

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1105 Child Welfare

**SPONSOR(S):** Health & Human Services Committee, Children, Families & Seniors Subcommittee, Tomkow

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	Woodruff	Brazzell
2) Appropriations Committee	26 Y, 0 N	Fontaine	Pridgeon
3) Health & Human Services Committee	16 Y, 0 N, As CS	Woodruff	Calamas

### SUMMARY ANALYSIS

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Department of Children and Families (DCF) administers the state's child welfare system and works in partnership with local communities and the courts to ensure the safety, timely permanency and well-being of children involved in the dependency process.

HB 1105 amends various sections in Ch. 39, F.S., to balance placement stability with child safety and permanency. Specifically, the bill:

- Requires certain training for dependency court judges on the benefits of stable placements and related issues.
- Requires judges to consider certain factors related to placement stability when determining whether to change a child's placement.
- Requires DCF to notify judges of all central abuse hotline reports that are accepted for an investigation involving a child over whom the court has jurisdiction.
- Allows DCF to file a petition to initiate court oversight when a family is receiving services from a community-based care lead agency (CBC) without court involvement, if the parent has been receiving voluntary services for a period of time.
- Prohibits the court from ending jurisdiction if a CBC has to continue to provide an in-home safety plan for a child to live at home.

The bill amends current law to require the court and case managers to monitor relationships between foster parents and biological parents at various stages in the dependency process to encourage a productive working relationship that includes meaningful communication and mutual support.

The bill relocates language relating to quality parenting from s. 409.145, F.S., to a new section and expands it to apply to caregivers caring for children in out-of-home care. The new section directs DCF and CBCs to develop and support relationships between foster families and biological parents of children in out-of-home care, when it is safe and in the child's best interest.

The bill allows circuit courts to create early childhood court programs and requires the Office of State Courts Administrator to contract with one or more university-based centers that have expertise in infant mental health to ensure the quality, accountability, and fidelity of the evidence-based treatment provided by such programs.

The bill also requires DCF or its subcontractors to complete criminal history checks, preliminary home studies for adoptive minors and licensing home studies for family foster homes within specific timeframes so children can be placed in stable homes faster.

The bill creates a process with set timeframes DCF and its subcontractors must comply with when a person is interested in adopting a child from the child welfare system.

Further, the bill allows a CBC to demonstrate a justification of need to provide more than 35 percent of direct care services to children and families in its geographic service area.

HB 1105 has an indeterminate, insignificant, negative impact on the court system, and no impact on local government.

The bill provides an effective date of July 1, 2020.

### FULL ANALYSIS

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

**STORAGE NAME:** h1105e.HHS

**DATE:** 2/20/2020

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### **Florida's Child Welfare System**

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline (hotline) and child protective investigations. The Department of Children and Families (DCF) administers the state's child welfare system and works in partnership with local communities and the courts to ensure the safety, timely permanency and well-being of children involved in the dependency process.<sup>1</sup> If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

DCF's child welfare practice model focuses on preserving and strengthening the child's family ties whenever possible, and removing the child from the home when the child's welfare cannot be adequately safeguarded otherwise.<sup>2</sup>

#### **Community-Based Care Organizations and Services**

DCF contracts for case management, out-of-home care, and related services with community-based care lead agencies (CBCs). Using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design.<sup>3</sup> DCF, through CBCs, administers a system of care for children with the goals of:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Well-being of children through emphasis on educational stability and timely health care;
- Achievement of permanency; and
- Effective transition to independence and self-sufficiency.

CBCs provide foster care and related services, including, but not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.<sup>4</sup> CBCs contract with a number of subcontractors for case management and direct care services to children and their families.<sup>5</sup> There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.<sup>6</sup>

However, CBCs contract with various organizations to provide direct care services to children and families, and may also provide such services themselves. CBCs are statutorily prohibited from directly providing more than 35 percent of all child welfare services in the circuit it services.<sup>7</sup>

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<sup>1</sup> S. 39.001, F.S.

<sup>2</sup> S. 39.001(4), F.S.

<sup>3</sup> Florida Department of Children and Families, *Community-Based Care*, <https://www.myflfamilies.com/service-programs/community-based-care/> (last visited Jan. 14, 2020).

<sup>4</sup> S. 409.145(1), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Florida Department of Children and Families, *Community-Based Care Lead Agency Map*, <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last visited Jan. 14, 2020).

<sup>7</sup> S. 409.988(1)(j), F.S.

## Dependency Court

Dependency court judge must act in the child's best interest when presiding over a dependency case governed by Ch. 39, F.S. In doing this, the judge considers a number of factors, known as the child's best interest factors, throughout various stages of the dependency court process. Chapter 63, F.S., relating to adoptions, and s. 409.145, F.S., relating to reasonable prudent parenting, outlines specific factors for the judge to consider when determining what is in the child's best interest. However, Ch. 39, F.S., does not provide factors or guidance on what a dependency court judge should consider when determining what is in the child's best interest.

### **The Dependency Court Process**

<b>Dependency Proceeding</b>	<b>Description of Process</b>	<b>Controlling Statute</b>
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

### *Training for Dependency Court Judges*

There are currently 114 judges and 31 magistrates throughout the state who hear dependency court cases.<sup>8</sup> Judges receive some training on the dependency court process and what to do when considering what is in the child's best interest. All judges new to the bench are required to complete the Florida Judicial College program during their first year of judicial service following selection to the

<sup>8</sup> Email from J. Blair Williams, Senior Court Analyst II, Office of State Courts Administrator, RE: Information Requested on Call Today 1/3/19 (Jan. 13, 2020) on file with Children, Families, and Seniors Subcommittee staff.

bench.<sup>9</sup> The Florida Court Education Council<sup>10</sup> sponsors the 10-day program, which provides general court information as well as information on substantive and procedural matters.<sup>11</sup> However, this program is only for judges new to the bench, and is not required for existing judges rotating to the dependency bench. Judges are also required to earn a minimum of 30 approved credit hours of continuing judicial education every three years.<sup>12</sup> Although there is training available on dependency topics, the only statutorily mandated training is for judges who have responsibility for domestic violence cases.<sup>13</sup>

### *Early Childhood Courts*

An early childhood court addresses child welfare cases for children typically under the age of three and provides a different approach to addressing issues causing the child's dependency than the traditional dependency court process. An early childhood court is a "problem-solving court"<sup>14</sup> and attempts to address root causes of an individual's involvement with the justice system through specialized dockets, multidisciplinary teams, and a nonadversarial approach.<sup>15</sup>

Florida's early childhood courts emerged in 2014, and there are currently 24 statewide. The Office of State Courts Administrator coordinates Florida's early childhood courts with a goal of improving child safety and well-being; healing trauma and repairing the parent-child relationship; promoting timely permanency; and stopping the intergenerational cycle of maltreatment.<sup>16</sup> Families served by an early childhood court receive comprehensive services through the court, a local community coordinator, and team of other stakeholders.<sup>17</sup> The multidisciplinary team approach to dependency court requires frequent case consultation, including monthly team meetings and judicial hearings.<sup>18</sup>

The Legislature appropriated \$11.3 million to the Office of the States Administrator in Fiscal Year 2019-2020 for Florida's problem-solving courts, which includes early childhood courts.<sup>19</sup> The Trial Court Budget Commission determines the allocation of those funds to the participating circuits.

### Dependency System Process

When a child is in danger of, or has suffered from, abuse, abandonment or neglect, the dependency system is set up to protect the child's welfare. The dependency process includes, among other things:

- A report to the central abuse hotline (hotline);
- A child protective investigation to determine the safety of the child;
- The court finding the child dependent;
- Case planning to address the problems resulting in the child's dependency; and
- Reunification with the child's parent or another option to establish permanency, such as adoption.

### *Central Abuse Hotline*

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<sup>9</sup> S. 25.385, F.S. See Florida Courts, *Information for New Judges*, <https://www.flcourts.org/Resources-Services/Judiciary-Education/Information-for-New-Judges> (last visited Jan. 14, 2020).

<sup>10</sup> Established in 1978, the Florida Court Education Council is charged with coordinating and overseeing the creation and maintenance of a comprehensive education program and making budgetary, programmatic, and policy recommendations to the court regarding continuing education.

<sup>11</sup> Florida Office of State Courts Administrator, *Short History of Florida State Court System, Processes, Programs, and Initiatives*, (2016), [https://www.flcourts.org/content/download/216626/1965702/Short-History\\_2016.pdf](https://www.flcourts.org/content/download/216626/1965702/Short-History_2016.pdf) (last visited Jan. 14, 2020).

<sup>12</sup> *Id.*

<sup>13</sup> S. 25.385, F.S.

<sup>14</sup> Florida Courts, Office of Court Improvement, Problem Solving Courts, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts> (last visited Feb. 18, 2020).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Florida Institute of Child Welfare, 2018-2019 Early Childhood Court Evaluation, [https://www.flcourts.org/content/download/543347/6122573/ECC\\_one\\_pager\\_2018\\_2019\\_final.pdf](https://www.flcourts.org/content/download/543347/6122573/ECC_one_pager_2018_2019_final.pdf) (last visited Feb. 19, 2020).

<sup>18</sup> *Id.*

<sup>19</sup> Ch. 2019-115, L.O.F.

DCF operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, seven days a week, of known or suspected child abuse, abandonment or neglect.<sup>20</sup> Statute mandates any person who knows or suspects that a child is abused, abandoned, or neglected to report such knowledge or suspicion to the hotline.<sup>21</sup> A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse, abandonment or neglect.<sup>22</sup> A child protective investigator either verifies,<sup>23</sup> does not substantiate,<sup>24</sup> or finds no indicators of abuse or neglect after a child protective investigation.<sup>25</sup>

When the hotline receives a call regarding possible abuse, abandonment or neglect, the hotline counselor researches the child welfare information system to determine if the child or family is currently involved with the child welfare system.<sup>26</sup> If so, the child protective investigator notifies the child's case manager and DCF's attorney of the report.<sup>27</sup>

Currently, case managers and DCF attorneys are only required to notify dependency court judges of verified findings during six-month judicial review hearings. If a child protective investigation does not have verified findings of abuse, abandonment or neglect, current law does not require case managers and DCF attorneys to notify the court of the report, even if the court has protective oversight.

### *Child Protective Investigations*

A child protective investigation must be commenced immediately or within 24 hours after a hotline report is received, depending on the nature of the allegation.<sup>28</sup> The child protective investigator (CPI) assesses the safety and perceived needs of the child and family, and if services are needed, whether the child should receive in-home or out-of-home services.

A CPI is required to offer services for voluntary acceptance, even if the CPI determines the child is unsafe, unless there are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment, or there is a high likelihood of lack of compliance with voluntary services.<sup>29</sup> When the parent accepts voluntary services offered by DCF, the dependency court does not have court oversight of the family. When the child is unsafe and remains in the home without court oversight, DCF must implement a safety plan for the child and the CBC makes sure the family receives needed services.

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<sup>20</sup> S. 39.201(5), F.S.

<sup>21</sup> S. 39.201(1)(a), F.S.

<sup>22</sup> S. 39.201(2)(a), F.S.

<sup>23</sup> "Verified" findings are when a preponderance the evidence results in a determination the specific harm or threat of harm was the result of abuse, abandonment or neglect. These findings require the investigator to take action to protect the child. See Florida Department of Children and Families, CF Operating Procedure No. 170-5.

<sup>24</sup> "Not substantiated" findings result from an investigation when there is credible evidence which does not meet the standard or being a preponderance to support that the specific harm was the result of abuse, abandonment, or neglect. See Florida Department of Children and Families, CF Operating Procedure No. 170-5.

<sup>25</sup> "No indicators" findings result when there is no credible evidence to support the allegations of abuse, abandonment, or neglect. See Florida Department of Children and Families, CF Operating Procedure No. 170-5.

<sup>26</sup> Florida Department of Children and Families, Agency Analysis of HB 1105, on file with Children, Families, and Seniors Subcommittee.

<sup>27</sup> *Id.*

<sup>28</sup> S. 39.301(1), F.S.

<sup>29</sup> S. 39.301(14), F.S.

## Safety Methodology

In 2013, DCF began using a new child welfare practice model (model) that standardized the approach to making safety decisions and risk assessments for children.<sup>30</sup> The model seeks the goals of safety, permanency, and child and family well-being.<sup>31</sup> The model emphasizes parent engagement and empowerment as well as training and support of child welfare professionals to assess child safety.<sup>32</sup>

To further implement this model, in 2014 the Legislature required CPIs to implement in-home safety plans to ensure the child's safety while the child remains in the home or is returned home after an out-of-home placement.<sup>33</sup> A safety plan controls and manages danger threats to a child when a parent is unavailable, unable, or unwilling to protect his or her child.<sup>34</sup> In-home safety plans must be specific, sufficient, feasible and sustainable to ensure child safety while the child remains in the home.<sup>35</sup> It may include tasks or responsibilities for a parent, caregiver, or legal custodian.

A safety plan may be used in several situations, such as when:

- the child remains in the home while the child protective investigation is underway;
- the child remains in the home after abuse or neglect is verified, but the parent accepts services voluntarily;
- the child has been placed in the home by the court instead of being sheltered out of home after the parent is found to have neglected or abused the child; and
- the child is reunified with the parent by the court after being in out-of-home care before the parent has completed his or her case plan or demonstrated that he or she has developed the protective capacities necessary to keep the child safe without a safety plan.

When the safety plan is for a child during a child protective investigation, the CPI works with the CBC to develop the safety plan and identify services necessary for the successful implementation of the plan. The CPI monitors the plan to ensure the child's safety until the CPI transfers the case to the CBC to monitor the plan's implementation.<sup>36</sup>

In cases involving an in-home safety plan where there is no court involvement, the CBC case manager over the child's case must request a staffing with a DCF attorney to determine legal actions necessary when the in-home safety plan is no longer protecting the child or the parent is not demonstrating efforts to achieve outcomes that address the child's need for safety.<sup>37</sup> DCF is authorized to file a shelter or dependency petition on a family when the safety plan is no longer sufficient to keep the child safe, but there are currently no statutory timeframes for filing either petition.<sup>38</sup>

When there is court involvement and a safety plan has been implemented, the court retains jurisdiction to review the status of the child for at least six months after the child is reunified with a parent.<sup>39</sup> Currently, it is in the court's discretion when to terminate judicial oversight of the child after retaining jurisdiction for at least six months after reunification. The court can terminate oversight even if a safety plan is in place to protect the child, even though the child welfare safety model contemplates the court retaining jurisdiction as long as a safety plan is in place to protect the child.

The graph below shows the percentage of children, as of December 2019, determined to be unsafe and provided services out of the home compared with those either receiving services in the home or

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<sup>30</sup> Florida Department of Children and Families, *2013 Year in Review*, <http://www.dcf.state.fl.us/admin/publications/year-in-review/2013/page19.shtml> (last visited Jan. 14, 2020).

<sup>31</sup> Florida Department of Children and Families, *Florida's Child Welfare Practice Model*, <https://www.myflfamilies.com/service-programs/child-welfare/child-welfare-practice-model.shtml> (last visited Jan. 14, 2020).

<sup>32</sup> *Id.*

<sup>33</sup> S. 39.301(9)(a)6.a., F.S.

<sup>34</sup> Florida Department of Children and Families, CF Operating Procedure No. 170-7.

<sup>35</sup> S. 39.301(9)(a)6.a., F.S.

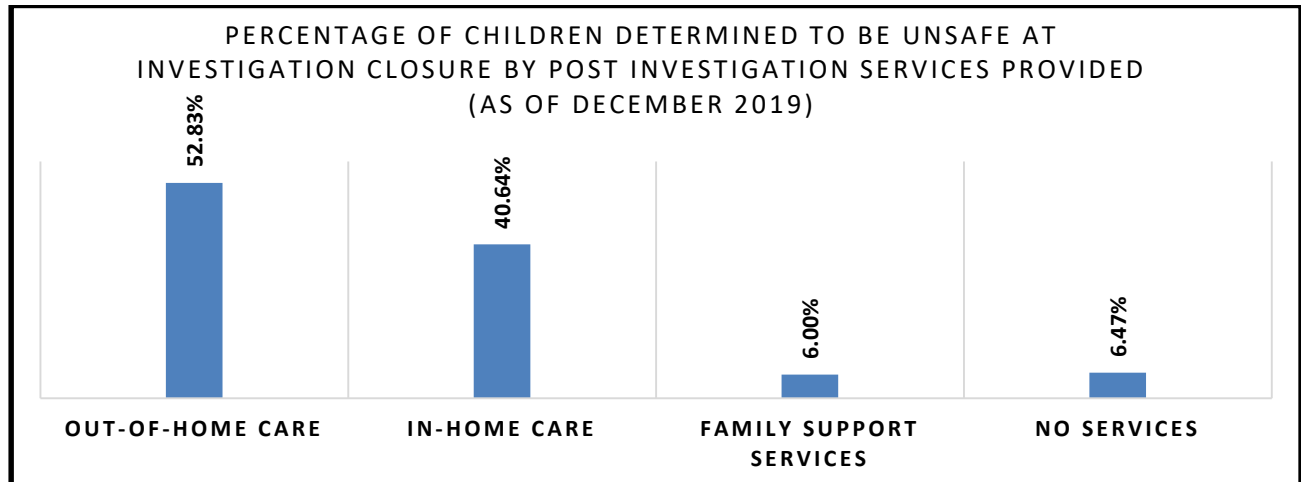
<sup>36</sup> S. 39.301(9)(a)6.c., F.S.

<sup>37</sup> *Supra* note 28.

<sup>38</sup> *Id.*

<sup>39</sup> S. 39.701, F.S.

through family support services, which are offered to families on a voluntary basis.<sup>40</sup> Additionally, the graph shows the percentage of children who did not receive services after an investigation.<sup>41</sup> This indicates about half of children determined unsafe are remaining in the parent's home at case closure.



### Case Plans

Pursuant to s. 39.6011, F.S., DCF must prepare a case plan for each child receiving services. It must be developed in a face-to-face conference with the child's parent, any court-appointed Guardian ad Litem, and, if appropriate, the child and the temporary custodian of the child.

Each case plan must contain:

- The problem being addressed, including the parent's behavior or acts resulting in risk to the child and the reason for the intervention by DCF.
- The permanency goal.
- If concurrent planning is being used, a goal of reunification in addition to one of the remaining permanency goals provided in statute.
- The date the case plan compliance expires. The case plan must be limited to as short a period as possible for accomplishing its provisions. The plan's compliance period expires no later than 12 months after the date the child was removed from the home, the child was adjudicated dependent, or the date the case plan was accepted by the court, whichever occurs first.
- A written notice to the parent that failure to substantially comply with the case plan may result in the termination of parental rights, and that a material breach of the case plan may result in the filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.<sup>42</sup>

Additionally, the case plan must describe:

- The role of foster parents or legal custodians when developing the services for the child, foster parents, or legal custodians;
- The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings;
- The minimum number of face-to-face meetings to be held each month between the parents and DCF to review the progress of the case plan, to eliminate barriers to progress, and to resolve conflicts or disagreements; and
- The parent's responsibility for financial support of the child.<sup>43</sup>

<sup>40</sup> Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report*, (Dec. 2019), available at [http://www.centerforchildwelfare.org/ga/cwkeyindicator/KI\\_Monthly\\_Report\\_December\\_2019.pdf](http://www.centerforchildwelfare.org/ga/cwkeyindicator/KI_Monthly_Report_December_2019.pdf) (last visited Jan. 13, 2020).

<sup>41</sup> *Id.*

<sup>42</sup> S. 39.6011(2), F.S.

<sup>43</sup> S. 39.6011(4), F.S.



All parties must sign the case plan, including the child, unless the child is not of an age or capacity to participate in the case-planning process. Signing the case plan acknowledges that individuals have participated in developing the terms and conditions.<sup>44</sup>

### *Reunification*

Federal law requires states to show, except in certain circumstances such as where the parent committed an especially egregious act, that they have made “reasonable efforts” to provide services to prevent a child’s removal or to reunify a child with his or her family prior to termination of parental rights.<sup>45</sup> This federal requirement makes reunification a key goal for children placed in out-of-home care. Additionally, reunification is the primary permanency goal under Florida law.<sup>46</sup> Throughout the dependency process, if a child is in out-of-home care, the court reviews the parent’s case to determine when reunification is safe for the child.

The court decides whether a child should receive services in-home or out-of-home at a disposition hearing.<sup>47</sup> If the court places a child out-of-home at disposition, the court can reunify the child with the parent postdisposition if it determines the circumstances that caused the out-of-home placement have been remedied to the extent that returning the child home with an in-home safety plan will not be detrimental to the child.<sup>48</sup> However, if the court does not place a child in out-of-home care at disposition, there is currently no easy mechanism or guidelines in statute for the court to place a child in out-of-home care at postdisposition if the court finds the child is not safe. If the court needs to place a child in out-of-home care after allowing the child to remain home at disposition, it would have to schedule a shelter hearing.

### Foster Parents

Children who are receiving care out-of-home can be placed with foster parents licensed by CBCs or its subcontractors. As part of the licensure process, all prospective caregivers must complete criminal background checks before a child is placed in their care.<sup>49</sup> The licensure process typically takes 100 days to complete and DCF rules<sup>50</sup> provide specific timeframes CBCs and subcontracts must comply with; however, current law does not provide these timeframes. As of November 2018, there were 5,358 foster parents licensed in Florida, and as of November 2019, 7,738 children were in licensed foster care.<sup>51</sup>

Foster parents care for the children placed in their home and serve as role models for the biological parents working to reunify with their children. To qualify as a potential foster parent, applicants must go through a rigorous interview process, complete a training program, and participate in a home inspection and background check.<sup>52</sup> Foster parents are expected to:<sup>53</sup>

- Provide parenting that consists of a loving commitment to the child and the child’s safety and wellbeing;
- Provide opportunities to develop the child’s interests and skills;
- Care for the child in light of the child’s culture, religion, ethnicity, special physical or psychological needs and unique situations;

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<sup>44</sup> S. 39.6011(3), F.S.

<sup>45</sup> Adoption Assistance and Child Welfare Act of 1980, Public L. No. 96-272, H.R. 3434, 96th Cong. (1980).

<sup>46</sup> S. 39.621(3)(a), F.S.

<sup>47</sup> S. 39.01(25), F.S.

<sup>48</sup> S. 39.522(2), F.S.

<sup>49</sup> S. 39.0138, F.S.

<sup>50</sup> R. 65-13.025, F.A.C.

<sup>51</sup> Florida Department of Children and Families, *Children & Young Adults in Out-of-Home Care – Statewide*, <https://www.myflfamilies.com/programs/childwelfare/dashboard/c-in-ooH.shtml> (last visited Jan. 20, 2020).

<sup>52</sup> Florida Department of Children and Families, *How Do I Become a Foster Parent?*, <http://www.dcf.state.fl.us/service-programs/foster-care/how-do-I.shtml> (last visited Jan. 14, 2020).

<sup>53</sup> Florida Department of Children and Families, *Partnership Plan for Children in Out-of-Home Care*, available at <http://centerforchildwelfare.fmhi.usf.edu/kb/OOHPublications/PartnershipPlan.pdf> (last visited Jan. 14, 2020).



- Assist the biological parents in improving their ability to care for and protect their children and to provide continuity for the child;
- Assist the child in visitation and other forms of communication with his or her biological family;
- Obtain and maintain records that are important to the child’s wellbeing, such as medical records and records of achievements;
- Advocate for children in their care with the child welfare system, the court, and community agencies, such as schools, child care, and health providers;
- Participate fully in the child’s medical, psychological, and dental care as they would for their biological child; and
- Support the child’s school success by participating in school activities and meetings.

### *Quality Parenting Initiative*

The Quality Parenting Initiative (QPI), a strategy of the Youth Law Center in California, is an approach to strengthening foster care, focused on improving foster parenting for all children in the child welfare system. It was launched in 2008 in Florida, and as of 2018, over 75 jurisdictions in 10 states have adopted the QPI approach.<sup>54</sup>

When parents cannot care for their children, a foster parent or other caregiver must be able to provide loving, committed, and skilled care that the child needs, in partnership with the system, to ensure that children thrive. QPI was developed to ensure that every child removed from their home because of abuse, abandonment, or neglect is cared for by a foster family that provides skilled, nurturing parenting while helping the child maintain connections with his or her family.

In 2013, the Legislature enacted some of the basic principles of quality parenting in s. 409.145(2), F.S., including roles and responsibilities for caregivers, DCF, CBCs, and other agency staff to work together for children in out-of-home care.<sup>55</sup>

When DCF places a child in out-of-home care, foster parents receive a “Partnership Plan for Children in Out-of-Home Care” (Plan) during the initial foster parent licensing process to inform them of their roles and responsibilities for quality parenting.<sup>56</sup> The Plan outlines the values, principles and relationships between DCF, CBCs, and caregivers, like foster parents, in fulfilling their responsibility to care for children in out-of-home care.

### Child Welfare System Adoptions

Adoption is a method of achieving permanency for children who have suffered abuse, abandonment or neglect and who are unable to be reunited with their parents. Research indicates that children generally have better outcomes through adoption than through placement in long-term foster care.<sup>57</sup>

To become a licensed adoptive parent and considered by DCF as an appropriate placement for a prospective adoptive minor in DCF’s custody, an individual or couple must complete an orientation session, a training program, a background check and a home study.<sup>58</sup> The typical time for to complete the process is less than nine months, and the process with specific time frames is included in DCF’s rule<sup>59</sup>; however, current law does not provide a process with set time frames.<sup>60</sup>

### **Effect of Proposed Changes**

<sup>54</sup> QPI Florida, Quality Parenting Initiative, *Just in Time Training*, <http://www.qpiflorida.org/about.html> (last visited Jan. 20, 2020).

<sup>55</sup> S. 409.145, F.S.

<sup>56</sup> R. 65C-13.025(4)(k).

<sup>57</sup> Evan B. Donaldson Adoption Institute, *Keeping the Promise: Critical Need for Post-Adoption Services to Enable Children and Families to Succeed*, Oct. 2010, p. 8.

<sup>58</sup> Florida Department of Children and Families, *How Do I Become a Foster Parent?*, <https://www.myflfamilies.com/service-programs/foster-care/how-do-i.shtml> (last visited Oct. 22, 2019).

<sup>59</sup> R. 65C-16.004 and 65C-16.005, F.A.C.

<sup>60</sup> Florida Department of Children and Families, *Frequently Asked Questions*, <http://www.adoptflorida.org/faq.shtml> (last visited Oct. 22, 2019).

HB 1105 amends various sections in Ch. 39, F.S., to address the interaction of placement stability with child safety and permanency.

### Changes in Placement

Current law does not provide guidance to courts when it is determining whether a change of placement for a child would be in his or her best interest. HB 1105 amends s. 39.522, F.S., relating to postdisposition change of custody, to provide this guidance.

The bill amends s. 39.522(1)(a), F.S., to add factors the court must consider when determining whether a change of legal custody or placement is in the child's best interest. This will ensure judges are considering all relevant factors on a consistent basis when determining what is in the child's best interest during a dependency court proceeding. These factors include:

- The child's age.
- The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.
- The stability and longevity of the child's current placement.
- The established bonded relationship between the child and the current or proposed caregiver.
- The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.
- The recommendation of the child's current caregiver.
- The recommendation of the child's guardian ad litem, if one has been appointed.
- The child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.
- The likelihood of the child attaining permanency in the current or proposed placement.

Additionally, the bill creates s. 39.522(4), F.S., to provide guidance to the court when it is determining at postdisposition whether to place a child in out-of-home care when the child is living at home with his or her parents with an in-home safety plan. Under this section, the bill outlines factors the court must consider, at a minimum, in making its determination to include:

- The circumstances that caused the child's dependency and other subsequently identified issues.
- The length of time the child has been placed in the home with an in-home safety plan.
- The parent's or caregiver's current level of protective capacities.
- The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed there.

This creates a mechanism for the court to remove a child from an unsafe home without requiring another shelter hearing when the child is already under the jurisdiction of the court. It will also ensure judges are considering relevant factors on a consistent basis when determining whether to remove a child from the home at postdisposition.

Further, the bill requires the court to evaluate in each change of placement or removal the child's permanency goal and change the goal as needed if doing so is in the best interest of the child. This will ensure that when a court changes a child's placement, or removes the child from his or home, the permanency goal in their case plan reflects what is in the child's best interest to reach long-term permanency.

### Hotline Reports

The bill amends s. 39.301(1)(b), F.S., to require DCF to promptly notify the court of any report to the hotline that is accepted for an investigation and involves a child over whom the court has jurisdiction. This would require DCF to notify the court of reports that are accepted for an investigation because the allegations meet the statutory definition of abuse, abandonment, or neglect rather than only reports that produce a verified finding after an investigation. This will give a dependency court judge more

information on a family whom it has protective oversight so he or she can make more informed decisions to protect the child's health and well-being.

### Foster Parents

The bill amends various statutes to promote a good working relationship between foster parents and biological parents that includes meaningful communication and mutual support and requires the court to review the relationship at judicial review hearings.

#### *Case Plans*

The bill amends s. 39.6011(5)(b), F.S., to require the case plan to specify the responsibilities of the parents and caregivers to work together to successfully implement the case plan and to include language specifying how the case manager will assist the parents and caregivers in developing a productive relationship, including meaningful communication and mutual support. The case plan must also describe the parent's or caregiver's ability to notify the court or the case manager if ineffective communication takes place that negatively impacts the child.

The bill amends s. 39.701(2)(a)6, F.S., to require the report for judicial review hearings to contain a statement from a foster parent or legal custodian regarding the well-being of the child, the impact of any services provided to the child, and the working relationship between the caregiver and the parents.

The bill also amends s. 39.701(2)(c), F.S., to require the court to determine at judicial review hearings if the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.

The bill also amends s. 39.6011(5)(d), F.S., to specify that case managers are to resolve conflicts or disagreements between parents and caregivers, service providers, or any professionals assisting the parents in completion of the case plan.

#### *Quality Parenting and Parenting Partnerships*

The bill relocates current statutory language in s. 409.145(2), F.S., related to quality parenting into a new section and expands it to apply to all caregivers caring for a child in out-of-home care. The new section also incorporates the Partnership Plan for Children in Out-of-Home Care into law. Section 409.1415, F.S., directs DCF and CBCs to support relationships between foster families and biological parents of children in out-of-home care by:

- Facilitating telephone communication between the foster parent and the birth or legal parent as soon as possible after the child is placed in the home.
- Facilitating and attending an in-person meeting between the foster parent and the birth or legal parent within two weeks after placement.
- Developing and supporting a plan for the birth or legal parents to participate in medical appointments, educational and extra-curricular activities, and other events involving the child.
- Facilitating participation by the foster parent in visitation between the birth parent and child.
- Involving the foster parent in planning meetings with the birth parent.
- Developing and implementing effective transition plans for the child's return home or placement in any other living environment.
- Supporting continued contact between the foster family and the child after the child returns home or moves to another permanent living arrangement.
- Supporting continued connection with the birth parent after adoption.

This language provides more guidance how biological parents and caregivers, like foster parents, must work together and how CBCs must support them.

Further, the bill amends s. 39.701(2)(a)7, F.S., to require the judicial review report to contain the caregiver's recommendations for an expansion or restriction on future visitations with the birth or legal

parent. This will allow caregivers to have additional input regarding the child's safety at judicial review hearings.

### *Family Foster Home Licensure*

The bill amends s. 409.175, F.S., to require DCF or its subcontractor to complete a licensing home study within 30 days after initiation. Further, DCF will be required to approve or deny a family foster home licensure application within 10 days after receipt of the complete application. DCF must approve or deny the complete application no later than 100 calendar days after the prospective foster family completes orientation. The bill allows DCF to exceed the 100 calendar days if additional certifications for a license are required. This change is intended to speed up the family foster home licensure process so DCF can place children in stable homes faster.

### Child Welfare System Adoptions

The bill amends 63.092, F.S., to require a CBC or its subcontracted agency to complete a preliminary home study for identified prospective adoptive minors in DCF's custody within 30 days of initiation. Preliminary home studies determine the suitability of the intended adoptive parents and must be completed before a child is placed in an intended adoptive home. This change is intended to place minors up for adoption in prospective adoptive homes quicker.

The bill creates a process in statute and requires DCF, CBCs or its subcontracted agency to comply with specific timeframes when someone is interested in adopting a child from the child welfare system. Specifically, the bill requires:

- DCF, CBCs or its subcontracted agency to respond to an initial inquiry from a prospective adoptive parent within seven business days after receipt of the inquiry. Further, the response must inform the prospective adoptive parent of the adoption process and the requirements for adopting a child from the child welfare system.
- DCF, CBCs or its subcontracted agency to refer all prospective adoptive parents to a DCF-approved adoptive parent training program.
- All prospective adoptive parents to complete a DCF-approved adoptive parent training program, unless the prospective adoptive parent is a licensed foster parent, or relative or nonrelative caregiver, who has attended the training program within the last five years, or has had the child placed in their care for six months or longer and determined to understand the challenges and skills needed to parent the child.
- A prospective adoptive parent to complete an adoption application created by DCF.
- CBCs or its subcontracted agency to complete an adoptive home study of a prospective adoptive parent that includes observation, screening, and evaluation of the child and the prospective adoptive parent before a child is placed in the adoptive home. Approved adoptive home studies will be valid for 12 months after the approval date.
- CBCs or its subcontracted agency to complete a preparation process, as established by DCF rule, with the prospective adoptive parent.
- A decision about the prospective adoptive parent's appropriateness to adopt at the conclusion of the adoptive home study and preparation process and include the final recommendation in the adoptive home study. If the recommendation is for approval, the application must be submitted to the CBC or its subcontract agency. The CBC or its subcontracted agency must approve the home study within 14 business days after receipt of the recommendation.

The bill also add an exception to the process and timeframes for children being adopted through a private adoption process.

This is intended to speed up the adoption process for children in the child welfare system by getting prospective adoptive parents approved quicker so they will be available to adopt a child.

### Judicial Training

The bill amends s. 25.385, F.S., to require the Florida Court Education Council (FCEC) to establish standards for instruction of circuit court judges who have responsibility for dependency cases regarding

the benefits of a secure attachment with a primary caregiver, the importance of a stable placement, and the impact of trauma on child development. The FCEC shall provide such instruction on a periodic and timely basis.

Although new judges currently receive training on the dependency process, this would ensure statewide consistent understanding of the importance of stable and permanent placements for children in the child welfare system.

### Court Jurisdiction

The bill amends s. 39.301(9)(a)6., F.S., to allow DCF to file a shelter or dependency petition to initiate court jurisdiction when the family is receiving services from a CBC without judicial oversight. DCF may file a petition if the child has an in-home safety plan and the parent or caregiver has not sufficiently increased his or her protective capacities within 90 days after the CPI transfers the child's case to the CBC. This will provide an incentive for family engagement in voluntary services so children can be safe at home without the use of an in-home safety plan.

The bill amends s. 39.701(1)(b), F.S., to prohibit the court from terminating jurisdiction over a child if the child is placed in a home with a parent or caregiver with an in-home safety plan and the safety plan remains necessary for the child to reside safely in the home. This is consistent with DCF practice and Florida's Safety Methodology. However, judges are not bound by the same standards unless it is in statute and expressed in other court rules.

### Early Childhood Courts

The bill creates s. 39.01304, F.S., to allow circuit courts to create an early childhood court program. The bill provides factors a circuit court may consider when creating an early childhood court program, including:

- The court supporting the therapeutic needs of the parent and child in a nonadversarial manner.
- A multidisciplinary team made up of key community stakeholders to work with the court to restructure the way the community responds to the needs of abused or neglected children.
- A community coordinator to facilitate services and resources for families, serve as a liaison between a multidisciplinary team and the judiciary, and manage data collection for program evaluation and accountability.
- A continuum of mental health services that includes those that support the parent-child relationship and are appropriate for the children and family served.

The bill allows the Office of State Courts Administrator (OSCA) to coordinate with each participating circuit court to fill a community coordinator position for the circuit's early childhood court program.

Further, the bill requires OSCA to contract with one or more university-based centers that have expertise in infant and toddler mental health to ensure the quality, accountability, and fidelity of a program's evidence-based treatment. OSCA may also provide, or contract for the provision of, training and technical assistance related to program services, consultation and guidance for difficult cases, and ongoing training for court teams.

Although circuit courts can currently set up early childhood courts, this language will ensure all early childhood courts across the state are being created with the consideration of important factors and supports.

### Community-Based Care Services

The bill amends s. 409.988(1)(j), F.S., to allow a CBC to exceed the 35 percent threshold of providing direct care services to children and families in its circuit if approved by the court to do so. The lead agency must provide a justification of need to stakeholders to exceed the threshold. Stakeholders will review the justification of need and recommend to DCF whether it should approve or deny the request.

The bill amends various statutes to conform cross references to changes in the bill.

The bill will take effect July 1, 2020.

**B. SECTION DIRECTORY:**

- Section 1:** Amending s. 25.385, F.S., relating to standards for instruction of circuit and county court judges.
- Section 2:** Creating s. 39.01304, F.S., relating to early childhood court programs.
- Section 3:** Amending s. 39.0138, F.S., relating to criminal history and other record checks; limit on placement of a child.
- Section 4:** Amending s. 39.301, F.S., relating to initiation of protective investigations.
- Section 5:** Amending s. 39.522, F.S., relating to postdisposition change of custody.
- Section 6:** Amending s. 39.6011, F.S., relating to case plan development.
- Section 7:** Amending s. 39.701, F.S., relating to judicial review.
- Section 8:** Amending s. 63.092, F.S., relating to report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.
- Section 9:** Creating s. 63.093, F.S., relating to adoption of children from the child welfare system.
- Section 10:** Creating s. 409.1415, F.S., relating to parenting partnerships for children in out-of-home care.
- Section 11:** Amending s. 409.145, F.S., relating to care of children; quality parenting; “reasonable and prudent parent” standard.
- Section 12:** Amending s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.
- Section 13:** Amending s. 409.988, F.S., relating to lead agency duties; general provisions.
- Section 14:** Amending s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.
- Section 15:** Amending s. 39.6225, F.S., relating to guardian assistance program.
- Section 16:** Amending s. 393.065, F.S., relating to application and eligibility determination.
- Section 17:** Amending s. 409.1451, F.S., relating to the road-to-independence program.
- Section 18:** Providing an effective date of July 1, 2020.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill does not have a fiscal impact upon DCF.

The State Court System indicates the bill’s numerous changes to ss. 39.301 and 39.522, F.S., may have an indeterminate fiscal impact. The bill requires DCF to notify the court of reports to the hotline that involve a child whose care is under jurisdiction of the court. This may increase judicial workload as additional hearings are conducted when a court is notified of such reports. Additionally, the bill amends the factors a court is required to consider when evaluating a change in a child’s custody or placement, which would also negatively impact judicial workload. It is unknown how many additional hearings and evaluations may result from this bill. ‘

Further, there is an indeterminate fiscal impact on the State Court System related to the bill’s requirement that the Office of State Courts Administrator must contract with a one or more university-based centers to ensure the quality, accountability, and fidelity of an early childhood court program.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:



None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides DCF sufficient rulemaking authority to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 22, 2020, the Children, Families, and Seniors Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Requires the Florida Court Educational Council to provide certain training to circuit and county court judges handling dependency cases.
- Relocates current statutory language in s. 409.145, F.S., relating to quality parenting, to a new section, s. 409.1415, F.S.; expands it to caregivers caring for children in out-of-home care; and directs DCF and CBCs to develop and support relationship between foster families and biological parents of children in out-of-home care, when it is safe and in the child's best interest, by:
  - Facilitating communication between foster parents and biological parents.
  - Developing a plan for biological parents to be involved in events involving their children.
  - Facilitating visitation between the biological parents and the child.
  - Developing a transition plan if the child needs to move placements.
  - Continuing relationships between biological parents and the child after adoption.

On February 18, 2020, the Health and Human Services Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Authorizes circuit courts to create early childhood court programs and requires the Office of State Courts Administrator to contract with one or more university-based centers that have expertise in infant mental health to ensure the quality, accountability, and fidelity of the evidence-based treatment.
- Requires DCF to complete criminal history record checks on prospective caregivers within 14 business days, unless additional information is required.
- Requires DCF, CBCs or its subcontracted agency to complete preliminary home studies for adoptive minors within 30 days.
- Creates a process for prospective adoptive parents interested in adopting a child from the child welfare system. The process requires DCF, CBCs or its subcontracted agency to comply with set timeframes.
- Requires DCF or an authorized child-placing agency to complete a licensing home study for a family foster home within 30 days.
- Requires DCF to approve or deny a family foster home license within 10 business days after receipt of a complete application. DCF must approve or deny a complete application no later than 100 calendar days after orientation required by statute. DCF may exceed the 100 days if additional certifications for a license are required.

The analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.