

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 590

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senators Garcia and Campbell

SUBJECT: Child Welfare

DATE: February 27, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<u>Favorable</u>
3.	<u>Sneed</u>	<u>Williams</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
4.	<u>Sneed</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 590 makes a number of changes to the laws relating to relative and nonrelative caregivers for children in out-of-home foster care. The most significant changes required by the bill are as follows:

- Contingent upon a specific appropriation, directing the Department of Children and Families (DCF or department), in collaboration with sheriffs' offices that conduct child protective investigations and community-based care lead agencies, to develop a statewide family finding program.
- Requiring court determination at each judicial hearing throughout the dependency process that the DCF or other appropriate agency engaged in family finding, if the family finding program is implemented.
- Contingent upon a specific appropriation, establishing kinship navigator programs by community-based care lead agencies to provide support and assistance to relative and nonrelative caregivers.
- Contingent upon a specific appropriation, extending the maintenance adoption subsidy to age 21 for eligible young adults.
- Contingent upon a specific appropriation, extending program services to age 21 for eligible young adults who have not achieved permanency.

- Contingent upon a specific appropriation, establishing a Title IV-E Guardianship Assistance Program pilot in two DCF circuits.

The bill also amends the Rilya Wilson Act, s. 39.604, F.S., as follows:

- To provide an alternative to fulltime enrollment in a child care program for foster children under the age of three whose caregiver stays home all day or works less than fulltime.
- To appoint a surrogate parent to make educational decisions if appropriate, and provide for educational stability and transitions.

The bill is not expected to have a fiscal impact on the state or community-based care lead agencies because implementation of the family finding program, kinship navigator programs, and GAP pilot are permissive as to the availability of resources.

The family finding program and kinship navigator programs are effective January 1, 2019, and the GAP pilot is effective August 1, 2018. The remainder of the bill is effective July 1, 2018.

II. Present Situation:

Relative and Nonrelative Caregivers

When children cannot remain safely with their parents, placement with relatives is preferred over placement in foster care with nonrelatives. Caseworkers try to identify and locate a relative or relatives who can safely care for the children while parents receive services to help them address the issues that brought the children to the attention of child welfare. Placement with relatives — or kinship care — provides permanency for children and helps them maintain family connections. Kinship care is the raising of children by grandparents, other extended family members, and non-relative adults with whom they have a close, family-like relationship, such as godparents and close family friends.¹

Kinship care may “be formal and involve a training and licensure process for the caregivers, monthly payments to help defray the costs of caring for the [child], and support services[.]”² Kinship care also may “be informal” and “involve only an assessment process to ensure the safety and suitability of the home along with supportive services for the child and caregivers.”³ “Approximately one-fourth of [the] children in out-of-home care are living with relatives.”⁴

According to the National Conference of State Legislatures,

¹ U.S. Department of Health & Human Services, Administration for Children & Families, Children’s Bureau, Child Welfare Information Gateway, *About Kinship Care*, <https://www.childwelfare.gov/topics/outofhome/kinship/about/> (last visited Feb. 4, 2018).

² John McLennan, PhD, *Social Work and Family Violence Theories, Assessment, and Intervention* at 88, (Springer Publishing Co., LLC, 2010), <https://books.google.com/books?id=nHHWSsUvXwwC&pg=PA88&lpg=PA88&dq=one-fourth+of+the+children+in+out-of-home+care+are+living+with+relatives&source=bl&ots=0w8X1YFtl0&sig=qdPfe5h2r0l8t3YR2zxN3rce5mQ&hl=en&sa=X&ved=0ahUKEwikze--io3ZAhWprFkKHV5wCJUQ6AEIPDAD#v=onepage&q=one-fourth%20of%20the%20children%20in%20out-of-home%20care%20are%20living%20with%20relatives&f=false> (last visited Feb. 4, 2018).

³ *Id.*

⁴ *Id.*

Nearly 3 million American children are cared for by relatives other than their parents. Child welfare agencies in many states rely on extended families, primarily grandparents, to provide homes for children who cannot safely remain with their parents. In fact, relatives care for 27 percent of children in foster care—about 107,000—according to the Adoption and Foster Care Analysis and Reporting System.⁵

In Florida, there were 24,069 children in out-of-home care as of December 31, 2017, More than half of those children, 13,579, were placed with approved relatives and “fictive kin” non-relatives,⁶ while 10,490 were placed in licensed foster care, group care, or in another placement.⁷

Relative Caregiver Program

The Relative Caregiver Program was established in 1998⁸ for the purpose of recognizing the importance of family relationships and providing additional placement options and incentives to help achieve permanency and stability for many children who are otherwise at risk of foster care placement. The program provides financial assistance to qualified relatives. Within available funding, the Relative Caregiver Program is also required to provide caregivers with family support and preservation services, school readiness assistance, and other available services in order to support the child’s safety, growth, and healthy development. Children living with caregivers who are receiving assistance under the program are also eligible for Medicaid coverage.⁹

In 2014,¹⁰ the Legislature expanded the Relative Caregiver Program to include nonrelatives who a child may have a close relationship with who are not a blood relative or a relative by marriage. Those nonrelatives are eligible for financial assistance if they are able and willing to care for the child and provide a safe, stable home environment. The court must find that a proposed placement is in the best interest of the child.¹¹

Under the Relative Caregiver Program, the statewide average monthly rate for children placed by the court with relatives or nonrelatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate. Additionally, the cost of providing the assistance to any caregiver in the program may not exceed the cost of providing out-of-home care in an emergency shelter or in foster care.¹²

⁵ National Conference of State Legislatures, *Supporting Relative Caregivers of Children* (Feb. 13, 2017), <http://www.ncsl.org/research/human-services/relative-caregivers.aspx> (last visited Feb. 4, 2018).

⁶ “Fictive kin” is defined by the bill in section 1 (s. 39.4015(2)(d)) as “an individual who is unrelated to the child by either birth or marriage, but has such a close emotional relationship with the child that he or she may be considered part of the family.”

⁷ Florida Department of Children and Families, *Children in Out-of-Home Care – Statewide* (Jan. 10, 2018), <http://www.dcf.state.fl.us/programs/childwelfare/dashboard/c-in-ooH.shtml> (last visited Feb. 4, 2018).

⁸ Ch. 1998-78, Laws of Fla.

⁹ Section 39.5085, F.S.

¹⁰ Ch. 2014-224, Laws of Fla.

¹¹ Section 39.5085(2)(a)3., F.S.

¹² Section 39.5085(2)(d), F.S.

Financial Assistance

The Relative Caregiver Program also provides monthly cash assistance to relatives who meet eligibility rules and have custody of a child under age 18 who has been adjudicated dependent by a Florida court and placed in their home by the Department of Children and Families Child Welfare/Community Based Care (CW/CBC) contracted provider.¹³ As demonstrated by the charts below, the monthly cash assistance amount is higher than the Temporary Cash Assistance for one child but less than the amount paid for a child in the foster care program.

Monthly cash assistance:

Age of Child	Relative and Nonrelative Caregivers ¹⁴	Foster Parents ¹⁵	Residential Group Home Placement ¹⁶
Age 0 through 5 years	\$242	\$439	\$3,355 per month average ¹⁷
Age 6 through 12 years	\$249	\$451	
Age 13 through 18 years	\$298	\$527	
These are monthly benefit amounts per child			

Temporary cash assistance for relative caregivers:

Number of Children	Monthly Benefit
1	\$180
2	\$241
3	\$303
These are monthly benefit amounts per total number of children¹⁸	

Additionally, while reimbursement for children in foster care or in residential group homes begins at the time the child is placed, the monthly benefit payment for relative and nonrelative caregivers does not begin until the child has been adjudicated dependent.¹⁹ Adjudication typically takes 2 months to a year. During this time, a nonrelative caregiver receives *no* benefit, and a relative caregiver may be eligible only for temporary cash assistance if in close enough

¹³ Section 39.5085, F.S.

¹⁴ Fla. Admin. Code Ann. r. 65C-28.008 (2018). Department of Children and Families, *Temporary Cash Assistance Fact Sheet*, 5-6 (July 2012), <http://www.dcf.state.fl.us/programs/access/docs/tcafactsheet.pdf> (last visited Feb. 4, 2018).

¹⁵ Office of Program Policy Analysis and Government Accountability, *Characteristics of Children in Foster Homes and Groups Homes*, 13 (Apr. 17, 2017) <http://www.oppaga.state.fl.us/monitordocs/Presentations/P17-18.pdf> (last visited Feb. 4, 2018).

¹⁶ *Id.* at 15.

¹⁷ *Id.* The average amount is derived from dividing the residential group care expenditures from 2014-2015, \$89,778,347, by the average number of children from 2014-2015, 2,230, which equals \$40,259.35 per child per year. This number was divided by 12 months to reach the monthly average per child.

¹⁸ See *supra* n. 13 at 6 (reflecting a portion of the chart).

¹⁹ Section 39.5085(2)(a), F.S. (providing that *dependent* children may be placed with a relative or nonrelative caregiver).

consanguinity to the child.²⁰ Once the child has been adjudicated dependent, the relative becomes eligible for the full Relative Caregiver Program benefit amount.²¹

Child Care Assistance

The cost of participating in the school readiness program is subsidized in part or fully by the funding of the local early learning coalition for eligible children.²² Criteria have been established for the children who are to receive priority for participating in the program at no cost or at a subsidized rate.²³ However, to the extent that subsidized child care is not available, the cost of child care is assumed by the caregiver.²⁴

Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections)

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) was designed to improve the lives of children and youth in foster care and increase the likelihood that they will be able to leave the foster care system to live permanently with relative caregivers or adoptive families.²⁵ The law accomplishes this, in part, by allowing states to extend foster care services and maintenance adoption subsidy payments for children leaving foster care and adoptive families to the age of 21 and to establish a subsidized guardianship assistance program for relative caregivers.

Extended Foster Care

In 2013, the Legislature exercised the option of providing for extended foster care, which applies to young adults aged 18 to 21 who have not achieved permanency prior to their 18th birthdays.²⁶ The program builds on independent living assistance services that were previously available to young adults who “aged-out” of the foster care system.²⁷ Extended foster care services are available to young adults who are living in licensed care on their 18th birthday and who are:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in programs or activities listed above full time due to a physical intellectual, emotional, or psychiatric condition that limits participation.²⁸

²⁰ See *supra* n. 14 at 4 (“A child must live in the home of a parent or a relative who is a blood relative of the child. The degree of relationship to the child can be no greater than first cousin once removed.”).

²¹ See *supra* n. 13.

²² Office of Early Learning, *School Readiness Payment Rates for Children Concurrently Enrolled in the VPK Program*, http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Rules%20Guidance%20and%20Proposed%20Rules/Issued%20Program%20Guidance/440.50_ConcurrentPaymentRates_Final_ADA.pdf (last visited Feb. 5, 2018).

²³ Office of Early Learning, *School Readiness Eligibility Priorities*, http://www.floridaearlylearning.com/coalitions/school_readiness_eligibility_priorities.aspx (last visited Feb. 5, 2018).

²⁴ Fla. Admin. Code Ann. r. 65C-13.030(2)(d)4. (2014).

²⁵ P.L. 110-351.

²⁶ Ch. 2013-178, L.O.F.

²⁷ Section 409.1451, F.S.

²⁸ Section 39.6251(2), F.S.

Program eligibility is also contingent on the living situation of a young adult. Participants are required to live independently, but in an environment in which they are provided supervision, case management, and support services by either DCF or a relevant CBC. Examples of such an environment include college dormitories, shared housing, and foster family homes.²⁹

Adoption Assistance

The department currently provides financial assistance to families who adopt children with special needs or who are otherwise difficult to place in an adoptive home.³⁰ This assistance is made available in several ways. DCF may grant a maintenance subsidy to families (maintenance adoption subsidy or MAS), which is an annual payment intended to subsidize the costs of caring for an eligible child. The department may also offer a subsidy to family for any medical costs associated with a child's specific needs. In addition, the department is authorized to offer a nonrecurring reimbursement to an eligible family for costs associated with formalizing an adoption, which may include attorney's fees, court costs, travel expenses, and other related costs. Adoption assistance, in these various forms, may be offered to families who adopt an eligible child until the 18th birthday of such a child.³¹

To date, Florida has chosen not to take advantage of the provision of federal Fostering Connections Act that allows the maintenance adoption subsidy to be continued until a young adult reaches age 21.

Title IV-E Guardianship Assistance Program

The third primary provision of Fostering Connections is the creation of a federally supported Guardianship Assistance Program (GAP) for relatives. The GAP gives states the option of using federal Title IV-E funds to support kinship guardianship payments for children living in the homes of relative caregivers who become the children's legal guardians.³²

The federal Fostering Connections Act and Increasing Adoptions Act promotes permanency for children living with kin by providing states with the option to use federal Title IV-E funding for kinship guardianship subsidies. If a child meets certain Title IV-E eligibility standards, he or she may also be eligible for a GAP subsidy if:

- The child has been removed from his or her family's home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child's welfare;
- The child is eligible for federal foster care maintenance payments under Title IV-E of the Social Security Act for at least six consecutive months while residing in the home of the

²⁹ Section 39.6251(4), F.S

³⁰ Section 409.166, F.S.

³¹ *Id.*

³² Mark F. Testa and Leslie Cohen. "Pursuing Permanence for Children in Foster Care: Issues and Options for Establishing a Federal Guardianship Assistance Program in New York State." School of Social Work, the University of North Carolina at Chapel Hill. June

2010, available at:

<https://ocfs.ny.gov/main/reports/Pursuing%20Permanence%20for%20Children%20in%20Foster%20Care%20June%202010.pdf>. (last visited February 21, 2018).

prospective relative guardian who is licensed or approved as meeting the licensure requirements as a foster family home;

- Returning home or adoption is not an appropriate permanency option for the child;
- The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
- The child has been consulted regarding the guardianship arrangement (applicable to children age 14 and older).³³

Likewise, a prospective guardian must meet certain conditions to qualify for a GAP subsidy. He or she:

- Must be the eligible child’s relative or close fictive kin;
- Must have undergone fingerprint-based criminal record checks and child abuse and neglect registry checks;
- Must be a licensed foster parent and approved for guardianship assistance by the relevant state department;
- Must display a strong commitment to caring permanently for the child; and
- Must have obtained legal guardianship of the child after the guardianship assistance agreement has been negotiated and finalized with the department.³⁴

Federal guidance on GAP implementation recognizes that many relative caregivers may find the foster care licensure process burdensome. Accordingly, states are granted the authority to determine what constitutes a “non-safety” licensure standard and, on a case-by-case basis, offer waivers to those standards when appropriate.³⁵

To date, Florida has chosen not to implement this provision of Fostering Connections and relies on the established Relative Caregiver Program to provide assistance to caregivers.

Title IV-E Waivers

First authorized by Congress in 1994, the goal of permitting waivers of specific Title IV-E requirements is to allow states to demonstrate alternative and innovative practices that achieve federal child welfare policy goals in a manner that is cost neutral to the federal Treasury. Each project has a specific approval period, which is typically five years, must be determined to cost the federal government no more in Title IV-E support than it would without the waiver project, and must be independently evaluated.³⁶

Currently 26 states, including Florida, have approved child welfare demonstration projects commonly referred to as Title IV-E waivers. Under the terms and conditions of their specific waiver agreement, each state is permitted to use federal Title IV-E foster care funds to provide

³³ 42 U.S.C. § 673(d)(3)(A)

³⁴ 42 U.S.C. § 671(a)(20(D) and 673(d)(3)(A).

³⁵ U.S. Department of Health and Human Services, Agency for Children and Families, Program Instruction U.S. Department of Health and Human Services, Agency for Children and Families, Program Instruction ACYF-CB-PI-10-01, July 9, 2010.

³⁶ Emelie Stoltzfus, *Child Welfare: An Overview of Federal Programs and their Current Funding*, CONGRESSIONAL RESEARCH SERVICE, January 10, 2017, p. 13-15, available at: <https://fas.org/sgp/crs/misc/R43458.pdf>. (last accessed February 7, 2018).

services and assistance to children and their families, even if the children or the services or assistance would not otherwise be considered eligible.

Title IV-E waiver projects vary significantly from state to state in terms of geographic and program scope. Some operate on a statewide basis while others are limited to specific regions or counties in the state. The projects may focus on different age groups of children and different service needs or circumstances, such as children:

- Entering care for the first time;
- At risk of entering care;
- Transitioning from group care to home; and
- With substance-abusing parents.³⁷

A smaller number of projects address other issues, such as:

- Preventing or reducing the use of group care for children in foster care;
- Addressing behavioral health needs of children;
- Addressing needs of caregivers with substance use disorders; and
- Reducing placement instability for children in foster care.³⁸

Florida's Title IV-E Waivers

Florida's original Title IV-E waiver was effective on October 1, 2006, and was in effect for five years. Key features of the waiver were:

- A capped allocation of funds, similar to a block grant, distributed to community-based care lead agencies for service provision;
- Flexibility to use funds for a broader array of services beyond out-of-home care; and
- Ability to serve children who did not meet Title IV-E criteria.³⁹

The federal government extended Florida's original waiver to 2014, and then approved a renewal retroactively, beginning October 1, 2013. The renewal is authorized until September 30, 2018. The renewal waiver's terms and conditions include the following goals:

- Improving child and family outcomes through flexible use of Title IV-E funds;
- Providing a broader array of community-based services and increasing the number of children eligible for services; and
- Reducing administrative costs associated with the provision of child welfare services by removing current restrictions on Title IV-E eligibility and on the types of services that may be paid for using Title IV-E funds.⁴⁰

³⁷ U.S. Department of Health and Human Services, Administration of Children and Families, Children Bureau, *Summary of Child Welfare Waiver Demonstration by Jurisdictions*, June 2016, available at: http://www.acf.hhs.gov/sites/default/files/cb/waiver_summary_table_active.pdf. (last visited February 7, 2018).

³⁸ James Bell and Associates, *Summary of the Title IV-E Child Welfare Waiver Demonstrations, prepared for Children's Bureau, ACYF, ACF, HHS*, August 2016, available at: http://www.acf.hhs.gov/sites/default/files/cb/cw_waiver_summary2016.pdf. (last visited February 7, 2018).

³⁹ Amy C. Vargo et al., *Final Evaluation Report, IV-E Waiver Demonstration Evaluation, SFY 11-12*, March 15, 2012, available at: <http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/IV-EWaiverFinalReport3-28-12.pdf>. (last visited February 7, 2018).

⁴⁰ Personal communication from JooYeun Chang, Associate Commissioner with the Children's Bureau, to Esther Jacobo, Interim Secretary of the Department of Children and Families, available at:

Like the original waiver, the renewal waiver also involves a capped allocation of funds, flexibility to use the federal IV-E funds for a wider array of services, and expanded eligibility for children.⁴¹

Under current law, the U.S. Department of Health and Human Services is not authorized to grant any new child welfare waivers, and no state may operate a waiver project after September 30, 2019.⁴² Therefore, Florida will revert to more restrictive Title IV-E federal funding requirements after September 30, 2018, or 2019 if the waiver is renewed for an additional year.

Additional Information

Committee staff⁴³ conducted telephone/video conferences with dependency judges statewide who identified the following issues related to the use of relative caregivers for children placed in out-of-home care:

- **Unexpected caregiving responsibility** – Foster parents are licensed, trained, and expect to take children into their homes; whereas, relatives are more often than not asked to take in children of family members suddenly and without time or help for any preparation.
- **Lack of knowledge about trauma** – While foster parents receive training, relative caregivers do not typically know how to deal with the trauma to which the children may have been exposed.
- **Dysfunctional family dynamics** – Relatives have additional stress and issues due to the fact that they are caring for children of other family members.
- **Increased use of family finding in order to identify family members earlier in the process** – In circuits where it is used, family finding works well to identify more family members and identify them earlier in the process, either during investigations or at the shelter hearing. In some circuits, the use of family finding is sporadic and not utilized throughout the life of the dependency case. Parents are often embarrassed and do not want family members to know they are involved with the child welfare system. Older children who know their relatives are often overlooked as a source of contact information.
- **Delays in process** – Delays in getting the results from home studies and fingerprint submissions is problematic. Also, delays in the Interstate Compact for the Placement of Children (ICPC)⁴⁴ process, which establishes procedures for ensuring the safety and stability of placements of children across state lines, cause further delays in placing children with out-of-state relatives. Judicial decisions with interstate placement implications must comply with the Compact.
- **Lack of services and support for families** – In some areas of the state, there is inadequate support for caregivers because there is no formal program to provide information, referral, training, legal services, and other follow-up services. As a result, grandparents and other relatives raising children are not being linked to the benefits and supports that they or the children in their care need.

<http://www.centerforchildwelfare.org/kb/GenIVE/WaiverTErms2013-2018.pdf>. (last visited February 7, 2018).

⁴¹ *Id.*

⁴² §1130(a)(2) and (d)(2) of the Social Security Act.

⁴³ Surveys and studies conducted by the staff of the Senate Committee on Children, Families and Elder Affairs.

⁴⁴ Section 409.408, F.S.

- **Fewer benefits for children in care** – Children in out-of-home care are only eligible for some benefits if they are or have been in a licensed placement. For example, children in relative care are eligible for tuition and fee exemptions for postsecondary education,⁴⁵ but they are *not* typically eligible for independent living financial support and services.⁴⁶
- **Caseworker “neglect”** –When a relative will not or cannot immediately commit to become a fulltime caregiver, the caseworker often forgets about the caregiver. There is little or no effort made to include the relative in other aspects of the child’s life or improve the home so that the relative may be able to become a fulltime caregiver.
- **Lack of time and skill to effectively engage with relatives** – A number of circuits reported that while caseworkers generally do a good job, they frequently do not have the time to effectively deal with relatives who may become caregivers for children due either to large caseloads or to a lack of appropriate skills. Caseworkers often feel that placement with a relative is a “safe placement” and pay less attention to those placements.
- **Access to services should be the same regardless of placement** – Currently, access to services and supports for a child in out-of-home care vary depending on what type of placement the child is in.

In addition to speaking with judges around the state, committee staff⁴⁷ spoke with leadership, program staff, and relative caregivers with community-based care lead agencies across the state. Four major issues affecting the ability of relatives and nonrelatives to care for children placed in their care were identified:

- Sporadic and ineffective use of family finding. Family finding is defined as an intensive relative search and engagement technique to identify family of and other close adults to children in foster care, who will be involved in developing and carrying out a plan for the emotional and legal permanency of a child.
- Inadequate support of caregivers in some areas of the state due to a lack of formal kinship navigator programs designed to provide information, referral, and follow-up services. As a result, grandparents and other relatives raising children are not being linked to the benefits and supports that they or the children in their care need.
- Inadequate financial support or delays in receiving financial support.
- The obligation for relative caregivers to assume what may be a large portion of child care/early education expenses for a child in their care.

Notably, provisions of the bill address three of these four issues.

⁴⁵ Section 1009.25, F.S.

⁴⁶ Section 409.1451, F.S.

⁴⁷ See *supra*, n. 25.

Circuit	Lead Agency
<i>Shaded rows indicate community-based care lead agencies with whom committee staff communicated.</i>	
1 Escambia, Okaloosa, Santa Rosa, and Walton Counties	Lakeview Center, Families First Network
2 & 14 Franklin, Gadsden, Jefferson, Leon, Liberty, Wakulla Counties and Bay, Calhoun, Gulf, Holmes, Jackson, Washington Counties	Big Bend Community Based Care, Inc.
3 & 8 Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor Counties and Alachua, Baker, Bradford, Gilchrist, Levy, Union Counties	Partnership for Strong Families
4 Duval and Nassau Counties	Family Support Services of North Florida Inc.
4 Clay County	Kids First of Florida, Inc.
7 St. Johns County	St Johns County Board of County Commissioners
7 Flagler, Volusia, and Putnam Counties	Community Partnership for Children, Inc.
12 DeSoto, Manatee, and Sarasota Counties	Sarasota Family YMCA, Inc.
6 Pasco and Pinellas Counties	Eckerd Community Alternatives
13 Hillsborough County	Eckerd Community Alt.,
20 Charlotte, Collier, Glades, Hendry and Lee Counties	Children's Network of SW Florida
5 Citrus, Hernando, Lake, Marion and Sumter Counties	Kids Central, Inc.
9 & 18 Orange, Osceola County and Seminole Counties	Community Based Care of Central Florida
18 Brevard County	Brevard Family Partnership
10 Hardee, Highlands, and Polk Counties	Heartland For Children
19 Indian River, Martin, Okeechobee, and St. Lucie Counties	Devereux CBC
15 & 17 Palm Beach County and Broward County	ChildNet Inc.
11 & 16 Miami-Dade County and Monroe County	Our Kids of Miami-Dade/Monroe, Inc.

Judicial Hearings and Review

When the department removes a child from his or her home, a series of dependency court proceedings must occur to adjudicate the child dependent and place him or her in out-of-home care, as indicated by the chart below:

Proceeding		Reference
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The court determines whether the child is to remain in out-of-home care.	s. 39.402, F.S.
Arraignment Hearing	An arraignment hearing occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Hearing	An adjudicatory trial is held within 30 days of arraignment, to determine whether a child is dependent.	s. 39.507, F.S.
Disposition Hearing	Disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews and orders the case plan for the family and the appropriate placement of the child.	s. 39.521, F.S.
Review Hearing	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.

As noted above, current law provides for specific findings and determinations to be made by the court at each hearing.

The Rilya Wilson Act

Background

The Rilya Wilson Act is named for a four-year-old girl who disappeared from state custody and whose disappearance went unnoticed for 15 months. Rilya’s caregiver provided several stories concerning Rilya’s whereabouts, one being that someone from the Department of Children and Families removed Rilya from her home sometime in January 2001. However, the department was unaware that Rilya was missing until April 2002. While Rilya’s caregiver (who is suspected, but not convicted, of killing Rilya) was sentenced to 55 years in prison in 2013 for offenses connected to Rilya’s disappearance (including aggravated child abuse), Rilya remains missing.⁴⁸

With the disappearance of Rilya Wilson, the responsibility of the state to ensure the safety of children in its care received heightened attention. To ensure the safety and well-being of children in its custody or under its supervision, DCF was required to provide for more frequent and continuous face-to-face contact with children, particularly those under the age of five. The Rilya Wilson Act provides such increased visibility of these very young children by requiring that these children participate in an approved early education or child care program. In turn, these early education or child care programs are bound to report certain incidences of the child’s nonattendance or absence to the DCF.⁴⁹

⁴⁸ The Miami Herald, GERALYN GRAHAM GETS 55 YEARS IN RILYA WILSON FOSTER CHILD ABUSE CASE, *available at*: <http://www.miamiherald.com/latest-news/article1947207.html>. (last visited Feb. 5, 2018).

⁴⁹ Section 39.604, F.S. (“Rilya Wilson Act”).

Early Education and Child Care Programs

Participation in early child care and learning programs under the Rilya Wilson Act is intended not only to minimize further abuse and neglect, but also to reverse the developmental effects that abuse, neglect, and abandonment can have on children.⁵⁰

Early education and child care programs are provided in Florida through the school readiness program under ss. 1001.213 and 1002.82, F.S. With the establishment of the school readiness program, the different early education and child care programs and their funding sources were merged for the delivery of a comprehensive program of school readiness services to be designed and administered through local early learning coalitions.⁵¹ The school readiness program is housed with the Office of Early Learning at the Department of Education.⁵²

Current law requires that each early learning coalition give priority for participation in the school readiness program according to specified criteria, with an at-risk child being second on the priority list.⁵³ An at-risk child is defined as the following:⁵⁴

- A child from a family under investigation by the Department of Children and Families or a designated sheriff's office for child abuse, neglect, abandonment, or exploitation.
- A child who is in a diversion program provided by the Department of Children and Families or its contracted provider and who is from a family that is actively participating and complying in department-prescribed activities, including education, health services, or work.
- A child from a family that is under supervision by the Department of Children and Families or a contracted service provider for abuse, neglect, abandonment, or exploitation.
- A child placed in court-ordered, long-term custody or under the guardianship of a relative or nonrelative after termination of supervision by the Department of Children and Families or its contracted provider.
- A child in the custody of a parent who is a victim of domestic violence residing in a certified domestic violence center.
- A child in the custody of a parent who is considered homeless as verified by a Department of Children and Families certified homeless shelter.

As mentioned earlier, the cost of participating in the school readiness program is subsidized in part or fully by the funding of the local early learning coalition for eligible children.⁵⁵ Criteria have been established for the children who are to receive priority for participating in the program

⁵⁰ Section 39.604(2), F.S. (“The Legislature recognizes that children who are in the care of the state due to abuse, neglect, or abandonment are at increased risk of poor school performance and other behavioral and social problems. It is the intent of the Legislature that children who are currently in the care of the state be provided with an age-appropriate education program to help ameliorate the negative consequences of abuse, neglect, or abandonment.”).

⁵¹ Sections 1002.82 and 1002.83, F.S.

⁵² Section 1002.82, F.S.

⁵³ Section 1002.87, F.S.

⁵⁴ Section 1002.81, F.S.

⁵⁵ Office of Early Learning, *School Readiness Payment Rates for Children Concurrently Enrolled in the VPK Program*, http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Rules%20Guidance%20and%20Proposed%20Rules/Issued%20Program%20Guidance/440.50_ConcurrentPaymentRates_Final_ADA.pdf (last visited Feb. 5, 2018).

at no cost or at a subsidized rate.⁵⁶ However, to the extent that subsidized child care is not available, the cost of child care is assumed by the caregiver.⁵⁷

Regardless of whether a school readiness program provider is licensed, the program must “comply with the reporting requirements of the Rilya Wilson Act for each at-risk child under the age of school entry who is enrolled in the school readiness program.”⁵⁸ Under the Rilya Wilson Act, children from birth to the age of school entry who are in the state’s care due to abuse, neglect, or abandonment and who are enrolled in early education or child care programs must participate in the program five days a week.⁵⁹ This participation must be reflected in any case plan required by ch. 39, F.S. However, the court in approving or revising the case plan, may waive the requirement to participate five days a week.⁶⁰

The Rilya Wilson Act also provides that:

- Withdrawal from the program is prohibited unless prior written approval is provided by the department or the community-based lead agency.⁶¹
- The person with whom the child is living is required to report any absence to the program on the day of the absence. Failure to report an absence results in the absence being considered unexcused, and the early education or child care program is required to report any unexcused absence or seven consecutive excused absences to the department or community-based lead agency.⁶²
- Reports of two consecutive unexcused absences or seven consecutive excused absences are to result in a site visit to the child’s residence. Children who are found missing during the site visit are to be reported as missing to law enforcement and the procedures for locating missing children initiated. If the children are not found to be missing, the parent or caregiver is to be informed that it is a violation of the case plan if the child does not attend the early education or child care program.⁶³
- After two such site visits, action to notify the court of the parent or caregiver’s non-compliance with the care plan is to be initiated.⁶⁴

III. Effect of Proposed Changes:

Section 1 creates s. 39.4015, F.S., relating to family finding, to require the Department of Children and Families (DCF), in collaboration with sheriffs’ offices that conduct child protective investigations and community-based care lead agencies, to develop a formal family finding program to be implemented statewide by child protective investigators and community-based care lead agencies. Family finding is required as soon as a child comes to the attention of the DCF and throughout the duration of the case. The DCF or community-based care lead agency

⁵⁶ Office of Early Learning, *School Readiness Eligibility Priorities*, http://www.floridaearlylearning.com/coalitions/school_readiness_eligibility_priorities.aspx (last visited Feb. 5, 2018).

⁵⁷ Fla. Admin. Code Ann. r. 65C-13.030(2)(d)4. (2014).

⁵⁸ Section 1002.87, F.S.

⁵⁹ Section 39.604(3), F.S.

⁶⁰ *Id.*

⁶¹ Section 39.604(4)(a), F.S.

⁶² Section 39.604(4)(b)1., F.S.

⁶³ Section 39.604(4)(b)2.-3., F.S.

⁶⁴ Section 39.604(4)(b)4., F.S.

must specifically document strategies taken to locate and engage relatives and kin. Strategies of engagement are provided in the bill.

The DCF and the community-based care lead agencies must use diligent efforts in family finding, must continue those efforts until multiple relatives and kin are identified, and must go beyond a basic computer search by exploring alternative tools and methodologies. Efforts to be used by the DCF and the community-based care lead agency are provided in the bill.

The court is required to inquire and make a determination regarding family finding at each stage of the case, including the shelter care hearing pursuant to s. 39.402. The court is to place its determinations on the record as to whether the DCF or community-based care lead agency has reasonably engaged in family finding. The level of reasonableness is to be determined by the length of the case and time the DCF or community-based care lead agency has had to begin or continue the process.

Section 1 is effective January 1, 2019, contingent upon the Legislature providing funding specifically for the program.

Section 2 amends s. 39.402, F.S., relating to placement in a shelter, to require educational records of children under the age of school entry to be provided, to require a judge rather than a school superintendent to appoint a surrogate parent for a child under the age of school entry, if necessary, and to require the court to make a determination relating to family finding.

Section 3 amends s. 39.506, F.S., relating to arraignment hearings, to require the court to make a determination relating to family finding.

Section 4 amends s. 39.507, F.S., relating to adjudicatory hearings and orders of adjudication, to require the court to make a determination relating to family finding.

Section 5 amends s. 39.5086, F.S., relating to kinship navigator programs, to require each community-based care lead agency to establish a kinship navigator program that must:

- Be coordinated with other state or local agencies that promote service coordination or provide information and referral services;
- Be planned and operated in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant governmental agencies, and relevant community-based or faith-based organizations;
- Establish a toll-free telephone hotline to provide information to link kinship caregivers to specified entities;
- Provide outreach to kinship care families; and
- Promote partnerships between public and private agencies and relevant governmental agencies to increase their knowledge of the needs of kinship care families to promote better services for those families.

Section 5 is effective January 1, 2019, contingent upon an appropriation by the Legislature.

Section 6 amends s. 39.521, F.S., relating to disposition hearings and powers of disposition, to require the court to make a determination relating to family finding (if the program as authorized

under s. 39.4015, F.S., is funded and implemented), and to require educational records of children under the age of school entry to be provided.

Section 7 amends s. 39.6012, F.S., relating to case plan tasks and services, to require documentation of case plan requirements under s. 39.604, F.S.

Section 8 amends s. 39.604, F.S., relating to the Rilya Wilson Act, to clarify attendance and reporting requirements related to children in out-of-home care who are attending a child care or early education program. The bill also provides for the appointment of a surrogate parent⁶⁵, if appropriate, and provides for educational stability and transitions.

Section 9 amends s. 39.6251, F.S., relating to continuing care for young adults, to conform to additional federal requirements for extending foster care to the age of 21.

Section 10 amends s. 39.701, F.S., relating to judicial review, to require the court to appoint a surrogate parent if the child is under the age of school entry, and to require the court to determine if the department and community-based care lead agency has reasonably engaged in family finding (if the program as authorized under s. 39.4015, F.S., is funded and implemented).

Section 11 amends s. 409.166, F.S., relating to the adoption assistance program, to provide, contingent upon a specific appropriation from the Legislature, for the extension of maintenance adoption subsidy payments to the age of 21 for eligible young adults and to provide eligibility requirements. The bill also requires that all prospective adoptive homes complete an adoptive home study in order to qualify for a maintenance adoption subsidy (MAS).

The extension of the MAS to age 21 for those children who were adopted at age 16 or 17 will allow the state to earn additional federal revenues under Title IV-E. At present, the MAS payments expire when a child reaches the age of 18. Without these changes, the state would not meet federal requirements for earning Title IV-E funds associated with extended foster care.

Section 12 creates an unnumbered section of the Florida Statutes, requiring the department to establish a Title IV-E GAP pilot program in two DCF circuits.

The establishment of a GAP program would serve as a means of mitigating the loss of federal revenues to the state that will result from the expiration of Florida's Title IV-E waiver. The program will provide the state with an alternative vehicle for earning federal revenues under Title IV-E, while also offering enhanced cash benefits to certain permanent guardians and the children in their care.

It is currently unknown how many Relative Caregiver Program participants will successfully transition to GAP or how many relatives and fictive kin will enter the program in the future. The federally subsidized GAP will require caregivers to meet many of the licensure standards applicable to family foster homes, set forth in s. 409.175, F.S. The department has the authority

⁶⁵ Section 39.0016(1)(c), F.S. (A "surrogate parent" is "an individual appointed to act in the place of a parent in educational decision making and in safeguarding a child's rights under the Individuals with Disabilities Education Act [IDEA] and this section.").

to waive non-safety licensure standards on a case-by-case basis, but some relatives or fictive kin will be unable to, or prefer not to, meet its requirements. This means that under the bill, some relatives and fictive kin will enter GAP, but some will not. For those who do not, relatives will be eligible for child only TANF funding, but non-relatives will not be able to obtain payment to support caring for the child.

Establishment of a pilot program may provide information as to whether statewide implementation of GAP benefits children and their families.

Section 12 is effective August 1, 2018, and is contingent upon a specific appropriation.

Section 13 provides that, except as otherwise expressly provided in the bill, the effective date of the bill is July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill is not expected to have a fiscal impact on the community-based care (CBC) lead agencies since implementation of the family finding program, kinship navigator programs, and GAP pilot are contingent upon the availability of resources.

C. Government Sector Impact:

The bill is not expected to have a fiscal impact on state or local government since implementation of the family finding program, the kinship navigator programs, extended maintenance adoption subsidies, extended foster care, and the GAP pilot are contingent upon the availability of resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 39.402, 39.506, 39.507, 39.5085, 39.521, 39.6012, 39.604, 39.6251, 39.701, 409.166, 414.045, and 1009.25.

The bill creates section 39.4015 of the Florida Statutes.

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

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

CS/CS by Appropriations on February 27, 2018:

The committee substitute:

- Inserts the phrase “subject to appropriation” or “contingent upon an appropriation” for the Family Finder and Kinship Navigator programs, and a Guardianship Assistance Program (GAP) pilot.
- Eliminates the provision that would begin financial assistance to relative and nonrelative caregivers at the time a child comes into their care.
- Amends s. 39.6251, F.S., extending foster care services to age 21 for young adults who have not achieved permanency and who have met certain requirements, to conform to federal Title IV-E requirements.
- Amends s. 409.166, F.S., extending maintenance adoption subsidy payments to the age of 21 for children who were adopted at age 16 or 17, to conform to federal Title IV-E requirements.
- Requires that all prospective adoptive homes complete an adoption home study in order to qualify for maintenance adoption subsidy payments.
- Removes provisions and requirements related to early intervention referrals to Early Steps or FDLRS Child Find.
- Requires the establishment of a Title IV-E GAP pilot program in two circuits effective August 1, 2018.

CS by Children, Families, and Elder affairs on December 4, 2017:

- Amends ss. 39.402, 39.506, 39.507, 39.521, and 39.701, F.S., relating to judicial hearings, to require a determination by the court relating to family finding.
- Adds a task to the case plan requirements required under s. 39.604, F.S.
- Requires that children under the age of three and children ages 3 to 5 years who are victims of substantiated child abuse or neglect be referred for an early intervention assessment by Early Steps or FDLRS Child Find as appropriate.

- Provides for the appointment of a surrogate parent if appropriate, and provides for educational stability and transitions in child care and early education program settings.

B. Amendments:

None.

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