

## HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

<b>BILL #:</b>	CS/HB 7169	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Appropriations Committee; Healthy Families Subcommittee; Harrell and others	117 Y's	0 N's
<b>COMPANION BILLS:</b>	CS/SB 1666	<b>GOVERNOR'S ACTION:</b>	Approved

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### SUMMARY ANALYSIS

CS/HB 7169 passed the House on May 2, 2014, as CS/SB 1666.

The bill makes many changes intended to improve the care of children in the child welfare system. First, it addresses high staff turnover rates by increasing the qualifications for staff. The bill establishes an Assistant Secretary for Child Welfare in the Department of Children and Families (DCF). It sets hiring preferences for child protective investigators, case managers, and supervisors with certain education backgrounds, and encourages professional development by exempting these staff from state university tuition and fees and forgiving student loans, for certain degree work.

The bill revises laws relating to community-based care organizations (CBCs) by amending community alliance duties and membership to provide for their comments and recommendations about CBCs, reorganizing and clarifying current law, and deleting obsolete provisions.

The bill modifies requirements relating to collection, analysis, and transparency of child welfare information. It:

- Directs DCF to establish critical incident rapid response teams to conduct immediate investigations of deaths involving children known to the child protection and welfare system to identify root causes and rapidly determine the need to change DCF policies and practices;
- Requires the statewide child abuse death review committee in the Department of Health (DOH) to review all child deaths reported to DCF's abuse hotline;
- Requires DCF to publish basic facts relating to all child deaths reported to the abuse hotline on its website; and
- Creates the Florida Institute for Child Welfare as a consortium of the state's public and private university social work programs to various research, analysis, evaluation and advisory functions to improve the child welfare system.

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

- Defines "medical neglect," describes the requirements for investigating it, and requires Child Protection Teams to consult a physician with experience in treating that child's condition in each case involving a medically complex child; and
- Requires DCF to work with all relevant state and local agencies to provide care for medically complex children, allows placement of such children in medical foster homes and requires placement in the least restrictive, most nurturing environment.

The bill makes various other changes to the child welfare system. It emphasizes the importance of sibling relationships by requiring DCF to make every effort to keep siblings together and, if separated, to keep them in communication with one another and reunite them as quickly as feasible, unless doing so is not in their best interest. The bill addresses older children in out-of-home care by requiring the court to evaluate whether it is in the child's best interest to remove the disabilities of nonage for such a child who turns 17, for the purpose of signing leases, obtaining utilities, or opening bank accounts.

The bill addresses "re-homing" by creating a criminal offense for deserting a child. The bill also specifies additional situations establishing grounds for terminating parental rights. Finally, the bill requires CPIs to implement safety plans in certain situations in accordance with specific requirements, to improve the likelihood of good family outcomes.

Provisions of the bill are funded by HB 7141, contingent upon this bill becoming law. The total appropriation in HB 7141 for SB 1666 is \$6,265,000, which includes funding specific to HB 7141 requiring the development of a results-oriented accountability program plan.

The bill was approved by the Governor on June 23, 2014, ch. 2014-224, L.O.F., and will become effective on July 1, 2014, except for the provisions of the bill related to critical incident rapid response teams, which are effective January 1, 2015.

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

**STORAGE NAME:** h7169z1.HFS

**DATE:** June 23, 2014

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Current Situation

##### Child Welfare and Department of Children and Families Structure

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

##### *Community Based Care Organizations*

DCF contracts for foster care and related services with lead agencies, also known as community based care organizations (CBCs). The transition to outsourced provision of child welfare services was intended to increase local community ownership of service delivery and design.<sup>5</sup> The state completed the transition to community-based care during the latter part of Fiscal Year 2004-2005.<sup>6</sup>

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

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

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

<sup>2</sup> S. 20.19(2)(c), F.S.

<sup>3</sup> S. 20.19(2)(c), F.S.

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

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

<sup>6</sup> *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, The Florida Legislature Office of Program Policy Analysis and Government Accountability (OPPAGA), Report 06-50, June 2006.

<sup>7</sup> OPPAGA, Report 06-50.

<sup>8</sup> OPPAGA, Report 06-50.

<sup>9</sup> *Community Based Care Lead Agency Map*, The Department of Children and Families, accessible at: <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last accessed March 12, 2014).

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

<sup>11</sup> OPPAGA, Report 06-50.

<sup>12</sup> OPPAGA, Report 06-50.

Each month, CBCs are graded by DCF according to their performance on a scorecard. The scorecard evaluates the CBCs on 11 key measures to determine how well the CBCs are meeting the most critical needs of children and families in the child welfare system. Scorecards measure four indicators of permanency, three indicators of wellbeing, three indicators of safety, and one indicator of costs. Two of the permanency indicators are weighted more than the other 9 indicators, making the permanency indicators drive the CBC's overall score. The scores received by CBCs vary monthly.<sup>13</sup> Scorecards are posted online each month.

### *Community Alliances*

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

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

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

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

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

### Child Abuse and Neglect

Child abuse and neglect is a serious problem in the United States.<sup>17</sup> In Federal Fiscal Year (FFY) 2011, the most recent year for which national data is available, an estimated 3.4 million reports of abuse were received by child protection agencies nationwide.<sup>18</sup> After investigation, the number of unduplicated child victims nationally was estimated to be 681,000.<sup>19</sup> Florida reported 208,437 calls to the abuse hotline in FFY 2011.<sup>20</sup> The most serious result of child maltreatment is the death of the child. In FFY 2011,

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

<sup>14</sup> S. 20.19(4), F.S.

<sup>15</sup> S. 20.19(4), F.S.

<sup>16</sup> S. 20.19(4), F.S.

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

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

<sup>19</sup> *Id.* at 19.

<sup>20</sup> *Id.* at 11.

nationally 1,545 child fatalities resulting from child abuse or neglect were identified.<sup>21</sup> Florida reported 133 child fatalities resulting from child abuse or neglect in FFY 2011.<sup>22</sup>

### *Abuse Investigations*

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

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

### *DCF Custody*

A child must have a court hearing to be placed in a shelter<sup>30</sup>, unless:

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

Once a child is taken into custody<sup>32</sup>, DCF reviews the facts supporting the removal of the child and determines if sufficient cause exist to file a shelter petition. If sufficient cause does not exist, the child must be returned to their parent or legal custodian.<sup>33</sup> If sufficient cause does exist, DCF is required to file a petition and schedule a hearing with the courts. DCF must request that a shelter hearing be held within 24 hours from the removal of the child from the home.<sup>34</sup>

At the adjudicatory hearing the court may make one the following rulings:<sup>35</sup>

- That the child is not a dependent child and dismiss the case.

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<sup>21</sup> U.S. Department of Health and Human Services, *ibid.* at 56.

<sup>22</sup> *Id.* at 63.

<sup>23</sup> S. 39.201(4), F.S.

<sup>24</sup> S. 39.201(5), F.S.

<sup>25</sup> S. 39.201(2)(a), F.S.

<sup>26</sup> S. 39.201(5), F.S.

<sup>27</sup> S. 39.3065 (3)(a), F.S.

<sup>28</sup> S. 39.3065 (3)(b), F.S.

<sup>29</sup> S. 39.3065 (3)(b), F.S.

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

<sup>31</sup> S. 39.402 (1), F.S.

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

<sup>33</sup> S. 39.401(3)(a), F.S.

<sup>34</sup> S. 39.401(3)(b), F.S.

<sup>35</sup> S. 39.507, F.S.

- That the child is adjudicated dependent and may remain in the home, under supervision of the court, or be placed in out-of-home care.
- That the child may remain in the home, under the supervision of DCF; adjudication of dependency would be withheld assuming the family complies with the conditions of supervision.

In addition to removing the child, DCF can also petition the court to terminate parental rights.<sup>36</sup> Grounds for termination of parental rights are listed in statute, and include situations in which the parents voluntarily surrender the child to DCF, abandon a child, or engage in conduct that threatens the life, safety, well-being, or health of the child.<sup>37</sup>

### *Child Placement*

DCF is required to seek permanency for children as quickly as possible, with a goal of permanency occurring within 12 months from removal from the child's home.<sup>38</sup> Permanency hearings are required to be held every 12 months for any child who continues to be supervised by DCF or awaits adoption. The permanency hearing aims to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child.<sup>39</sup> Permanency may consist of:

- Reunification with a parent;
- Adoption;
- Permanent guardianship with a relative or nonrelative;
- Permanent placement with a relative or nonrelative; or
- Placement in another planned permanent living arrangement.<sup>40</sup>

While reunification with the parent is the preferred permanency option, the best interest of the child is the primary consideration in determining the permanency goal for the child.<sup>41</sup> The court is required to base its decision concerning any motion by a parent for reunification on the effect of the decision on the safety, well-being, and physical or emotional health of the child.<sup>42</sup> The court must specifically consider:

- The compliance or noncompliance of the parent with the case plan;
- The circumstances which caused the child's dependency and whether those circumstances have been resolved;
- The stability and longevity of the child's placement;
- The preferences of the child, if the child is of sufficient age and understanding to express a preference;
- The recommendation of the current custodian; and
- The recommendation of the guardian ad litem, if one has been appointed.<sup>43</sup>

Current law includes legislative intent that when siblings are placed in out-of-home care, DCF makes every possible effort to place them together; if they are permanently placed, to place them in the same adoptive home, and if placement together is not possible, to keep them in contact with each other.<sup>44</sup> There is no provision at specific points in the child welfare system such as at removal or at judicial reviews to ensure that DCF is attending to issues relating to siblings.

### *Relative Caregiver Program*

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<sup>36</sup> S. 39.802, F.S.

<sup>37</sup> S. 39.806, F.S.

<sup>38</sup> S. 39.621

<sup>39</sup> S. 39.621 (1), F.S.

<sup>40</sup> S. 39.621(2), F.S.

<sup>41</sup> S. 39.621, F.S.

<sup>42</sup> S. 39.621 (10), F.S.

<sup>43</sup> S. 39.621 (10), F.S.

<sup>44</sup> S. 39.001(1)(k), F.S.

The Florida Legislature established the Relative Caregiver Program (Program) in 1998.<sup>45</sup> The program offers monthly cash assistance and Medicaid for a child who is placed by a dependency court with a relative after the child is removed from his or her home as a result of abuse, neglect, or abandonment.<sup>46</sup> The amount of the payment varies depending on the child's age.<sup>47</sup> Relatives within the fifth degree of relationship by blood or marriage to the parent or stepparent of a dependent child or a half-brother or half-sister of a dependent child and who are caring full-time for the child, are eligible for the Program.<sup>48</sup>

Under the Relative Caregiver Program, the child may be in temporary custody of the relative under the protective supervision of the DCF, may be placed under guardianship,<sup>49</sup> or may be placed permanently with the relative.<sup>50</sup> The estimated monthly Relative Caregiver cost per child is \$257.09 for an average annual total of \$3,087 per child.<sup>51</sup>

The Program provides financial assistance to relatives through Florida's share of the Block Grant for Temporary Assistance for Needy Families (TANF), in accordance with Title IV-A of the Social Security Act (SSA). The SSA lists the purposes of the TANF program in Title IV-A, section 401. This section specifically states that one of the purposes is to "provide assistance to needy families so that children may be cared for in their own homes or the homes of relatives."<sup>52</sup>

Children may be placed with nonrelatives, but the nonrelatives cannot receive payment unless they become licensed foster parents. As of December 31, 2012, there were 1,552 children in the care of nonrelatives under DCF supervision.

### *Medically Complex and Medically Fragile Children*

While there are no definitions for "medically fragile" or "medically complex" children in the child welfare statutes, these terms are defined by the Department of Health (DOH) in rules related to Medicaid. DOH defines the term "medically complex" as "a person who has chronic debilitating diseases or conditions of one or more physiological or organ systems that generally make the person dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention". DOH defines "medically fragile" as "an individual who is medically complex and whose medical condition is of such a nature that he is technologically dependent, requiring medical apparatus or procedures to sustain life and without such services is likely to expire without warning."<sup>53</sup>

Children's Medical Services (CMS), within DOH, offers a range of specialty services and long-term services for medically complex or medically fragile children who are Medicaid eligible.<sup>54</sup> These services include services from a prescribed pediatric extended care center, services from medical foster homes, and services from nursing facilities. The Children's Multidisciplinary Assessment Team (CMAT) is a coordinated interagency effort administered by CMS that provides assessments, recommendations, and decisions for services based on medical necessity for medically complex children.<sup>55</sup> CMAT

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<sup>45</sup> Chapter 98-403, s. 70, L.O.F.

<sup>46</sup> S. 39.5085, F.S.

<sup>47</sup> S. 39.5085, F.S.

<sup>48</sup> S. 39.5085, F.S.

<sup>49</sup> S. 39.6221, F.S.

<sup>50</sup> S. 39.6231, F.S.

<sup>51</sup> Department of Children and Families, Analysis of SB 770, Feb. 4, 2014, (on file with Committee Staff).

<sup>52</sup> Department of Children and Families, Analysis of SB 770, Feb. 4, 2014, (on file with Committee Staff).

<sup>53</sup> 59G-1.001, F.A.C.

<sup>54</sup> CMS Provider Handbook, the Department of Health, 2013, *accessible at*:

[http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0CCsQFjAB&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fcms-kids%2Fproviders%2Fdocuments%2Fhandbook\\_physician.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usq=AFQjCNGto7cmhubw7pbEpsgmox7SuYggQ&sig2=EITrRnKPojoVoMBi2Wbckw](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0CCsQFjAB&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fcms-kids%2Fproviders%2Fdocuments%2Fhandbook_physician.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usq=AFQjCNGto7cmhubw7pbEpsgmox7SuYggQ&sig2=EITrRnKPojoVoMBi2Wbckw) (last accessed March 22, 2014).

<sup>55</sup> Medicaid Summary of Services, the Agency for Health Care Administration, 2011-2012, *accessible at*:

[http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CDAQFjAC&url=http%3A%2F%2Fwww.medicaidoptions.net%2Fsharedfiles%2Fenglish%2FFloridaMedicaidSummaryOfServices.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usq=AFQjCNH16XQMwBF-bcniVexADzIFiwYkKA&sig2=ok6q5TShKAQ7zLCjpZzv\\_A](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CDAQFjAC&url=http%3A%2F%2Fwww.medicaidoptions.net%2Fsharedfiles%2Fenglish%2FFloridaMedicaidSummaryOfServices.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usq=AFQjCNH16XQMwBF-bcniVexADzIFiwYkKA&sig2=ok6q5TShKAQ7zLCjpZzv_A) (last accessed March 22, 2014).

assessments are available to all medically complex children 20 years of age or younger.<sup>56</sup> Children do not have to be Medicaid eligible to have an assessment.<sup>57</sup>

These assessments form the basis for the CMAT recommendations for the most appropriate and least restrictive setting that will meet the health needs of the child.<sup>58</sup> CMATs also recommend long-term care services and determine the associated level of care needed.<sup>59</sup> After the CMAT makes its recommendations and determinations, the parent or guardian of the child then decides where the child will be placed.<sup>60</sup> However, when medically complex children are in the legal custody of DCF because of abuse, neglect, or abandonment, their parents do not make the decisions regarding their placements and services.<sup>61</sup> Instead, the CBCs and the court determine the child's placement, generally following the CMAT's recommendations.<sup>62</sup>

Medically fragile, Medicaid-eligible children who require short-term, long-term, or intermittent continuous therapeutic interventions or skilled nursing supervision can receive Medicaid services from a prescribed pediatric extended care (PPEC) center.<sup>63</sup> A PPEC center is a nonresidential health care center, which offers an array of services focused on meeting the medical, nursing, psychosocial, developmental, and personal care needs of these children.<sup>64</sup> It also provides training for the children's caregivers.<sup>65</sup> When approved, children can attend a PPEC center up to a maximum of 12 hours per day.<sup>66</sup> PPEC centers provide a cost effective alternative to home nursing services and may reduce the isolation that a homebound child may experience.<sup>67</sup>

Medically complex children may also be eligible for services in a nursing facility. Federal law mandates that nursing facility services be provided as an option.<sup>68</sup> Approximately 5 percent of medically complex children receiving Medicaid are receiving services in a skilled nursing facility.<sup>69</sup> According to the Agency for Health Care Administration (AHCA), 150 children with complex medical problems currently reside in nursing homes.<sup>70</sup> As of March 2014, there are approximately 13 medically complex children in DCF care residing in nursing homes.<sup>71</sup>

Children in the custody of DCF may receive in-home services or be placed in a nursing facility or a medical foster home. Medical foster homes provide family-based care for medically complex children.<sup>72</sup> Medical foster parents receive specific training on how to take care of the child's physical, emotional, and health care needs.<sup>73</sup> Medical foster parents also serve as role models to train the birth family on

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<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

<sup>59</sup> E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

<sup>60</sup> E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

<sup>61</sup> E-mail correspondence with the Department of Health, March 25, 2014, on file with committee staff.

<sup>62</sup> E-mail correspondence with the Department of Children and Families, March 25, 2014, on file with committee staff.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> Medicaid Child Health Services, the Agency for Health Care Administration, *accessible at*:

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

<sup>67</sup> Medicaid Summary of Services, the Agency for Health Care Administration, 2011-2012, *accessible at*: [http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CDAQFjAC&url=http%3A%2F%2Fwww.medicaidoptions.net%2Fsharedfiles%2Fenglish%2FFloridaMedicaidSummaryOfServices.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usg=AFQjCNH16XQMwBF-bcniVexADzIFiwYkKA&sig2=ok6q5TShKAQ7zLCjpZzv\\_A](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CDAQFjAC&url=http%3A%2F%2Fwww.medicaidoptions.net%2Fsharedfiles%2Fenglish%2FFloridaMedicaidSummaryOfServices.pdf&ei=SdEtU5bADqTB2QXK0YDABg&usg=AFQjCNH16XQMwBF-bcniVexADzIFiwYkKA&sig2=ok6q5TShKAQ7zLCjpZzv_A) (last accessed March 22, 2014).

<sup>68</sup> E-mail correspondence with the Agency for Health Care Administration, March 21, 2014, on file with committee staff.

<sup>69</sup> E-mail correspondence with the Agency for Health Care Administration, March 21, 2014, on file with committee staff.

<sup>70</sup> E-mail correspondence with the Agency for Health Care Administration, March 21, 2014, on file with committee staff.

<sup>71</sup> E-mail correspondence with the Department of Children and Families, March 27, 2014, on file with committee staff.

<sup>72</sup> CMS Provider Handbook, the Department of Health, 2013, *accessible at*:

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

<sup>73</sup> *Id.*

how to care for their child's special medical needs so the child can return home.<sup>74</sup> Each foster parent maintains a comprehensive in-home record book that documents all the care provided to the child.<sup>75</sup> This book also includes the plan of care which lists out exactly what care is to be provided with instructions in how to provide the care, which can be used by the parent when the child is returning home.<sup>76</sup>

### *Medical Neglect*

While there is no definition of the term "medical neglect" in ch. 39, F.S., neglect encompasses cases of medical neglect. Neglect is when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired.<sup>77</sup>

DCF does not treat investigations of abuse or neglect involving a medically fragile child differently from other investigations of abuse and neglect, unless the allegations of abuse or neglect are deemed high risk. CPIs and case managers are not specially trained on how to determine abuse and neglect involving medically fragile children.<sup>78</sup>

### *Child Protection Teams*

Children's Medical Services within the DOH operate service teams of one or more multidisciplinary child protection teams (CPTs) in each DCF service district.<sup>79</sup> Teams can be composed of representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies.<sup>80</sup> CPTs provide specialized diagnostic assessments, evaluations, coordination, consultations, and other support services including:

- Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings;
- Medical evaluation related to abuse, abandonment, or neglect;
- Psychological and psychiatric diagnosis and evaluation services;
- Expert medical, psychological, and related professional testimony in court cases;
- Case staffings to develop treatment plans for children whose cases have been referred to the team; and
- Child protection team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.<sup>81</sup>

Some cases, including all cases involving medical neglect, must be referred to CPTs.<sup>82</sup> CPTs have medical directors who are board certified pediatricians. The medical directors receive special training in the field of child abuse and neglect.<sup>83</sup> According to DCF, most medical directors have knowledge of some rare conditions that may generate abuse or neglect allegations, such as osteogenesis imperfecta (brittle bone disease). Children with osteogenesis imperfecta may appear to have been abused because of broken bones but instead have experienced a known complication from the medical

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> S. 39.01(44), F.S.

<sup>78</sup> E-mail correspondence with the Department of Children and Families, January 10, 2014, on file with Healthy Families Subcommittee Staff.

<sup>79</sup> S. 39.303, F.S.

<sup>80</sup> S. 39.303, F.S.

<sup>81</sup> S. 39.303, F.S.

<sup>82</sup> S. 39.303, F.S.

<sup>83</sup> E-mail correspondence with the Department of Health, March 21, 2014, on file with committee staff.

condition.<sup>84</sup> According to DCF, if a CPT physician is unsure of a diagnosis, before concluding that it is the result of abuse or neglect, they will first consult with the statewide CPT Director.<sup>85</sup>

Medical directors of CPTs handling cases of medical neglect involving medically complex or medically fragile children are not required to have any experience treating the specific disease or disorder suffered by each medically complex child.<sup>86</sup> There is currently no requirement to consult a physician with such experience when the CPT physician has little experience.

### *State Child Abuse Death Review Committee*

The State Child Abuse Death Review Committee (SCADRC) reviews the facts and circumstances surrounding child abuse and neglect deaths in which there has been a verified case of abuse or neglect.<sup>87</sup> The SCADRC is housed within DOH and consists of a representatives from the DOH, DCF, Department of Legal Affairs, Department of Law Enforcement, Department of Education, Florida Prosecuting Attorneys Association, Inc., and Florida Medical Examiners Commission, whose representative must be a forensic pathologist.<sup>88</sup> In addition, the State Surgeon General must appoint following members to the SCADRC:

- A board-certified pediatrician.
- A public health nurse.
- A mental health professional who treats children or adolescents.
- An employee of the DCF who supervises family services counselors and who has at least 5 years of experience in child protective investigations.
- The medical director of a child protection team.
- A member of a child advocacy organization.
- A social worker who has experience in working with victims and perpetrators of child abuse.
- A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.
- A law enforcement officer who has at least 5 years of experience in children's issues.
- A representative of the Florida Coalition Against Domestic Violence.
- A representative from a private provider of programs on preventing child abuse and neglect.<sup>89</sup>

### *Records of Children*

All records held by DCF concerning reports of child abandonment, abuse, or neglect are confidential and exempt from public records laws.<sup>90</sup> This includes all reports to the DCF abuse hotline.<sup>91</sup> This information may only be released to individuals specified in statute, which includes DCF, DOH, or the Agency for Persons with Disabilities employees with specific responsibilities; a grand jury; a state attorney; and any person when the child has died due to abuse, neglect, or abandonment.<sup>92</sup> However, DCF has the discretion to release certain information regarding a missing child.<sup>93</sup> In addition, any person or organization, including DCF, may petition the court for an order making public the records of the DCF which pertain to investigations of alleged abuse, abandonment, or neglect of a child.<sup>94</sup> The

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<sup>84</sup> E-mail correspondence with the Department of Children and Families, March 27, 2014, on file with committee staff.

<sup>85</sup> E-mail correspondence with the Department of Children and Families, March 27, 2014, on file with committee staff.

<sup>86</sup> E-mail correspondence with the Department of Health, March 21, 2014, on file with committee staff.

<sup>87</sup> *2013 Annual Report*, Child Abuse Death Review Committee, *accessible at*:

[http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=4&cad=rja&uact=8&ved=0CDgQFjAD&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fflcadr%2Fattach%2F2013CADRrpt.pdf&ei=2-wgU\\_XOOpKP0gH0h4HgAQ&usq=AFQjCNG-qH-a0PrFZAZIVXHNUemu\\_fcAkw&sig2=Cqj9h99WtPI2I6G6s0CRdg](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=4&cad=rja&uact=8&ved=0CDgQFjAD&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fflcadr%2Fattach%2F2013CADRrpt.pdf&ei=2-wgU_XOOpKP0gH0h4HgAQ&usq=AFQjCNG-qH-a0PrFZAZIVXHNUemu_fcAkw&sig2=Cqj9h99WtPI2I6G6s0CRdg) (last accessed March 12, 2014).

<sup>88</sup> S. 383.402(2)(a), F.S.

<sup>89</sup> S. 383.402(2)(b), F.S.

<sup>90</sup> S. 39.202(1), F.S.

<sup>91</sup> S. 39.202(1), F.S.

<sup>92</sup> S. 39.202(1), F.S.

<sup>93</sup> S. 39.202(4), F.S.

<sup>94</sup> S. 39.2021(1), F.S.

court determines whether good cause exists for public access to the records.<sup>95</sup> The court is required to balance the best interests of the child who is the focus of the investigation and the interest of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest.<sup>96</sup>

### *Abandonment of a Child*

Beginning on September 9, 2013, Reuters News Service published a five-part series entitled "The Child Exchange," which exposed how American parents were using Internet message boards to find new families for children whom they regretted adopting, a practice that has been called "private re-homing."<sup>97</sup> Reuters spent 18 months investigating eight message boards where participants advertised unwanted children and examined two dozen cases in which adopted children were re-homed.<sup>98</sup> The investigative series found:

- On average, a child was advertised for re-homing at least once a week;
- The average range for children being advertised for re-homing is 6 to 14 years of age;
- Re-homing is accomplished through basic power of attorney documents which allow the new guardians of the child to enroll the child in school or secure government benefits;
- At least 70 percent of the children offered for re-homing on one message board were international adoptees;
- Only 29 states have laws that govern how children can be advertised for adoption; and
- The Interstate Compact for the Placement of Children, which is meant to be a safeguard against the improper placement of children across state lines, is often not enforced by law enforcement.<sup>99</sup>

## Child Sexual Abuse

### *Definitions Relating to Child Abuse and Protective Investigations*

Parts II and III of ch. 39, F.S., contain a variety of provisions establishing the processes and procedures for reporting child abuse and for conducting child protective investigations.

For purposes of these provisions, s. 39.01, F.S., defines the following terms:

- "Alleged juvenile sexual offender" means:
  - A child 12 years of age or younger who is alleged to have committed a violation of ch. 794, F.S. (sexual battery), ch. 796, F.S. (prostitution), ch. 800, F.S. (lewd or lascivious offenses), s. 827.071, F.S. (sexual performance by a child), or s. 847.0133, F.S. (obscene materials); or
  - A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse.<sup>100</sup>
- "Juvenile sexual abuse" means any sexual behavior<sup>101</sup> which occurs without consent,<sup>102</sup> without equality,<sup>103</sup> or as a result of coercion.<sup>104</sup>

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<sup>95</sup> S. 39.2021(1), F.S.

<sup>96</sup> S. 39.2021(1), F.S.

<sup>97</sup> Megan Twohey, The Child Exchange, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

<sup>98</sup> Megan Twohey, The Child Exchange, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

<sup>99</sup> Megan Twohey, The Child Exchange, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

<sup>100</sup> S. 39.01(7), F.S.

<sup>101</sup> Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts. S. 39.01(7), F.S.

<sup>102</sup> "Consent" means an agreement, including all of the following:

- Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.
- Knowledge of societal standards for what is being proposed.

- “Child who has exhibited inappropriate sexual behavior” means a child who is 12 years of age or younger and who has been found by the Department of Children and Families (DCF) or the court to have committed an inappropriate sexual act.

#### *Mandatory Reports of Child Abuse*

Section 39.201, F.S., requires a person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender to report such knowledge or suspicion to the abuse hotline.<sup>105</sup> If the report involves a known or suspected juvenile sexual offender or a child who has exhibited inappropriate sexual behavior, the hotline must determine the age of the alleged offender, if known, and:

- If the alleged offender is 12 years of age or younger, immediately electronically transfer the report or call to the county sheriff’s office. In such instances, DCF must also conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, F.S., and send a written report of the allegation to the appropriate county sheriff’s office within 48 hours after the initial report is made to the hotline; and
- If the alleged offender is 13 years of age or older, immediately electronically transfer the report or call to the appropriate county sheriff’s office and send a written report to the appropriate county sheriff’s office within 48 hours after the initial report to the hotline.<sup>106</sup>

#### *Protective Investigations*

Section 39.307, F.S., requires DCF, upon receiving a report alleging juvenile sexual abuse, to assist the family in receiving appropriate services to address the allegations of the report. In doing so, DCF, the contracted sheriff’s office providing protective investigation services, or contracted case management personnel responsible for providing services must adhere to certain procedures.

The possible consequences of DCF’s response, and the name and office telephone number of the person responding must be provided to the caregiver of the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior and the victim’s caregiver.<sup>107</sup> The caregiver must be involved to the fullest extent possible in determining the nature of the sexual behavior concerns and the nature of any problem or risk to other children.<sup>108</sup>

DCF district staff, the child protection team, and other providers under contract with DCF must conduct an assessment of risk and the perceived treatment needs of the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers.<sup>109</sup> If necessary, DOH’s child protection team must conduct a physical examination of the victim.<sup>110</sup>

Based on the information obtained from the alleged juvenile sexual offender or child who has exhibited Inappropriate sexual behavior, his or her caregiver, the victim, and the victim’s caregiver, an

- 
- Awareness of potential consequences and alternatives.
  - Assumption that agreement or disagreement will be accepted equally.
  - Voluntary decision.
  - Mental competence

<sup>103</sup> “Equality” means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

<sup>104</sup> “Coercion” means the exploitation of authority or the use of bribes, threats of force, or intimidation to gain cooperation or compliance.

<sup>105</sup> Ss. 39.307(1)(c) and (2)(a) and (b), F.S.

<sup>106</sup> S. 39.201(2)(c), F.S.

<sup>107</sup> S. 39.307(2)(a), F.S.

<sup>108</sup> S. 39.307(2)(b), F.S.

<sup>109</sup> S. 39.307(2)(c), F.S.

<sup>110</sup> S. 39.307(2)(e), F.S.

assessment of service and treatment needs must be completed and, if needed, a case plan developed within 30 days.<sup>111</sup>

DCF must classify the outcome of the report as follows:

- Services were not offered because DCF determined that there was no basis for intervention.
- Services were accepted by the alleged juvenile sexual offender.
- Services were offered to the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, but were rejected by the caregiver.
- The risk to the victim's safety and well-being cannot be reduced by the provision of services or the caregiver rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.
- Services were offered to the victim and accepted by the caregiver.
- Services were offered to the victim but were rejected by the caregiver.<sup>112</sup>

If services are accepted by the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers, DCF must designate a case manager and develop a specific case plan.<sup>113</sup> The case manager must periodically review the progress toward achieving the objectives of the plan in order to make adjustments to the plan or take additional action or terminate the case if indicated by successful or substantial achievement of the objectives of the plan.<sup>114</sup>

If the family or caregiver of the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior fails to adequately participate or allow for the adequate participation of the child in the services or treatment delineated in the case plan, the case manager may recommend that DCF close the case, refer the case to mediation or arbitration, if available, or notify the appropriate law enforcement agency of failure to comply.<sup>115</sup>

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<sup>111</sup> S. 39.307(2)(f), F.S.

<sup>112</sup> S. 39.307(2)(g), F.S.

<sup>113</sup> S. 39.307(3), F.S. Services provided to the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers or family must be voluntary and of necessary duration. S. 39.307(4), F.S.

<sup>114</sup> S. 39.307(3)(b), F.S.

<sup>115</sup> S. 39.307(5), F.S.

## Child Protective Investigators and Case Managers

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

- Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare certification and to maintain such certification.
- Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards.
- Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.
- Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.
- Require annual continuing education for persons holding child welfare certification.
- Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.<sup>116</sup>

### *Turnover and Vacancies*

In Fiscal Year (FY) 2011-2012, CPI turnover was 36.59%.<sup>117</sup> This figure was slightly lower in FY 2012-13, with a turnover rate of 26.39%.<sup>118</sup> As of January 6, 2014, DCF employed 1,082.5 CPIs, and 40.5 CPI positions were vacant.<sup>119</sup>

Between October 2011 and September 2012, CPIs had an average caseload of 1:15.5 and case managers had an average caseload of 1:20.<sup>120</sup> The Child Welfare League of America recommends that professionals handling child welfare investigations have a caseload of 1:12 and employees handling ongoing cases for child welfare (typically the case manager role in Florida) have a caseload of 1:17.<sup>121</sup> Caseloads of child welfare employees vary between states. New Jersey reported an average caseload of 1:12 for open cases and 1:8 for new referrals in the child welfare system as of June 2013.<sup>122</sup> North Carolina had an average caseload for child protective workers of 1:9 and Texas had an average caseload of 1:24 in 2012.<sup>123</sup>

According to the U.S. Administration on Children and Families, a supportive organizational culture is a key ingredient in building a stable and effective child welfare workforce.<sup>124</sup> Core elements of organizational culture include agency leadership, workforce management, supervision, and support. Organizational culture and employee relations significantly influence an agency's ability to recruit and retain staff as well as make long-lasting workforce changes.<sup>125</sup>

In 2014, OPPAGA conducted 16 focus groups around Florida to study child welfare. OPPAGA found that some case managers feel that high turnover rates among workers resulted in supervisors carrying caseloads themselves, leaving little time for supervision or mentoring.<sup>126</sup> In addition, OPPAGA reported

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<sup>116</sup> S. 402.40(3), F.S.

<sup>117</sup> E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

<sup>118</sup> E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

<sup>119</sup> E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

<sup>120</sup> *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

<sup>121</sup> *Recommended Caseload Standards*, Child Welfare League of America, accessible at:

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

<sup>122</sup> *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

<sup>123</sup> *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

<sup>124</sup> *Organizational Culture*, Administration for Children and Families, accessible at:

[https://childwelfare.gov/management/workforce/org\\_culture/index.cfm](https://childwelfare.gov/management/workforce/org_culture/index.cfm) (last accessed March 21, 2014).

<sup>125</sup> *Organizational Culture*, Administration for Children and Families, accessible at:

[https://childwelfare.gov/management/workforce/org\\_culture/index.cfm](https://childwelfare.gov/management/workforce/org_culture/index.cfm) (last accessed March 21, 2014).

<sup>126</sup> *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

that most case managers reported that supervisors primarily focus on meeting department performance measures rather than encouraging quality work or mentoring new case managers.<sup>127</sup>

CPIs in the focus groups noted that senior investigators, meant to serve as back-ups to supervisors and mentors to less experienced investigators, are carrying full caseloads, making fulfilling these functions difficult.<sup>128</sup> According to OPPAGA, while most CPIs and case managers reported feeling supported by their immediate supervisor, many of these workers did not feel supported by the management of their respective agencies.<sup>129</sup>

According to faculty at the Florida State University School of Social Work, graduates have reported leaving their positions as CPIs primarily due to the work environment.<sup>130</sup> Pam Graham, the director of the BSW and Professional Development Programs at Florida State University School of Social Work, reported that CPIs with social work degrees expressed that they do not leave their jobs due to low incomes or high stress levels.<sup>131</sup> Instead, they leave because of a lack of a professional environment, a lack of respect for professional expertise, a lack of potential for advancement, and because they do not feel supported by their supervisors.<sup>132</sup>

### *Education*

CPIs must have a bachelor's degree.<sup>133</sup> DCF prefers to hire CPIs with a bachelor's degree in human services-related fields.<sup>134</sup> The degrees held by CPIs as of January 6 are as indicated below:

- 6.2% held a Bachelor's or Master's degree in social work;
- 7.1% held a Bachelor's or Master's degree in public or business administration;
- 14% held a Bachelor's or Master's degree in education, nursing, religion, or other human services field;
- 24.1% held a Bachelor's or Master's degree in social sciences;
- 25.4% held a Bachelor's or Master's degree in criminal justice or criminology; and
- 23.2% held a degree in which the type of degree was unknown by DCF.<sup>135</sup>

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

- Job Satisfaction: Child welfare employees with social work degrees had similar levels of burnout, satisfaction, accomplishment, and compassion when compared to child welfare employees with other degrees.<sup>136</sup>
- Employee Retention: Child welfare employees with social work degrees had similar levels of turnover when compared to child welfare employees with other degrees.<sup>137</sup>

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<sup>127</sup> *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

<sup>128</sup> *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

<sup>129</sup> *State Child Welfare Systems*, OPPAGA Research Memorandum, March 10, 2014, on file with committee staff.

<sup>130</sup> Testimony by the Florida State University College of Social Work, Healthy Families Committee Meeting, February 11, 2014.

<sup>131</sup> Testimony by the Florida State University College of Social Work, Healthy Families Committee Meeting, February 11, 2014.

<sup>132</sup> Testimony by the Florida State University College of Social Work, Healthy Families Committee Meeting, February 11, 2014.

<sup>133</sup> *Career Opportunities*, The Department of Children and Families, accessible at: <https://www.dcf.state.fl.us/initiatives/DCFJobs/> (last accessed March 12, 2014).

<sup>134</sup> *Career Opportunities*, The Department of Children and Families, accessible at: <https://www.dcf.state.fl.us/initiatives/DCFJobs/> (last accessed March 12, 2014).

<sup>135</sup> E-mail correspondence with the Department of Children and Families, March 17, 2014, on file with committee staff.

<sup>136</sup> However, one study found that employees with social work degrees had worse on 3 out of 4 work morale comparison factors than employees without social work degrees

<sup>137</sup> However, one study found that employees with MSW degrees had higher rates of turnover than other employees and another study found that employees with social work degrees expressed higher rates of intention to leave their job, but did not follow through on their intention. Another study found that being a student in a MSW program and employee of the CW system simultaneously strengthened their commitment to child welfare and helped these employees imagine career ladders within child welfare agencies.

- Knowledge and Skills: Child welfare employees with social work degrees did better on exams measuring knowledge and merit or competency and skills pertaining to child welfare practice than other child welfare employees.
- Performance Evaluations: Child welfare employees with social work degrees either scored similar to or better than child welfare employees with other degrees on performance evaluations.
- Direct Outcome Measures: Child welfare employees with social work degrees had better direct outcome measures than child welfare employees with other degrees. The direct outcome measures studied include client outcome scores, likelihood of substantiating abuse, likelihood of placing children with relatives, likelihood of placing children in adoptive homes, number of child times the child in foster care moved, number of times the child welfare employee visited the child, satisfaction with child welfare services, and likelihood of deeming services necessary.<sup>138</sup>

### *Tuition Exemption and Loan Repayment*

Section 1004.61, F.S, directs DCF to form partnerships with the schools of social work of the state universities in order to encourage the development of graduates trained to work in child protection. In one such partnership, DCF provided 100 stipends per year for social work students at Florida International University working towards a bachelor's in social work (BSW) or a master's in social work (MSW) degree.<sup>139</sup> In return for accepting the stipend, the student was required to work for a CBC for at least a year.<sup>140</sup> The Legislature reduced the funding in FY 12-13 by \$455,020 (leaving a balance of \$739,980). For FY 13-14, the Legislature did not fund the program.<sup>141</sup>

DCF also has the authority to administer general child welfare student loan forgiveness.<sup>142</sup> This program allows DCF to provide loan reimbursement.<sup>143</sup> To eligible, employees must hold child welfare positions that are critical to DCF's mission and that are within DCF, sheriff's offices, or contracted community-based care agencies.<sup>144</sup> In addition, the employee's outstanding student loans may not be in a default status to be eligible for loan reimbursement.<sup>145</sup> The Child Welfare Loan Forgiveness was terminated June 30, 2012, and it was last funded in FY 2012-13 for \$1,950,000.<sup>146</sup>

## **Effect of Proposed Changes**

### Child Welfare System Structure

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

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

### *Community-Based Care Organizations*

<sup>138</sup> *Comparing Social Worker and Non-Social Worker Outcomes: A Research Review*, Allen Rubin and Danielle Parrish, National Association of Social Workers, on file with Subcommittee Staff.

<sup>139</sup> E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

<sup>140</sup> E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

<sup>141</sup> E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

<sup>142</sup> S. 402.401, F.S.

<sup>143</sup> S. 402.401, F.S.

<sup>144</sup> S. 402.401, F.S.

<sup>145</sup> S. 402.401, F.S.

<sup>146</sup> E-mail correspondence with Appropriations Committee, October 15, 2013, on file with committee staff.

The bill makes several structural changes to ch. 409, F.S., to improve the organization of provisions related to CBCs. The bill moves provisions from s. 409.1671, F.S., to create s. 409.986, F.S. and repeals s. 409.1671, F.S. The new section provides legislative findings, intent, goals, and definitions related to community-based care. The legislative intent language in the bill was amended to reflect the intent that communities participate in assuring child safety, permanence, and well-being. The legislative intent language was also changed to express that when private entities assume responsibility for children in care, adequate oversight of these entities is essential and ultimately, appropriate care of children is the responsibility of the state. Similar but not identical language is currently found in s. 409.1671, F.S.

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

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

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

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

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

The bill moves provisions from s. 409.16713, F.S., to create s. 409.991, F.S. The new section describes the allocation of funds for CBCs. The bill also moves provisions from s. 409.1671, F.S., to

create s. 409.992, F.S. The new section provides for lead agency expenditures. In addition to moving the current law, the bill requires DCF to develop financial guidelines in consultation with the Auditor General. The bill also transfers and renumbers s. 409.1675, F.S., to create s. 409.994, F.S., describing CBCs and receivership.

The bill transfers and amends provisions from s. 409.1671, F.S., to create s. 409.993, F.S., specifying lead agency and subcontractor liability as follows:

- General liability insurance coverage: Section 409.1671(1)(h) and (j), F.S., currently require CBCs and subcontractors to obtain a minimum of \$1 million per claim/ \$3 million per incident in general liability insurance coverage. The bill reduces the minimum amount of general liability insurance coverage that CBCs and subcontractors must obtain to \$1 million per occurrence (incident) with a policy period (12 months) aggregate limit of \$3 million.
- Net economic and noneconomic damages: Section 409.1671(1)(h) and (j), F.S., limit liability for net economic damages in tort actions to \$1 million per liability claim and \$100,000 per automobile claim with noneconomic damages limited to \$200,000 per claim, increased at 5% per year from the date of the enactment of s. 409.1671, F.S. (July 1, 1999). Thus, the current net economic damages liability limits are approximately \$2,078,928 per liability claim and \$207,893 per automobile claim with noneconomic damages limited to \$415,786 per claim. The bill reduces these liability limits to \$2 million, \$200,000 and \$400,000 respectively. The bill additionally provides for the 5% annual increase in liability limits to restart beginning July 1, 2014.

#### *CBC and DCF Responsibilities*

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

- Define the population CBCs are required to serve to include both children who are at risk of, and children who have actually experienced, abuse, neglect, or abandonment;
- Require the CBCs to provide information to DCF for oversight;
- Require the CBCs to follow financial guidelines developed by DCF;
- Require the CBCs to provide independent audits;
- Require the CBCs to prepare reports for court hearings and submit these documents timely to DCF's attorneys for review;
- Require the CBCs to make the necessary staff available to DCF attorneys for preparation for dependency proceedings and provide testimony and other evidence in coordination with DCF's attorneys; and
- Require CBCs to ensure that individuals providing care meet employment standards established by DCF.

The bill creates s. 409.996, F.S., to describe the duties of DCF in contracting for community based child welfare services. In addition to what is required in CBC contracts under current law, the bill requires the contracts between DCF and the CBCs to specify that the contracts must provide for services required to accomplish duties established in statute, provide for graduated penalties for failure to comply with contract terms, and ensure that the CBCs provide accurate and current information in all cases. The bill specifies that if financial penalties are imposed on CBCs, the financial penalties must require a CBC to reallocate funds from administrative costs, which includes costs for functions such as executive management (e.g. CEO, CFO, Executive Assistant), finance and accounting, budget, and personnel<sup>147</sup> to direct care for children. The bill also requires DCF to transmit federal and state funds received for the operation of the child welfare system to the CBCs as agreed. The bill specifies that DCF retains responsibility for the appropriate spending of these funds and requires DCF to monitor CBCs to assess compliance with financial guidelines and applicable state and federal laws. The bill requires DCF to provide information on its website of the distribution of federal funds.

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<sup>147</sup> DCF Definition of Administrative Costs for Child Welfare Lead Agencies, Department of Children and Families, accessible at <http://www.myflfamilies.com/service-programs/community-based-care/fy-2011fy-201112-general-documents-incorporated-reference> (last accessed April 21, 2014).

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

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

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

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

The bill requires family foster homes to receive a letter from the CBC indicating the home meets criteria established by the CBC before they can be licensed by DCF, unless the CBC is not directly supervising foster homes in that service area. The bill specifies that issuing a license for a foster home does not require the CBC to place a child there.

### *Accountability*

The bill creates s. 409.997, F.S., to establish a child welfare results-oriented accountability system.<sup>148</sup> The bill requires DCF to issue a Request For Information (RFI) for a results-oriented accountability system to identify approaches, solutions, timeframes, and prices. The bill specifies that the RFI must assess the respondents' experience in providing similar systems and interest in providing the accountability system and generate any other information useful in establishing the system. The bill specifies that the purpose of the system is to monitor and measure the use of resources, the quality and amount of services provided, and child and family outcomes through analysis, research, and evaluation. The bill requires DCF to maintain the system and specifies that the system that must incorporate:

- Valid and reliable outcome measures;
- A monitoring system to track the identified outcome measures;
- An analytical system that builds on the outcome monitoring system to assess the statistical validity of associations between child welfare interventions and measured outcomes;
- A program of research review to identify interventions;
- An ongoing process of evaluation to determine the efficacy and effectiveness of various interventions;
- A method to make the results of the accountability system transparent for all parties in the child welfare system; and

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<sup>148</sup> Note, however, CS/CS/HB 7141 also creates s. 409.997, F.S., with similar content, and states that its provisions shall supersede the provisions of CS/SB 1666 or similar legislation creating the same section, if such legislation is passed during the 2014 Legislative Session and becomes law. CS/SB 1666 passed the Senate on April 25, 2013, and subsequently passed the House of Representatives on May 2, 2013. Subject to the Governor's veto powers, CS/SB 1666 will become law July 1, 2014. The version of s. 409.997, F.S., in CS/CS/HB 7141 differs variously with the CS/SB 1666 version. See, House of Representatives Final Bill Analysis, CS/CS/HB 7141, 2014.

- Collaboration with DCF to produce an annual report on the results for the child protection and child welfare system.

The bill requires DCF to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the responses to the RFI and providing recommendations regarding procurement, expected system costs, and implementation of the system. The bill requires DCF to submit the report by February 1, 2015.

The bill specifies that DCF must establish a technical advisory panel to advise DCF on meeting the requirements related to the results-oriented accountability system. The bill specifies that the panel must consist of representatives from the Institute, CBCs, contract providers, community alliances, and families and that the President of the Senate and the Speaker of the House of Representatives must each appoint one member to serve as a legislative liaison to the panel.

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

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

### *Community Alliances*

The bill makes a number of changes regarding the involvement of the community alliances in the procurement process for CBCs. The bill requires DCF to produce a schedule for procuring CBCs to the community alliances, requires CBCs to provide financial information to the community alliances, and requires DCF to consult with community alliances and judges regarding the report on the statewide and individual CBCs results for child protection and child welfare system. The bill also requires DCF to solicit comments and recommendations from community alliances, other community groups, or public hearings before procuring a CBC. The recommendations must include performance of the CBC, relationship between the CBC and its community partners, and any local conditions or service needs in child protection and child welfare.

### *CBC Boards*

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

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

The bill also specifies that for CBC contracts initiated on or after July 1, 2014, the board of directors or the board committee must have the responsibilities of approving the budget, setting the operational

policies and procedures, and hiring the CBC's executive director, if governed by a board of directors, or confirming the selection of an executive director, if governed by a board committee.

## Child Abuse and Neglect

### *Abuse Investigations*

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

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

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

The bill changes the requirements in which services are required to be provided.<sup>149</sup> Current law requires services when there are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Under current law, the factors may include the parents' or legal custodians' history of substance abuse or domestic violence. The bill also adds mental illness to these factors. The bill also requires services to be provided if there is a high likelihood of lack of compliance with voluntary services and such noncompliance would result in the child being unsafe.

The bill requires the CPI to identify services necessary for implementation of the safety plan and requires the CPI and CBC to mobilize services. The bill also requires the CBC to prioritize safety plan services to families with certain risk factors. It requires the CPI to seek an injunction to implement a safety plan for the perpetrator and impose conditions to protect the child if the perpetrator of domestic violence is not the parent, guardian, or legal custodian, and amends the injunction statute to allow an injunction to order the alleged or actual offender to comply with the terms of the safety plan. It requires a CPI to refer a parent to a local child developmental screening program when a delay or disability is suspected.

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<sup>149</sup> S. 39.301 (14), F.S.

## *DCF Custody*

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

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

The bill defines the term "sibling." The bill requires DCF to make reasonable efforts to keep siblings together when removed from their home, or to arrange for visitation. Reasonable efforts include short-term placements in a group home with the ability to accommodate sibling groups if such a placement is available. However, the bill specifies that it is preferred that siblings be kept together in a foster home, if available. The bill requires DCF and CBCs to monitor out of home placements, including the extent to which siblings are placed together.

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

The bill also amends s. 39.701, F.S., to require DCF to report to the court at every judicial review the frequency, kind, and duration of sibling contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the child. It also requires that, at the time of the special judicial review hearing held for children who have become 17 years of age, the court consider whether granting emancipation for the purposes of obtaining housing, turning on utilities, and opening bank accounts is in the child's best interest.

The bill requires managed care plans serving children in DCF care to maintain complete medical, dental, and behavioral health information and participate in making the information available to DCF or the CBC. The bill requires DCF and AHCA to establish an interagency agreement to provide guidance for information sharing. The bill also requires AHCA to determine the managed care plan's compliance with standards for access to medical, dental, and behavioral health services, the use of medications, and follow-up on all medically necessary services recommended as a result of early and periodic screening, diagnosis, and treatment. The bill specifies that Medicaid recipients residing in a group home facility serving individuals with developmental disabilities are exempt from mandatory managed care enrollment.

## *Termination of Parental Rights*

The bill specifies that termination of parental rights (TPR) may be established when a child has been adjudicated dependent, a case plan has been filed with the court and the child has been in care for 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification, unless the lack of compliance was due to lack of financial resources or the failure of DCF. The bill specifies that when parents engage in egregious conduct that threatens the life, safety, or health of the child or the child's sibling, when parents committed the murder, manslaughter, aided or abetted murder, or conspired or solicited murder to the other parent or another child, proof of nexus

between egregious conduct to a child and the potential harm to the sibling is not requires for TPR. The bill also specifies that TPR may be established when a parent is convicted of an offense that requires the parent to register as a sexual predator. The bill amends s. 39.802, F.S., to remove the requirement that petitions for TPR be signed by DCF employees.

### *Relative Caregiver Program*

The bill amends s. 39.5085, F.S., to add nonrelative caregivers to those who qualify for the DCF relative caregiver program in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment. The bill specifies that the court must find that a proposed placement with a nonrelative caregiver is in the best interest of the child. The bill also specifies that these nonrelatives must be offered financial assistance if they would be unable to serve in that capacity due to a financial burden.

### *Medically Complex Children*

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

The bill requires DCF to maintain a program of family-centered services and supports for medically complex children. Under the bill, the purpose of this program is to prevent abuse and neglect of medically complex children while enhancing the ability of families to provide for their children's needs. The bill specifies that program services must include outreach, early intervention, and provision of other supports and services to meet the child's needs. The bill requires DCF to collaborate with all relevant state and local agencies to provide needed services.

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

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

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

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

The bill requires DCF and AHCA to produce a report including operational and spending plans for requiring managed care plans serving children in the care and custody of DCF to provide medical, dental, and behavioral health information for inclusion in the state's child welfare data system. The bill specifies information required to be included in the report and requires the report to be submitted to the President of the Senate and Speaker of the House of Representatives by December 1, 2014.

#### *Child Protection Teams*

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

#### *State Child Abuse Death Review Committee*

The bill also amends s. 383.402, F.S., to require the SCADRC to review all deaths of children ages birth through 18 which occur in Florida and are reported to the abuse hotline. This increases the number of deaths reviewed by the SCADRC. The bill also changes the date the SCADRC must provide its annual report from December 31 to October 1 and replaces the board-certified pediatrician with the statewide medical director for child protection on the state death review committee. The bill requires the SCADRC to provide training to the local committee members. The bill specifies that the training must be provided by Florida Coalition Against Domestic Violence, the Florida Alcohol and Drug Abuse Association, or the Florida Council for Community Mental Health.

#### *Critical Incident Rapid Response Team*

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

The bill specifies the qualifications of the team, the time periods under which they must work, their compensation, and their required reporting. The bill requires all employees of DCF, other agencies, CBCs, and CBC subcontractors to cooperate with the investigation by participating in interviews and providing information. The bill specifies that members of the team may only access the records and information of contracted provider organizations which are available to DCF by law. The bill requires DCF to make the team's final report, excluding any confidential information, available on the website.

The bill also requires the DCF Secretary to appoint an advisory committee including specified members with the responsibility for reviewing the teams' reports and making recommendations to improve policies and practices related to child protection services and child welfare services. The bill specifies that the result of these investigations will be used to identify operational changes within the child protection and child welfare system to prevent future child abuse deaths.

### *Online Disclosure of Child Deaths*

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

- Date of the child's death;
- Allegations of the cause of death or the preliminary cause of death and verified cause of death, if known;
- County and placement of the child at the time of the incident leading to the child's death, if applicable;
- Name of the CBC, case management agency, or out-of-home licensing agency involved with the child, family, or licensed caregiver, if applicable;
- Whether the child has been the subject of any prior verified reports to DCF's abuse hotline; and
- Whether the child was younger than five years of age at the time of the death.

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

### *Child Desertion*

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

### *Adoption Advertising*

Current law states that only attorneys licensed to practice law in Florida or adoption entities licensed in Florida may pay to advertise that a child is offered or wanted for adoption or the person is able to place, locate, or receive a child for adoption. If a person publishes a telephone directory distributed in Florida containing the abovementioned information, the publisher must include the attorney's Florida Bar number or adoption entity's license number in the advertisement.

The bill amends current law regarding adoption advertising to decriminalize the publication of certain notices and instead criminalize the purchase of advertising space or broadcast time without including the proper information. The bill removes the provision specifying that it is illegal to assist a person in publishing or broadcasting such advertisement.

### *Rilya Wilson Act*

The Rilya Wilson Act requires any child, ages 3 to school entry, who is under protective supervision or custody of DCF or a CBC, and enrolled in a licensed early learning education or child care program, to be enrolled to participate in the program 5 days a week.<sup>150</sup> Case plans developed for a child who is enrolled in a program are required to contain the participation in this program as a required action.<sup>151</sup> If a child is absent from the program, the person with whom the child resides is required to report the absence to the program.<sup>152</sup> If absence is not reported, or if the child is absent for more than seven

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<sup>150</sup> S. 39.604, F.S.

<sup>151</sup> S. 39.604, F.S.

<sup>152</sup> S. 39.604, F.S.

consecutive days, the program is required to report this information to DCF. DCF or the CBC is then required to visit the home where the child resides.<sup>153</sup>

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

## Child Sexual Abuse

### *Definitions Relating to Child Abuse and Protective Investigations*

The bill removes the requirement that DCF treat children who are alleged to have sexually abused another person differently if they are over 12 years old. As a result, the provisions of s. 39.201, F.S. (relating to reporting child abuse), and s. 39.307, F.S. (relating to child protective investigations), will apply to all children under the age of 18, rather than only children 12 or younger. The bill does this by removing the definition of the term “alleged juvenile sexual offender” while retaining the definition of the term “juvenile sexual abuse,” which was defined within the definition of “alleged juvenile sexual offender.” The bill also amends the definition of the term “child who has exhibited inappropriate sexual behavior” to make the term apply to all children, rather than only children 12 years of age or younger. The bill also removes the requirement for DCF to determine the age of alleged offender in reports of juvenile sexual abuse. It requires DCF to conduct an assessment and assist the family in receiving appropriate services for all reports of juvenile sexual abuse, not just those involving a child who is 12 or under.

### *Reports of Child Abuse*

The bill amends s. 39.201, F.S., to require that all incidents of juvenile sexual abuse involving a child who is in the custody of or under the supervision of DCF to be reported to the child abuse hotline and to require DCF to inform the court at the next hearing or in its next report to the court about the facts and results of such investigations of child sexual abuse. The bill makes conforming changes in s. 985.04, F.S., to remove references to the term “juvenile sexual offender.”

### *Services*

The bill requires DCF to also respond to reports of inappropriate sexual behavior, not just juvenile sexual abuse. The bill also expands the types of individuals to whom DCF is required to offer services when DCF receives reports of juvenile sexual abuse or inappropriate sexual behavior by adding the child and his or her caregiver as such parties.

In addition to the current protective investigation requirements, the bill requires DCF to ensure that information describing a child’s history of juvenile sexual abuse and services that the child has received as a result of his or her involvement with juvenile sexual abuse are included in the child’s electronic record. The bill specifies that DCF must ensure that the facts and results of any investigation of child sexual abuse involving a child in custody of or under the protective supervision of DCF are made known to the court at the next hearing or are included in the next report to the court concerning the child. The bill requires placement decisions for a child who has been involved with juvenile sexual abuse to include consideration of the needs of the child and any other children in the home being considered for placement.

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<sup>153</sup> S. 39.604, F.S.

The bill also requires DCF to monitor the occurrence of child sexual abuse and the provision of services to children involved in child sexual abuse, juvenile sexual abuse, or who have displayed inappropriate sexual behavior.

The bill removes DCF's authority to adopt policy directives necessary to implement the provisions of the bill, but retains DCF's authority to adopt rules to implement the provisions of the bill.

### Child Welfare and Child Protection Personnel

#### *Child Protective Investigator and Case Manager Education*

The bill raises professional standards for CPIs and CPI supervisors employed by DCF. The bill specifies that DCF is responsible for recruiting qualified professional staff and requires DCF to make every effort to recruit and hire social workers. The bill creates a goal for DCF that by 7/1/19, 50% of CPIs will have a degree in social work. The bill requires DCF, in collaboration with listed entities, to develop a protocol for screening candidates for CPI positions which reflects the following preferences:

- A bachelor's or master's degree in social work;
- A bachelor's or master's degree in a psychology, sociology, counseling, special education, education, human development, child development, family development, marriage and family therapy, and nursing; and
- A bachelor's degree in any field and a combination of directly relevant work and voluntary experience demonstrating critical thinking skills, formal assessment processes, communication skills, problem solving, and empathy, a commitment helping children and families, a capacity to work as part of a team, an interest in continuous development of skills and knowledge, and personal strength and resilience to manage competing demands and handle workplace stresses.

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

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

The bill also adds the Florida Coalition Against Domestic Violence, Florida Alcohol and Drug Abuse Association, and the Florida Council for Community Mental Health to the list of entities that must be included in the process of identifying core competencies and developing pre-service curricula.

#### *Tuition Exemption and Loan Forgiveness*

The bill creates s. 402.403, F.S., to establish a Child Protection and Child Welfare Personnel Tuition Exemption Program. The program is for high-performing CPIs, CPI supervisors, CBC case managers, and CBC case manager supervisors who do not have a social work degree but who are accepted in a social work program or who are completing a certificate in an area related to child welfare. This

program will allow current and future child welfare workers without a social work degree or who are completing a certificate in an area related to child welfare to obtain education without payment of tuition and fees. The bill limits the exemption to 6 hours per term and requires personnel to take courses online if they are offered online. The bill also makes conforming changes to s. 1009.25, F.S., to add CPIs, CPI supervisors, case managers, and case manager supervisors to the list of persons exempted from payment of tuition and fees at a state college or state university.

The bill creates s. 402.404, F.S., to establish the Child Protection and Child Welfare Personnel Student Loan Forgiveness Program. The bill states that the program's purpose is to increase employment and retention of high-performing individuals who have a degree in social work and are employed as a CPI, CPI supervisor, case manager, or case manager supervisor by making payments towards loans received for the support of study in social work programs. To be eligible, the bill states that the CPI or CPI supervisor must be employed by DCF and the case manager or case manager supervisor must be employed by a CBC or subcontractor, have a high level of performance, and have graduated from an accredited social work program. The bill requires DCF to prioritize funds to regions with high average caseloads and low workforce retention rates.

Both the tuition exemption and loan forgiveness programs require all personnel who participate to remain employed for 5 years after completion of a graduate level social work program. If employment ends before that period, the benefit must be repaid according to a pro rata calculation based on the number of years of service.

#### *Children's Legal Services*

The bill requires attorneys employed by DCF handling child welfare cases, within six months of hire, to receive training in dependency court processes, preparing and presenting child welfare cases, safety assessments, developing information presented by CPIs and case managers, and the experiences and techniques of case managers and CPIs.

The bill requires DCF to be represented by counsel in each dependency proceeding, make recommendations to the court on issues before the court, and provide to the court the case information and recommendations provided by the CBC or subcontractor. The bill specifies that DCF may support the recommendations through testimony and other evidence by its own employees, employees of sheriff's offices, employees of its contractors or subcontractors, or others. The bill requires DCF and its attorneys to ensure the court is fully informed about issues before the court and requires DCF and CBCs to develop a dispute resolution process to resolve disagreements between legal staff, CPIs, and case managers about the best interest of the child prior to court appearances.

#### Florida Institute For Child Welfare

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

The bill requires the Institute to submit a report with recommendations for improving the state's child welfare system. The bill specifies that the report must include recommendations regarding enhancing relationships between entities involved in the child protection and child welfare system, identifying and replicating best practices, reducing paperwork, increasing retention of CPIs and case managers, and caring for medically complex children within the child welfare system.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill includes provisions expected to have a fiscal impact upon DCF as discussed below. HB 7141 provides a total of \$5,965,000 to fund these provisions, contingent upon SB 1666 or similar legislation becoming law in 2014. Should SB 1666 become law, then HB 7141 will:

- Appropriate \$4,800,000 on a recurring basis to fund the changes to the relative caregiver program, which would then authorize DCF to provide financial assistance to nonrelative caregivers for the costs of caring for dependent children placed under their care;
- Appropriate \$400,000 on a recurring basis to fund the travel, per diem, and other expenses incurred by the critical incident rapid response team members while reviewing certain child abuse deaths;
- Appropriate a total of \$265,000, of which \$257,670 is appropriated on a recurring basis, for the establishment of an Assistant Secretary for Child Welfare and accompanying administrative support position; and,
- Appropriate \$500,000 on a nonrecurring basis to fund the student loan forgiveness program for those CPIs, CPI supervisors, case managers, and case manager supervisors who have student loan debt as a result of obtaining a college degree in social work.

SB 1666 establishes a results-oriented accountability system. Similarly, HB 7141 establishes a results-oriented accountability program. The provisions of HB 7141 specify that the provisions in HB 7141 related to the results-oriented accountability program supersede the provisions of SB 1666. Thus, pending the governor's approval, the results-oriented accountability system in HB 7141 will become law on July 1, 2014. Provided that SB 1666 becomes law, HB 7141 also appropriates \$300,000 for DCF to contract to create a plan for development and implementation of results-oriented accountability program, based on criteria specified in HB 7141.

CS/SB 1666 passed the Senate on April 25, 2013, and subsequently passed the House of Representatives on May 2, 2013. Subject to the Governor's veto powers, CS/SB 1666 will become law July 1, 2014.

Including the funding for the results-oriented accountability program, a total of \$6,265,000 is appropriated through substantive legislation for child welfare initiatives. Additional funding is provided in the Conference Report on HB 5001 (the General Appropriations Act) as discussed in the *Fiscal Comments* section.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In addition to the appropriations provided in HB 7141 and subject to action by the Governor, the General Appropriations Act (GAA) provides \$57.9 million for child welfare initiatives. In the Human Services section of the GAA, this amounts to \$56.9 million and includes funding to DCF for additional CPIs, to county sheriffs that perform child protective investigations for investigations, to Healthy Families Florida for expanding the Healthy Families Program, to CBCs for expanding direct services by the CBCs, to DCF for providing services for sexually exploited youth, and to DOH for expanding the assessment of child abuse and neglect cases as performed by Child Protection Teams. In the Education section of the GAA, Florida State University received \$1.0 million to implement provisions relating to the Child Welfare Institute.