offices contracted to conduct child protective investigations;
- Third-party credentialing entities;
- State schools that are members of the Florida Association of the Deans and Directors of the Schools of Social Work; and
- Faculty members from those schools whose duties include working with Title IV-E child welfare program stipend students and teaching specialized child welfare courses.

The bill requires the department to provide administrative support to the council, specifies that the council members serve without compensation, but may be reimbursed for per diem if funds are available, and provides for an annual report to the legislature by December of each year, with the first report due by December 31, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Members of the Child Welfare Professional Advisory Council may incur per diem expenses associated with attendance at meetings, but the amount is expected to be *de minimus*.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

The Miami Herald

Posted on Tue, Mar. 01, 2011

Panel hears chilling tales from Nubia's short life

By Diana Moskowitz and Carol Marbin Miller
dmoskovitz@MiamiHerald.com



Nubia, 10, was found dead in the back of her adoptive father's pick-up truck in Palm Beach County on Valentines Day.

CBS-4

Chilling flashbacks from the short, tormented life of Nubia Barahona were recounted Tuesday by a child-welfare lawyer who periodically broke into sobs.

Christine Lopez-Acevedo, a former attorney for the Guardian ad-litem Program, recited mostly by memory from official child welfare records: Nubia telling a teacher she was going to be beaten with footwear; Nubia locking herself in a bathroom and crying hysterically at the thought of her mother being called to the school; Nubia promising to behave better if a principal promised never again to call her mother.

The records were readily available in 2009 when a Miami judge approved the adoption of Nubia and her twin brother Victor by foster parents Jorge and Carmen Barahona.

The adoption would turn tragic. On Valentine's Day, Victor Barahona, was discovered in the cab of his red pickup truck along Interstate 95 in Palm Beach County, soaked in toxic chemicals and suffering seizures. Next to him, passed out, was Jorge Barahona, who runs a pest control company. Hours later, Nubia's decomposing body was discovered in the bed of the pickup, shoved in a bag. Like her brother, she was 10.

At the second meeting of a panel charged with determining how numerous efforts to save Nubia fell so tragically short, speakers said the girl demonstrated a distinct fear of her then-foster mother as far back as kindergarten.

At a 2007 court hearing recounted by Lopez-Acevedo, Nubia's Royal Palm Elementary kindergarten teacher described the day Nubia wet her pants at school. Thinking it no big deal, the teacher told Nubia she would call Carmen Barahona to have her bring a change of clothes.

"Mama is going to hit me with a chancleta [a type of sandal] on the bottom of my feet," the teacher testified. Nubia then locked herself in a bathroom and cried hysterically, said Lopez-Acevedo, who wept herself when relating the episode.

The principal at another school, Blue Lakes Elementary, also testified that Nubia was fearful of Carmen – so fearful that she once promised she would never fall asleep in class again if

the school would refrain from calling home to complain about her. The principal said a colleague from the twins' previous school suggested "something was not right" with the twins, and that school workers should keep an eye on them, Lopez-Acevedo said.

They did. All told, three times between 2006 and 2010, Blue Lakes Elementary employees called the state's child-abuse hotline with concerns that Nubia had been brought to school dirty, foul-smelling and unkempt. And that Nubia hoarded food and complained constantly that she was hungry.

Yet none of this information was provided to Vanessa Archer, the psychologist charged with evaluating the Barahonas' fitness to adopt the twins, who had been in their care as foster children. The result: what foster care administrators have called a "glowing" evaluation of the couple, which smoothed the way for the Barahonas to adopt.

"There was alarming information from the school," said Roberto Martinez, a former U.S. attorney for Southern Florida who is part of the three-member panel determining what went wrong.

While the panel was listening to speakers, police from both Miami-Dade County and West Palm Beach were, once again, looking for clues at the Barahonas' West Miami-Dade home. They may have found one: Detectives left the house Tuesday morning carrying a bathtub. A Feb. 10 call to the state's abuse hotline — the last of nine that mentioned the girl — said Nubia and her twin were being taped hand and foot and forced to stand for hours in a bathtub.

Later Tuesday, a family law attorney representing Carmen Barahona filed for divorce against Jorge Barahona on Carmen's behalf. Jorge remains at the Palm Beach County Jail with no bail on charges of attempted murder and aggravated child abuse.

Karl Hall, Carmen's lawyer, said Carmen was a victim of domestic violence who was every bit as terrorized by Jorge as the children.

"Carmen Barahona is a woman with a host of problems stemming from her relationship to Jorge Barahona," Hall said. "His control and his actions put the fear into her."

The petition seeks spousal support and child support from her jailed husband, as well as custody of their three remaining children.

Victor was released from Jackson Memorial Hospital on Tuesday.

At the hearing Tuesday morning, panelist David Lawrence chided foster care workers for placing too much weight on the opinions of "experts" — such as psychologists Archer and Michael DiTomasso, who also evaluated the children — and too little weight to the concerns of teachers and school administrators, who saw the twins every day.

"I can't imagine a more neutral witness myself than a principal. You listen to this, and you think 'these are signals of the highest order'," said Lawrence, who heads the Children's Movement of Florida. "It just seems stunningly tragic to me."

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Florida Department of Children & Families

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DCF Home

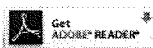
Independent Review

Independent Review

- [Barahona Case Home](#)
- [Barahona Case Released Documents](#)
- [News and Press Releases](#)
- [Barahona Investigation Team Information](#)



Barahona Released Documents



Some files may require Adobe Reader to be viewed.

File Name:	File Size:	Date Created:	File Type:
Barahona Foster Home Licensing	63368846	2/21/2011 5:00:03 PM	File Folder
Barahona Independent Review panel	360407688	3/1/2011 3:00:01 PM	File Folder
February 2011 Investigation Notes	5391115	3/2/2011 12:59:57 PM	File Folder
Florida Abuse Hotline Call - February 10 2011	18838434	3/2/2011 12:59:58 PM	File Folder
Florida Abuse Hotline Call - February 12 2011	15785003	3/2/2011 1:00:03 PM	File Folder
Letters to Governor Crist	474998	2/21/2011 11:00:03 AM	File Folder
Our Kids of Miami-Dade Monroe Inc Documents	102164786	2/21/2011 12:00:04 PM	File Folder
Protective Investigations	46501314	2/21/2011 11:00:03 AM	File Folder

1 of 2 DOCUMENTS

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Exclusive: DCF missed clues of Port Charlotte boy's captivity

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By the age of 10, the wiry boy had learned to live like a prisoner of war.

He told his grandmother he passed the months trapped in his room peering at the freedom of the night sky, craning to hear his stepsister's TV and plotting his escape.

Charlotte County sheriff's reports paint a disturbing picture of the towheaded boy's room in a quiet, middle-class Port Charlotte neighborhood:

No toys or lights. No furniture except for a urine-soaked mattress. The lock on his door reversed.

His petite 40-year-old stepmother, Kimberly Boone, told detectives she had smeared feces and urine in his face, "like you would a dog," and slid peanut butter sandwiches under his door so she wouldn't have to see him.

It's been eight months since a crime scene technician found the boy asleep in a bathroom vanity and took him from the home.

But his exit could have come much earlier.

The boy was seen by a slew of child welfare, school, medical and mental health officials and law enforcement officers long before the arrests of his stepmother and father, Thomas Boone, according to records The News-Press obtained.

A Department of Children and Families investigator first visited the home and saw the room in early December.

The agency's internal review shows the case was bungled. The case has played a role in changes to local DCF policies.

The child is not being named because of the nature of the allegations.

"It's just unbelievable how many people erred in this," said Mary Kaiser, his 70-year-old grandmother who has been caring for the boy in her south Fort Myers condo. "Somebody needs to be responsible."

The background

Three abuse reports were made to DCF starting in December 2009.

The child's pleas for another place to live went unheeded, records show. He begged DCF investigator Gordon Smith in January for another place to live because he "needed a break," and drew a picture at school of a gun with bullets going into his head, records show.

The department's quality assurance review of the case was acquired through a public-records request but all other DCF records are confidential.

Smith left the boy in the home after seeing the room with the mattress and reversed doorknob, records say.

He wouldn't say why he left him there.

"I really can't go into that right now because it's part of the criminal case and I'm being deposed," he said.

Smith interviewed the parents and the boy, often alone, at least six times and made at least three visits to the home, the review shows. Smith said conditions had spiraled downhill from the time he first saw him to June.

"People don't know the whole story, and that's not to say that mistakes weren't made," said Smith, 63, of Port Charlotte, who earned \$1,507 biweekly and officially retired Dec. 30, 2010.

Smith said the case played no role in his retirement. He was hired by DCF in 2004 after 26 years of police work.

He said he often thinks about the boy, who "was the one who suffered because of it."

Boy sneaks out

It wasn't until law enforcement showed up June 19, 2010, after his father called to report him missing, that the boy found a way out.

That day, the grandmother said, the roughly 50-pound boy sneaked out to hunt for food in the master bedroom.

Kimberly and Thomas Boone, 39, spent little time in jail after posting \$12,500 bond each, court records show. DCF later placed the boy with his grandmother.

On Thursday, a Charlotte magistrate terminated DCF's supervision.

His stepmother and father are awaiting trial on two felony child abuse charges each, including one for malicious punishment and/or torture, and a felony child neglect charge.

Neither responded to requests for comment. They are being represented by attorneys paid for by tax dollars. Both have filed pleas of not guilty.

Kaiser plans to relocate with the boy to Tennessee to be with family and away from the attention that will follow from the criminal case.

Kaiser, who calls her son's alleged actions uncharacteristic, tried to isolate her grandson from the media frenzy after the arrests, but he overheard his father's name on TV.

"Now people will believe me, and now Gordon Smith will believe me," Boone recalled her grandson saying.

Amen, she said, and pulled him close for a hug.

The DCF report

DCF's report outlines several shortcomings.

It concluded Smith failed to gauge the risk to the child, especially given Kimberly Boone's past and the couple's admission they confined him for long periods to punish him.

The couple married in 2009, the report says, and conditions changed for the boy. His birth mother has not been in the child's life since he was a baby, his grandmother said.

Kimberly Boone's teen children had been removed because of broken bones of her then-infant son, the report says.

It's not clear in the review when the injuries occurred, but the incident was noted in a DCF report the year before the couple married. Kimberly Boone's history with the child welfare system began in 1996 after an allegation of physical abuse, it says.

Smith said he had social services come to the home to provide such things as counseling. He blamed the system's bureaucracy for a communication gap.

"If you don't hear anything back from the services, you assume everything is OK, and that's the problem," he said. "I was relying on other people to tell me what was going on."

Lutheran Services Florida is subcontracted to handle such services.

Among other failings listed in the report: Smith neglected to question explanations for documented scratches on the boy's neck and thoroughly investigate a head injury.

He failed to take the boy for mandatory interviews with a child protection team and asked for an exception to the process that would have brought an independent opinion.

"The child continually expressed fear of his stepmother and stated he was afraid to be alone with her," the quality assurance report says.

Smith said the Boones wanted help but the agency doesn't have money to deliver services, only make judgments.

"If I'm knocking on the door and saying, 'I'm from the government and I can help,' I better be able to back that up," Smith said. "I didn't find that in this case and in most cases."

It initially seemed the family could be kept together, which is often best for the child if he is safe, said Cookie Coleman, who leads DCF in Southwest Florida.

Smith and his supervisor, Abby Duwe, were verbally reprimanded after the report, she said.

Their actions also were dissected before other supervisors for training purposes.

Kaiser believes that was not enough for Smith.

"That man should go to prison with the stepmother because I personally cried and called him until I'm sure if he knew I was calling he would never answer the phone," she said.

Opinions differ

With all eyes on the family, how did the system not pluck the child from his home earlier?

The case was muddied by differing professional opinions and the child's recanting of allegations, Coleman said, noting that is not uncommon for children to do.

"Unfortunately, the investigator was listening to that and not actually looking at the physical evidence and giving it the proper weight."

Kaiser has been frustrated by the response. Child welfare officials have pointed to behavioral problems as a reason, she said.

The boy was taking medication for Attention Deficit Hyperactivity Disorder, the DCF report says.

"Once DCF realized they had screwed up, they didn't just say, 'Wow we screwed up,' but they just tried to keep covering it up," Kaiser said.

Coleman said the way the case was handled factored into policy changes.

Investigators can no longer ask for an exception for a mandatory interview with a child protection team, she said, as Smith did for a second report of the stepmother grabbing the child's neck in January.

"This pretty much gets another set of eyes on the case," Coleman said.

The team is run by an organization independent of DCF, and conducts detailed interviews to try to ferret out the truth.

Smith asked for the exception because he said there were no signs of injury and the child recanted, the DCF review says.

The agency also will do deeper research into a family's abuse history and look for patterns that stretch to the present, Coleman said.

Still, she said, the system is not failure proof.

"We are taking steps but unfortunately, we will continue to miss things," she said. "We can always improve and we always need to improve."

Signs of abuse

When the crime scene technician found the 10-year-old under the sink, he emerged looking scared and malnourished, say records that also provided this information:

The 10-year-old said his stepmother hit, scratched and threw him, along with forcing him to eat a piece of cloth with feces.

At times, he was made to stand in the corner with his arms up for days.

In the morning, he was allowed a slug of water and, at night, a peanut butter sandwich he sometimes hid under his mattress for when he was really hungry.

The boy told authorities he had been locked in his room since December, only leaving for school or when his family was gone.

The couple didn't dispute much of what he said, according to reports. Kimberly Boone said she kept the door locked from 9 p.m. to the morning.

Thomas Boone told detectives his son could come out. Keeping him in the room was punishment for lying, he said.

The couple moved out of the white house with green trim after their arrests, said landlord Phillip Heyden.

The Boones told him the boy would run away at night, and they were in counseling.

"They seemed to be nice people, and it turned into a nightmare for them," Heyden said.

His wish list

The evening the 10-year-old was removed, before going to bed in the cozy guest room of his grandmother's condo, he scribbled out two lists.

Things he wanted to get included: "few bags of marshmallows, few boxes of gramcrackers."

On his to-do list was: "roast marshmallows, go shopping ... go to the park for a few minuts, draw."

He has asked to see his father, and told detectives he loved him, court records show. His father's attorney has asked a no-contact order be lifted, which was denied.

The boy's drawings no longer depict suicide; they feature airplanes. He recently told his grandmother he no longer thinks about his stepmother every day. That's probably a good thing, she told him.

"There will be remnants of this forever, but he's got a real capability for solving problems," Kaiser said. "He's like a little man in a 10-year-old body."

Documents

- Personnel record of now retired DCF investigator Gordon Smith
- DCF's quality assurance report of the Boone case
- Arrest reports, court documents in Boone case

Children's Resource Center

Helping children: Go to our Children's Resource Center, dedicated to help the children of our community grow up safe from abuse or neglect, promote strong families and provide information to people who want to help kids.

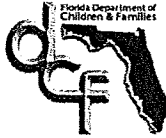
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PRELIMINARY Quality Assurance Review

Barahona Case Review

February 17, 2011

ISSUE

On February 14, 2011, ten year old [REDACTED] Barahano and his adoptive father, Jorge Barahano, were discovered next to their family vehicle on the side of a major highway in West Palm Beach. Upon making contact with [REDACTED] and Mr. Barahano, law enforcement officials determined both [REDACTED] and his father were in dire need of emergency medical assistance; officials also detected toxic fumes emitting from the vehicle. It was determined that both father and son had been suffering from what appeared to be chemical burns to their bodies. After [REDACTED] and his father were hospitalized, [REDACTED] twin sibling, Nubia, was discovered in the back of the vehicle, deceased.

On February 15th, the Miami-Dade Police Department notified the Department that the father had confessed to causing Nubia's death, reporting that he and the mother allowed the child to starve to death. The father had also planned to kill his adopted son and commit suicide, however, had failed to follow through successfully. The father was charged with aggravated child abuse.

As a result, the Barahano's two other adopted children, [REDACTED] and [REDACTED] were taken into protective custody and placed in a therapeutic foster home. [REDACTED] is currently at the Holtz Children's Hospital receiving medical attention in the pediatric intensive crisis unit for burn victims. His condition remains critical at this time.

At the time of this child's death, the Department had an open investigation on the family due to allegations of bizarre punishment and physical injury.

Due to the tragedy of Nubia's death and [REDACTED] severe injuries, Secretary David Wilkins has requested a review of the case to assess strengths and opportunities identified during our interventions with this family.

FAMILY COMPOSITION

NAME	DATE OF BIRTH	RELATIONSHIP
Nubia Barahona	DOB: 05/26/2000	Child Victim (deceased)
[REDACTED]	DOB: [REDACTED]	Child Victim
[REDACTED]	DOB: [REDACTED]	Child Victim
[REDACTED]	DOB: [REDACTED]	Child Victim
Jorge Barahona	DOB: 06/21/1957	Adoptive Father
Carmen Barahona	DOB: 10/20/1950	Adoptive Mother
[REDACTED]	DOB: [REDACTED]	Biological Father
[REDACTED]	DOB: [REDACTED]	Biological Mother

METHODOLOGY

At the time of this review, the preliminary findings involving this case have been based on FSFN documentation, information obtained from the current investigative file, and documentation contained within the foster care licensing file. A request for all case materials to include prior investigative files, case management files, and legal files has been made. Information obtained from these sources, once received, shall be incorporated into a more comprehensive assessment and final quality assurance review.

BACKGROUND INFORMATION

Carmen and Jorge Barahano became licensed foster parents in July 1999. While providing out of home care to abused and neglected children for ten years, they had a total of eight children placed in their home from July of 1999 until their license lapsed in July of 2009. The Barahano's adopted four of those children, [REDACTED], [REDACTED], [REDACTED] and Nubia (10). [REDACTED] was adopted in 2007 and [REDACTED] in 2001. [REDACTED] and Nubia's adoption was finalized in May of 2009.

Twin siblings [REDACTED] and Nubia first came the attention of the Department in May 2000, shortly after their birth, due to allegations of cocaine and heroin abuse by their mother. The children were subsequently removed from the home in June 2000, after the risk to the children was determined to be imminent had they remained in their mother's care.

The children were subsequently reunited with their parents in January 2001 upon substantial compliance with a court-ordered case plan.

Another abuse report was received on March 17, 2002 due to a domestic violence incident between the mother and father resulting in the mother's arrest. The case was closed on 3/18/2003 with verified findings of family violence threatens child and substance exposed child

On March 10, 2003, Children's Legal Services filed a petition with the court to modify custody of the children from their mother to their father and to proceed with the termination of the mother's rights due to ongoing concerns of abuse and neglect. The mother's rights were subsequently terminated by the court on August 4, 2003 and the children remained in the home with their father.

On January 2, 2004, an abuse report was received alleging that the mother was again residing in the family home and still using drugs. It was also alleged that [REDACTED] had sustained a bruise from an unknown origin. Concerns of emotional abuse by the mother were also expressed. This investigation was closed with no indication of abuse or neglect and the family was referred to the Family Builders in-home counseling program.

In March of 2004, allegations were received by the Florida Abuse Hotline that the father, [REDACTED] was arrested for sexual battery against a minor child. Although he was not in a caregiver role during this incident, there were associated concerns regarding the welfare of his two biological children based on the charges. Due to the threatened harm of abuse to [REDACTED] and Nubia, the investigation was closed with verified findings of abuse. [REDACTED] and Nubia were subsequently removed from the father's care and placed in the home of Jorge and Carmen Barahona. Both children were adjudicated dependent by the court on March 30, 2004.

FINDINGS

Licensing

A complete review of the Foster Care Licensing file for Jorge and Carmen Barahona was completed by both the Department of Children and Families and the Community-Based Care Lead Agency, Our Kids.

The Barahona's were licensed foster parents for ten years, from July 1999 – July 2009 with the exception of a four month period in 2002 while licensing entities awaited additional information on training hours and a pending home inspection.

A review of the file since initial licensure revealed that the licensing records were comprehensive and thorough, with all licensing standards found in compliance with statutory and administrative requirements. In addition, community input forms completed by case management and childcare providers expressed a high quality of care provided by the Barahonas. Exit interview results of the four other children who had resided in the home did not reveal any concerns regarding the home environment.

Throughout their tenure as licensed foster parents, the Barahonas were the subjects of three abuse reports regarding children in their care. All of these investigations were closed without indications of abuse or neglect. Per licensing standards, these investigations were staffed with Children's Legal Services at the closure of each investigation to ensure there were no concerns regarding the continued licensure of the family. All staffing forms were located in the file and indicated there were no concerns for continued licensure of the Barahonas. There were no other concerns documented in the licensing files.

Case Management

A review of the existing chronological entries and other information input into the official case record (FSFN) identified the following opportunities:

- [REDACTED] and Nubia were not interviewed by case management during the majority of home visits during the four year period the children were in this home awaiting adoption finalization.
- The children were not consistently seen every thirty days.
- A lack of timely and qualitative supervisory reviews prior to case transfer to adoptions.
- Supervisory reviews after transfer to adoption increased in frequency, however, lacked specific guidance.
- There is a lack of supervisory follow-through on identified case management tasks.
- Despite other adopted children being in the home, there are no chronological entries indicating these children were observed or interviewed.
- It does not appear that any medical, childcare, educational, or other providers were contacted to confirm information being provided by the prospective adoptive parents.
- The immediate need for dental services for the children was communicated to the foster parents on several occasions; however, it appears these needs were not addressed.
- There was a significant delay in achieving permanency for the children; the appeal by the biological father regarding the TPR findings apparently delayed adoption efforts (from 5/27/07 until finalization on 5/29/09). This delay resulted in many complaints by the Barahonas to the Governor's Office.
- The only FSFN entries included home visits and supervisory reviews. There is no documentation regarding abuse reports received during this four year period, nor any communication with providers, GAL, court hearings, staffings, etc.
- It is not clear what, if any, services were offered to support the family once adoption was finalized.

Child Protective Investigations

[REDACTED] and Nubia were identified as child victims in a total of nine reports called to the Florida Abuse Hotline prior to Nubia's death. Four of these reports involved the children's biological parents and the other five reports were received while the children were in the home with the Barahona family.

A review was completed of all the information that was contained in the Florida Safety Families Network (FSFN) on all prior investigations concerning Nubia and [REDACTED]. A detailed timeline of these investigations is attached to this report for further review.

Based on the review of all available investigative information the following findings were identified:

Strengths:

- Cases were commenced on time (both initial and additional) – within 24 hours of receipt from the hotline.
- The Child Safety Assessments were submitted timely in FSFN and Supervisory Reviews were completed timely.
- Child Protective staff are able to utilize multiple resources to seek family members who are unable to be located at onset of the investigation
- Collateral contacts made during investigations were relevant and information was used in the overall assessments
- The Child Protection Team was notified during appropriate investigations as mandated
- Licensing staff were appropriately notified of new abuse reports received on the foster home
- Investigations were staffed with Children's Legal Services when appropriate

Opportunities:

- Attempts to engage children in interviews were not consistently documented
- When unable to locate the child victims, diligent efforts to locate were not thoroughly documented
- In some of the investigations, some subjects of the household were not interviewed prior to closure of the investigation
- All household members were not consistently added to the child safety assessment
- Some documentation lacks specificity to allow reviewer specific information to make full assessment of risk and safety factors
- Case managers were not notified of new abuse reports on every new investigation
- It is unclear who was present during some interviews with the children or if the interviews were conducted privately
- The 2010 special conditions report should have been coded as an abuse report based on the allegations made by the reporter

The information for this chronology contains information from the following sources:

- o **FSFN , Summary from OK, ICWIS, and the Legal Staffing from the licensing file**

Jorge and Carmen Barahona were licensed as foster parents in Miami-Dade County for 10 years, from 7/02/1999 - 7/13/2009. During that time the following children were placed in their home:

1. [REDACTED] SS # [REDACTED] DOB: [REDACTED] 2004 - PLACED: 11/19/2004- 12/07/2004
2. [REDACTED] - SS# [REDACTED] DOB: [REDACTED] 2003 - PLACED: 03/05/2004-12/31/2006
3. [REDACTED] SS# [REDACTED] DOB: [REDACTED] 2002 PLACED: 01/02/2004-10/24/2004
4. [REDACTED] SS# [REDACTED] DOB: [REDACTED] 2004 PLACED: 03/26/2004-03/27/2004
5. [REDACTED] SS# [REDACTED] DOB: [REDACTED] 99 PLACED: 07/02/1999 - 06/30/2001
6. [REDACTED] SS# [REDACTED] DOB: [REDACTED] /2003 PLACED: 01/07/2005-2/14/2007
7. Nubia Barahona - SS# [REDACTED] DOB: [REDACTED] /2000 PLACED: 03/26/2004-05/17/2009
8. [REDACTED] - SS# [REDACTED] DOB: [REDACTED] 2000 PLACED: 03/26/2004-05/17/2009

During the 10 years of being licensed, the only abuse reports received against these foster parents were those for Nubia and [REDACTED]

History on Nubia and [REDACTED] Prior to Placement in the Barahona home

5/30/2000, Report # 2000-08560 – A few days after Nubia and [REDACTED] were born an abuse report was received alleging that mom [REDACTED] who has a long history of cocaine and heroin abuse and was unable to provide for the twins (Nubia and [REDACTED])

6/15/2000 - As a result of the above investigation Nubia and [REDACTED] were sheltered. [REDACTED]

01/08/2001 - Custody Release of Nubia and [REDACTED] to parents.

3/17/2002, Report # 2002-043517 – An abuse report was received alleging a domestic violence incident between the mother and father [REDACTED] biological parents to Nubia and [REDACTED]. The mother was arrested for domestic violence. The case was closed on 3/18/2003 with verified findings of family violence threatens child and substance exposed child.

3/10/2003 – Petition Filed to change custody to Father [REDACTED] and proceed on TPR for mother [REDACTED]

8/4/2003 - TPR was completed on the mother [REDACTED]

1/2/2004, Report # 2004-300329 – An abuse report was received alleging that the mother recently returned to the home and there is concern she is continuing to use drugs. There was a bruise on [REDACTED] with an unknown origin. The mother was also alleged to be yelling at Nubia and threatening her emotional well being. The case was investigated and closed with no indicators of substance exposed child or mental injury. The family was referred to Family Builders program through CFCE.

3/26/2004, Report #2004-337585 – An abuse report was received alleging that the father, [REDACTED], was arrested for sexual battery against a minor. The father was not a caretaker to this minor child, but does have custody of his two children. As a result of this case, the two children were sheltered. The case was investigated and closed with verified findings of sexual abuse – other child on 4/26/2004.

3/26/2004 – [REDACTED] and Nubia were placed in the foster home of Jorge and Carmen Barahona.

History on Nubia and [REDACTED] After Placement in the Barahona home

1/27/2005, Report #2005-316342 – An abuse report was received alleging that in the past, the foster father tickled Nubia's private parts with his fingers. This allegedly occurred in the presence of other adults in the home. The case was investigated and closed with no indicators of sexual abuse. (The chronology on this FSFN report is unclear whether the child was referring to the bio dad, foster dad or shelter dad.)

3/17/2005 – Legal staffing held with licensing due to the above report. The staffing sheet indicates OK to relicense.

2/23/2006, Report # 2006-331834 – An abuse report was received alleging that Nubia was noticed with a bruise on her chin and face. There are two different versions as to how the child received the bruise, one where she fell at school and one where she fell at home. She also had some bruising on her back as well as some scratches in the area. The child was also absent from school for several days. Child was referred to CPT who stated the bruises were not from abuse. The report was closed on 4/10/2006 with no indicators of physical injury to [REDACTED] or Bruises/Welts as to Nubia.

8/01/2006 – Legal staffing held with licensing due to the above report. No concerns noted or problems with relicensing.

3/20/2007, Report # 2007-349058 – An abuse report was received alleging that Nubia and [REDACTED] are coming to school unkempt with dirty clothes, food in their hair and smelling rotten. This report was closed with no indicators on 4/12/2007. There was also another child listed in the report, [REDACTED] Barahona who was recently adopted by the Barahona's.

5/29/2007 - TPR is completed on the biological father [REDACTED]. However the father appeals the TPR and the appeal continues until final dismissal in October, 2008.

7/19/2007 – Legal staffing held with licensing due to 2007 report above. The staffing sheet indicates OK will relicense the home.

Updated 2-17-11

2:51 PM

2/12/2008 – Evaluation completed by Dr. Archer on [REDACTED] and Nubia to address placement recommendations. The recommendation was to proceed with finalizing the adoption of the children with their current caregivers (Barahona's) as this was in their best interest.

5/28/2009 - Adoption is completed of Nubia and Victor by Jorge and Carmen Barahona.

6/09/2010, Report # 2010-116653 – A special conditions report was received. It alleged “Recently, Nubia has been acting out. Nubia's hunger has been uncontrollable, she sneaks and steals food, steals money, has hair loss, is very thin, unfocused, nervous and jittery. Nubia has also had an unpleasant odor. Recently, Nubia also missed two weeks of school due to heavy bleeding. Nubia's adoptive mother has said that Nubia's behavior can be attributed to hormonal issues. However, the mother has only provided personal documentation written from her place of employment. There has been no medical documentation from Nubia's doctor regarding her medical issues. It is unknown when the last time that Nubia saw her endocrinologist.

In the past, it is believed Nubia's adoption was delayed when Nubia was coming to school dirty while in the adoptive parent's care. A couple of months ago, Nubia had a scratch on her nose. It was said that Nubia rubs her nose a lot and that she is always falling.” The case notes indicate no services were needed for the family. The 4 children in the home and the adopted mother were interviewed. The foster father was not spoken to as part of this report.

2/10/2011 at 2:22 PM, Report # 2011-032298-01 - An abuse report was received alleging “Victor and Nubia are tied by their hands and feet with tape and made to stay in the bathtub all day and night as a form of punishment. The reporter is [REDACTED] and stated that his daughter is fearful of being in the home.

2/10/2011 at 7:00 PM - CPI commenced the case but was unable to locate the child and parents.

2/11/2011 at 9:00 AM – CPI contacted school support to see if they have records on the children and they did not have any school information.

2/11/2011 at 9:20 PM – CPI went to the home and the gate was locked so a relative was contacted and provided a phone number for the family and they were seen. The mother and 2 of the children, [REDACTED] and [REDACTED] were at the residence. The mother denied the allegations and advised that Nubia and [REDACTED] were with their father since August 2010 and they were being home schooled. The documentation indicates the children were seen and not interviewed. The mother advised she did not know the whereabouts of the other 2 children.

2/11/2011 at 10:30 PM – CPI attempted to reach the father by phone and was unable to be reached

2/12/2011 at 9:05 PM – An additional report was received on this date and time alleging “On an unknown date and time [REDACTED] has a wound on his face and lip. The wound needs stitches and he has

Updated 2-17-11

2:51 PM

not been taken to a hospital. Mom put an adhesive strip on the injury. Mom indicated that [REDACTED] fell but the injury is not consistent with the story. [REDACTED] is autistic."

02/13/2011 at 3:40 pm Case commenced (additional) at 11501 SW 47 Tr. Miami Florida where [REDACTED] and mom were seen.

02/13/2011 at 3:40 pm - Face to face contact was made with [REDACTED] who appeared healthy, verbal but said she does not like to speak with strangers. The Mom later told her to speak. The child was observed with no marks or bruises. Stated she attends Blue Lakes Elementary School. [REDACTED] invited CPI to come and see her room and mom cautioned her by saying to the child that her room was not clean. Child ran in and cleaned up her room and invited CPI to come in.

02/13/2011 at 3:40 pm Face to face contact with child [REDACTED] who mom said is autistic. As a result he would not talk. The child was observed sitting in the living room watching television.

2/13/2011 at 3:40 pm The allegations were read to mom and she responded by saying that a CPI by the name Andrea Fleary was in her home this past Friday on the same allegation. Mom said she told Ms. Fleary that her husband does not reside here and she does not have his address. Stated that she gave CPI Fleary her husband's telephone number and CPI Fleary said she will be contacting her husband. Mom said the other 2 children are with their father (Nubia and [REDACTED]). Mom stated dad and she do not communicate with each other. Whenever they talk is always results in an argument.

2/14/2011 at 1:30 PM – CPI received a call from Program Administrator the father and [REDACTED] were located in West Palm Beach.

2/14/2011 at 1:40 PM – CPI attempted to call Jennifer (Carmen Barahona's) daughter for a work number on the mother.

2/14/2011 at 1:45 PM – CPI spoke to the mother who advised she had not seen or spoken to her husband since Saturday. She had no knowledge of his current whereabouts and did advise that the father's sister called her looking for his whereabouts.

2/14/2011 at 2:00 PM – CPI spoke to the paternal aunt to the children, Laura Barahona. She advised she had not seen the father since Saturday and at that time he had [REDACTED] with him. He stated he needed a place to stay and she let him stay there. She asked about the whereabouts of Nubia and he stated she was lost. When she told him to contact law enforcement, he then stated the child was with the mother. The aunt then contacted the mother who advised the child, Nubia, was with the father. At that time the aunt contacted [REDACTED] law enforcement.

2/14/2011 at 2:30 PM – CPI spoke to the mother who advised that she was contacted by law enforcement that there was an accident involving [REDACTED] and the father. She was going to head to West Palm Beach, when the CPI asked her to stay at the home so CPI could met with her.

Updated 2-17-11

2:51 PM

2/14/2011 at 3:00 PM – CPI met with the mother at the home. She was very upset and kept telling CPI that she needed to go to West Palm Beach to check on [REDACTED]. She was informed that Nubia's whereabouts were still unknown and did she have any information where she might be. She did not know and provided a photo of the child. She also indicated that she did not have any concerns with Nubia and [REDACTED] with their father.

2/14/2011 at 5:20 PM – CPI was advised by law enforcement that a bag had been found with a body, but it was unknown if it was a human or animal.

2/14/2011 at 7:12 PM – CPI was contacted the program administrator (POA) as to the whereabouts of the other 2 children, [REDACTED] and [REDACTED]. CPI advised the children were not with the mother when they were at the home earlier, but that they were at their grandmother's home. The POA advised that the children needed to be seen.

2/14/2011 at 7:40 PM – CPI contacted another CPI for assistance in seeing the 2 children tonight.

2/14/2011 at 11:10 PM - CPI was contacted by the other CPI who advised that the children were actually at their adult sister's home.

2/14/2011 at 11:12 PM - CPI contacted the adult sister who confirmed the children were at her home, but that the mother was on her way to pick up the children and that they would be returning to the grandmother's home.

2/14/2011 at 11:15 PM – CPI contacted the POA who advised the children could be seen tomorrow morning.

2/15/2011 at 6:51 AM – CPI contacted the mother and advised that the children, [REDACTED] and [REDACTED] needed to be seen today. She advised that the children were at her mother's home.

2/15/2011 at 9:30 AM – CPI contacted the POA to advise she was en route to see the children and did the detectives with the child exploitation unit need to be contacted. The POA advised he would contact law enforcement and get back to CPI.

2/15/2011 at 9:40 AM – CPI was contacted by the POA and advised law enforcement would meet CPI at the home.

2/15/2011 at 10:10 AM – CPI spoke to grandchild [REDACTED] who stated she loves her grandmother very much and would not hurt her. She stated she did not tell her father anything and that he is lying. She was crying uncontrollably and no further information was obtained.

2/15/2011 at 11:55 AM – CPI and detective interviewed child, [REDACTED]. He stated he [REDACTED] and Nubia were home schooled and for punishment they were sent to a corner. He stated his father left a few days ago and could not recall when he last saw [REDACTED] and Nubia. He stated that on Friday his dad and [REDACTED] left, but he did not see Nubia, because his dad forbid him to see Nubia and he couldn't tell

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2:51 PM

because it was a secret. A couple of summer's ago, Nubia had tried to drown him. He stated Nubia was stuck in the bathtub for a few days until Friday.

2/15/2011 at 12:45 PM – The detective attempted to interview [REDACTED] but [REDACTED] stated she didn't have time for this and that no one taped [REDACTED] and Nubia and all they did was give them love.

2/15/2011 at 3:00 PM – The children were taken to CPT.

2/15/2011 at 10:00 PM – CPI advised the mother that detectives were on the way to speak to her. The CPI noted that [REDACTED] attempted to say something to her about a secret, but the mother redirected him to watch TV.

2/16/2011 at 7:46 AM – West Palm Beach CPI was provided with probable cause affidavit prior to interviewing the father at first appearance. CPI was advised the father was still at the hospital and would not be appearing in court due to his injuries.

2/15/11 – 8:30 pm

Call received from the MDPD that the father has confessed to the child's death and that he and mother allowed the child to starve to death. The child (Nubia) was left in the tub and was being punished for not taking her medication. The Father planned to kill his son [REDACTED] and commit suicide but he had a change of heart. There is no explanation of the toxic fumes in the truck and that the remains in the cab of the truck are Nubia's.

2/16/2011 at 7:46 AM – West Palm Beach CPI was provided with probable cause affidavit prior to interviewing the father at first appearance. CPI was advised the father was still at the hospital and would not be appearing in court due to his injuries.

2/16/11 – Medical Examiner's Office has requested fingerprints and dental records of Nubia to verify the body found in the car is her. We are actively working with Our Kids to obtain this information.

Secretary David Wilkins

Secretary David Wilkins brings decades of experience in business and charitable leadership to the Florida Department of Children and Families.

Secretary Wilkins retired recently from Accenture after a 29-year career with the company. Accenture is a global management, consulting, technology and business operations company with annual revenues of more than \$6 billion and more than 200,000 employees. Promoted to partner at the age of 32, Wilkins served in numerous management roles. His work included overseeing local offices, directing the Human Services and Global Industry programs, leading government strategic planning and corporate acquisitions, and running business units. For the past five years, he was in charge of the global sales organization of the Accenture Health and Public Service business, which operates in more than 25 countries and generated sales of near \$4 billion.

Secretary Wilkins has been an active volunteer at the Florida Baptist Children's Homes for the past 14 years. The charity operates residential care, emergency shelter, adult development services, adoption assistance and foster care on more than 15 campuses across Florida. He currently serves on the Board of Trustees for this organization and has been its finance chairman for the past three years. During his tenure, the number of children in care increased by 350 percent and the endowment tripled. He also helped launch "Orphan's Heart," a successful international child care services program and was co-leader of the CEO Children's Council, a support organization of business professionals, civic leaders and professional athletes. He and his wife Tanya were honored with the "Volunteer of the Year" award in 2006.

Secretary Wilkins graduated Magna Cum Laude from Lambuth University in 1982 with a B.S. degree in Management Information Systems. He was president of the student body and his fraternity. He was a varsity scholarship athlete in basketball and tennis.

A native of Kentucky, Secretary Wilkins, his wife and their three daughters have lived in Tallahassee for more than a decade. They are active in numerous charitable and community organizations, including the United Way, Florida Baptist Children's Homes, Orphan's Heart International, Mission San Luis and Bradfordville Baptist Church.