

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Book, Chair
Senator Mayfield, Vice Chair

MEETING DATE: Monday, March 4, 2019

TIME: 3:30—5:30 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Book, Chair; Senator Mayfield, Vice Chair; Senators Bean, Harrell, Rader, Torres, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Presentation by Florida Youth SHINE		Presented
1	SB 646 Book (Identical H 823)	Child Welfare; Specifying the rights of children and young adults in out-of-home care; requiring the Florida Children's Ombudsman to serve as an autonomous entity within the department for certain purposes; requiring that a case plan be developed in a face-to-face conference with a caregiver of a child under certain circumstances; requiring a caseworker to provide information about subsidies provided by early learning coalitions to caregivers of certain children; providing additional requirements for the licensure and operation of family foster homes, residential child-caring agencies, and child-placing agencies, etc. CF 03/04/2019 Fav/CS AHS AP	Fav/CS Yeas 6 Nays 0
	Presentation on Violence Against Women		Presented
2	SB 670 Rader (Similar H 253)	Assisted and Independent Living Facility Task Force; Establishing the Assisted and Independent Living Facility Task Force within the Agency for Persons with Disabilities; requiring the task force to submit a report to the Governor and Legislature by a specified date, etc. CF 03/04/2019 Favorable GO RC	Favorable Yeas 6 Nays 0
Other Related Meeting Documents			

No Materials Available

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 Children, Families, and Elder Affairs

BILL: CS/SB 646

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Book

SUBJECT: Child Welfare

DATE: March 5, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 646 makes a number of changes related to the care of children and young adults in out-of-home care and foster parents. The bill summarizes current requirements into a Foster Children's Bill of Rights. The bill provides roles and responsibilities for the Department of Children and Families (DCF or the department), the community-based care lead agencies and other agency staff, as well as caregivers, to ensure that children and young adults in out-of-home care are informed of these rights. The bill codifies the existing position of Foster Children's Ombudsman in the department to receive and resolve complaints from children in out-of-home care and requires a statewide toll-free telephone number for the ombudsman.

The bill aims to clarify the roles and responsibilities of foster parents and other caregivers of children in out-of-home care. For example, the department and the community based care lead agencies must inform foster parents of the costs and requirements for child care. The bill also requires each lead agency to develop a plan to recruit and retain foster homes.

The bill has a small, but indeterminate fiscal impact and has an effective date of October 1, 2019.

II. Present Situation:

Florida Law

Currently, the provisions of Florida law pertaining to dependent children are contained in chapter 39, F.S. Statements of legislative intent with regard to child safety and protection found in ch. 39, F.S., include the provisions that:

- Judicial procedures, as well as other procedures to assure due process to children and other parties, are conducted fairly in order to protect constitutional and other legal rights;
- The health and well-being of all children under the care of the state are promoted; and
- The child's family ties are preserved and strengthened whenever possible by only removing the child from parental custody when his or her welfare or public safety cannot be otherwise assured.¹

Current law also stipulates that all children of this state are afforded general protections to include:

- Protection from abuse, neglect, and exploitation;
- A permanent and stable home;
- A safe and nurturing environment which will preserve a sense of personal dignity and integrity;
- Adequate nutrition, shelter, and clothing;
- Effective treatment for physical, social, and emotional needs;
- Equal opportunity and access to education, recreation and other community resources;
- Access to preventive services; and
- An independent, trained advocate, when intervention is necessary and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.²

Pursuant to s. 39.013(2), F.S., the circuit court has exclusive original jurisdiction of all proceedings under chapter 39, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed, or when a child is taken into the custody of the department.

Currently, decisions on how to properly care for dependent children and how to assess need for such services as counseling, education, and vocational training are discretionary judgmental decisions made pursuant to broad authority vested in the department by the legislature and have been found by the courts to be immune from tort liability.

In *Department of Health and Rehabilitative Services*³ v. B.J.M., 656 So. 2d 906 (Fla. 1995), the Florida Supreme Court held that the decisions of HRS regarding placement of juveniles and rehabilitative services provided to juveniles constituted performance of discretionary governmental functions for which the state was immune. The Court found that:

Decisions on how to properly care for a dependent child or rehabilitate a delinquent juvenile, and to assess the need for counseling, education, and vocational training are discretionary judgmental decisions to be made pursuant to the broad discretion vested in HRS by the Legislature. These

¹ Section 39.001(1), F.S.

² Section 39.001(3), F.S.

³ The Department of Health and Rehabilitative Services (HRS) became the Department of Children and Family Services (DCFS) in 1996. See Chapter 1996-403, L.O.F. The Department was subsequently renamed the Department of Children and Families (DCF) in 2012. See Chapter 2012-84, L.O.F.

decisions represent the cutting edge of HRS policy. Additionally, it is apparent that both the nature of and the amount of services that may be provided is limited by HRS resources, and by the legislative-executive policy decisions as to what resources to provide and how those resources may be utilized.

....

HRS, along with other governmental agencies in this state, must constantly take into account practical considerations, such as budgetary constraints, when deciding how to allocate its limited funds among a virtually unlimited number of needs. (citation omitted) As a result, in setting up its programs and providing services, HRS is to a great extent financially “strait-jacketed.” When there are thousands of children in need and resources provide for only a fraction, decisions as to allocation may be difficult and sometimes arbitrary. For the courts to impose liability for tort damages on HRS for decisions as to the provision of services would not only “saddle [it] with a potentially crushing burden of financial liability, but would also [cause] the judicial branch of government to trespass into the domain of the legislative branch.”⁴

To further support its decision that HRS’s failure to provided certain services was shielded immunity, the Court looked to express provisions of s. 39.455 (1)(2), F.S.⁵ The subsection reads:

- In no case shall employees or agents of the department or a social service agency acting in good faith be liable for damages as a result of failing to provide services agreed to under the case plan unless the failure to provide such services occurs as a result of bad faith or malicious purpose, or occurs in a manner exhibiting wanton and willful disregard of human rights, safety, or property.
- The inability or failure of the department or of a social service agency or the employees or agents of the social service agency to provide the services agreed to under the case plan shall not render the state or the social service agency liable for damages unless such failure to provide services occurs in a manner exhibiting wanton or willful disregard of human rights, safety, or property.

Statutorily Created Bill of Rights in Florida

Currently there are several “Bills of Rights” delineated in Florida Statutes. Typically these provisions enunciate certain rights, and in some cases responsibilities, of particular classes of individuals. Some specifically permit a cause of action for violation of the rights, some specifically disallow a remedy, and others are silent. Rights in statute include, but are not limited to:

- Florida Patients’ Bill of Rights and Responsibilities⁶

⁴ See *Department of Health and Rehabilitative Services v. B.J.M.*, 656 So. 2d 906 (Fla. 1995), available at <https://law.justia.com/cases/florida/supreme-court/1995/83067-0.html> (last visited Feb. 26, 2019).

⁵ Now renumbered as s. 39.011(1)(2), F.S.

⁶ Section 381.026, F.S.

- Bill of Rights of Persons Who are Developmentally Disabled⁷
- Rights of Mental Health Patients⁸
- Nursing Home Resident Rights⁹
- Residents' Bill of Rights for Assisted Living Facilities¹⁰
- Residents' Bill of Rights for Adult Family-Care Homes¹¹
- Residents' Rights in Continuing Care Facilities¹²

Foster Children's Bill of Rights in Other States

Foster Children Bills of Rights that have been enacted in states are typically designed to inform foster children of their rights within the child welfare system. Many children's bill of rights provide that they must be posted in a place where children will see them and include provisions requiring foster children to be informed about why they are in foster care and how the process will proceed. In addition, participation in extracurricular or community activities, efforts to maintain educational stability, access to guardians ad litem, access to mental, behavioral and physical health care, access to or communication with siblings and family members are major features of the foster children's bill of rights.

According to the National Conference of State Legislatures (NCSL), as of August 2016, a Foster Children's Bill of Rights has been enacted in 15 states and Puerto Rico. Also, during the 2014 legislative session, ten states introduced fifteen bills (six enacted) either seeking to enact a bill of rights or otherwise extending or defining the rights of foster children and parents including independent living services for older youth, educational consistency and enrollment, foster child input into evaluations of out-of-home care placements, and extracurricular activities.¹³

Foster Children's Ombudsman

The Department created an ombudsman position September 2016 with the intent to listen and be a voice for children and youth involved in the child welfare system. The ombudsman receives complaints about placement, care, and services, assisting in mediating concerns. The ombudsman is a resource to identify and explain relevant policies or procedures to children, young adults, and their caregivers.

The Rilya Wilson Act

Rilya Wilson disappeared from state custody in January 2001. The child's caregiver maintained that someone from the Department of Children and Families (DCF or department) removed Rilya from her home sometime in January 2001. The department was

⁷ Section 393.13, F.S.

⁸ Section 394.459, F.S.

⁹ Section 400.022, F.S.

¹⁰ Section 429.28, F.S.

¹¹ Section 429.85, F.S.

¹² Section 651.083, F.S.

¹³ National Conference of State Legislatures (NCSL), *Foster Care Bill of Rights* (August 25, 2016), available at <http://www.ncsl.org/research/human-services/foster-care-bill-of-rights.aspx#Children> (last visited Feb. 27, 2019).

unaware that the child was missing until April 2002 due to casework failures. While her caregiver was sentenced to 55 years in prison in 2013 for her disappearance, Rilya remains missing.¹⁴

With the disappearance of Rilya Wilson, the responsibility of the state to ensure the safety of the children while in the state's care received heightened attention. Frequent and continuous face-to-face contact with children who are in the custody or under the supervision of the state has been identified as a mechanism for ensuring the children's safety and well-being. The current requirement that each child in the custody or supervision of the state receive a monthly home visit offers child protection staff a regular opportunity to check on the well-being of the child.

For a number of children, the increased visibility that participation in early education and childcare programs provides can minimize further abuse, neglect, or abandonment. Participation in these programs can also be an important ingredient in reversing the developmental effects that abuse, neglect, and abandonment can have on children. 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.¹⁵ The school readiness program is housed with the Office of Early Learning.

Historically, children who have been abused, neglected, or abandoned and are being served through the dependency system have received one of the highest priorities for child care service. This is due, at least in part, to the interpretation of earlier statutory language that these children were to be provided the highest priority. Current law requires each early learning coalition to give priority for participation in the school readiness program according to specified criteria with an at-risk child being second on the priority list.¹⁶

The cost of participating in the school readiness program is subsidized in part or fully by the funding of the coalition for eligible children. 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. The cost of child care shall be assumed by the licensed out-of-home caregiver to the extent that subsidized child care is unavailable.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 39.4085, F.S., relating to goals for children in out-of-home care, to create a Foster Children's Bill of Rights for children who are in, and for young adults who are leaving, out-of-home care. The section does not create any new rights, but codifies and places current rights in one section of the law. The bill also provides roles and

¹⁴ David Ovalle, *Geralyn Graham get 55 years in Rilya Wilson foster child abuse case*, MIAMI HERALD, Feb. 12, 2013), available at <http://www.miamiherald.com/latest-news/article1947207.html>. (last visited Feb. 28, 2019).

¹⁵ Section 1002.83, F.S.

¹⁶ Section 1002.87, F.S.

¹⁷ Rule 65C-13.030, F.A.C.

responsibilities for the department, the community-based care lead agencies and other agency staff, as well as caregivers, related to ensuring that children and young adults in out-of-home care are informed of these rights. The bill authorizes the department to adopt rules to implement the section.

Section 2 creates s. 39.4088, F.S., relating to the Florida Children's Ombudsman, to codify and provide duties for an already existing position at the department. The ombudsman is required to collect certain specified data related to complaints received and must compile and post that information on the department's website. The ombudsman, in consultation with other entities, is required to develop information explaining the rights to children and young adults in out-of-home care and the department must establish a statewide toll-free telephone number of the ombudsman and make that number available on website. The department is given rulemaking authority to implement the section.

Section 3 amends s. 39.6011, F. S., relating to case plan development, to require that information related to their rights be provided to a child who has attained 14 years of age or is otherwise of an appropriate age and capacity to understand be included in the case plan. Documentation that consumer credit report checks were requested for the child as required by federal law and that information related to that report was provided to the child.

The bill also requires that if the child has attained 14 years of age or is otherwise of an appropriate age and capacity to understand, he or she must be involved in the case planning process. The child may express a placement preference, choose individuals to be on the case planning team and must sign the case plan unless there is reason to waive the signature. A copy of the case plan must be provided to the child. A copy of the case plan must also be provided to the caregiver if the child is placed in a licensed foster home.

Section 4 amends s. 39.604, F.S., relating to the Rilya Wilson Act, to require that when children are placed in a licensed foster home and are required to be enrolled in an early education or child care program under this section, the caseworker shall inform the caregiver of the amount of the subsidy provided by an early learning coalition, that this amount may not be sufficient to pay the full cost of the services, and that the caregiver will be responsible for paying the difference between the subsidy and the full cost charged by the early education or child care program.

Section 5 amends 39.701, F.S., relating to judicial reviews, to require that the social study report required for each judicial review must include documentation that the child has been provided with a copy of the bill of rights, that the rights have been reviewed with the child, and signed acknowledgement by the child or caregiver that the child has been provided with an explanation of the rights.

Section 6 amends s. 409.145, F.S., relating to the care of children, quality parenting, and the reasonable and prudent parent standard, to require that caregivers:

- Pay the difference between the subsidy from an early learning coalition and the full cost charged by an early education or child care program;
- Ensure that the child in the caregiver's care is aware of and understands his or her rights under s. 309.4085, F.S.; and

- Assist a child in contacting the Florida Children's Ombudsman, if necessary.

The department and other providers are responsible for providing a caregiver with information on treatment plans and how the caregiver can support a treatment plan as well as information on how the caregiver can manage behavioral issues.

Section 7 amends s. 409.145, F.S., relating to the licensure of family foster homes, residential child-caring agencies, and child placing agencies, to provide that the requirements for licensure and operation shall include provisions to safeguard the rights of children established under the bill of rights.

Section 8 amends s. 409.1753, F.S., relating to foster care, to clarify that each community-based care lead agency must provide each foster home with a telephone number for the foster parent to call during normal working hours whenever immediate assistance is needed and the child's caseworker is unavailable. Current law is unclear as to whether this is a duty for the department or the lead agency.

Section 9 amends s. 409.988, F.S., relating to community-based care lead agency duties, to require each lead agency to recruit and retain foster homes. Each lead agency must:

- Develop a plan to recruit and retain foster homes using best practices identified by the department and specify how the lead agency complies with s. 409.1753, F.S.;
- Annually submit such plan to the department for approval;
- Provide to the department a quarterly report detailing the number of licensed foster homes and beds and occupancy rate; and
- Conduct exit interviews with foster parents who voluntarily give up their license to determine the reasons for giving up their license and identify suggestions for how to better recruit and retain foster homes, and provide a quarterly summary of such interviews to the department.

Section 10 amends s. 39.6013, F.S., relating to case plan amendments, to conform a reference to changes made by the act.

Section 11 provides an effective date of October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department has reported the fiscal impact of CS/SB 646 to be indeterminate due to the fact that the exact amount to establish and manage a toll-free number is unknown as the department cannot anticipate the volume or duration of the calls. While the establishment of a line is nominal, there is a \$20 monthly fee of the line and the state rate for toll free calls is two cents per minute.¹⁸

The department currently has a Children's Ombudsman position that will be responsible for the additional duties included in the bill regarding establishing the toll-free number, collecting and reporting data annually, and developing a brochure. It is projected that the additional workload can be performed within existing resources.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends ss. 39.4085, 39.6011, 39.604, 39.701, 409.145, 409.175, 409.1753, 409.988, and 39.6013 of the Florida Statutes.

¹⁸ Department of Children and Families, *Senate Bill 646 Agency Analysis* (February 8, 2019) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁹ *Id.*

The bill creates s. 39.4088 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 by Children, Families, and Elder Affairs Committee on March 4, 2019

The CS:

- Makes several technical changes to the bill to conform to current state and federal law and adds the right of a child to be informed about any funds being held in the master trust on his or her behalf.
- Changes a credit reporting provision relating to credit report checks for children in care to reflect the federal requirement that reports be requested from all three credit reporting agencies.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2019	.	
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The Committee on Children, Families, and Elder Affairs (Book)
recommended the following:

Senate Amendment

Delete lines 86 - 179
and insert:

(2) BILL OF RIGHTS.—The department's child welfare system shall operate with the understanding that the rights of children and young adults in out-of-home care are critical to their safety, permanence, and well-being and shall work with all stakeholders to help such children and young adults become knowledgeable about their rights and the resources available to



205506

11 them. A child should be able to remain in the custody of his or
12 her parents or legal custodians unless a qualified person
13 exercising competent professional judgment determines that
14 removal is necessary to protect the child's physical, mental, or
15 emotional health or safety. Except as otherwise provided in this
16 chapter, the rights of a child placed in out-of-home care are:

17 (a) To live in a safe, healthy, and comfortable home where
18 he or she is treated with respect and where the caregiver is
19 aware of and understands the child's history, needs, and risk
20 factors.

21 (b) To be free from physical, sexual, emotional, or other
22 abuse, or corporal punishment. This includes the right to be
23 placed away from other children or young adults who are known to
24 pose a threat of harm to him or her because of his or her own
25 risk factors or those of the other child or young adult.

26 (c) To receive adequate and healthful food, adequate
27 clothing, and an allowance.

28 (d) To receive medical, dental, vision, and mental health
29 services, as needed.

30 (e) To be free of the administration of psychotropic
31 medication or chemical substances, unless authorized by this
32 chapter.

33 (f) To be able to contact and visit his or her family
34 members and fictive kin, unless prohibited by court order.

35 (g) To be placed together with his or her siblings who are
36 under the court's jurisdiction, or to maintain contact with and
37 visit his or her siblings at least once per week, unless
38 prohibited by court order.

39 (h) To be able to contact the Florida Children's Ombudsman,



205506

as described in s. 39.4086, regarding violations of rights; to speak to the ombudsman confidentially; and to be free from threats or punishment for making complaints.

(i) To make and receive uncensored telephone calls and to send and receive unopened mail, unless prohibited by court order.

(j) To attend the religious services and activities of his or her choice, and to not be compelled to unwillingly attend religious services or activities.

(k) To maintain a bank account and manage personal income, consistent with his or her age and developmental level, unless prohibited by the case plan and to be informed about any funds being held in the master trust on behalf of the child.

(l) To not be locked in any room, building, or facility premises, unless placed in a residential treatment center pursuant to this chapter.

(m) To attend school and participate in extracurricular, cultural, and personal enrichment activities consistent with his or her age and developmental level.

(n) To work and develop job skills at an age-appropriate level that is consistent with state law.

(o) To have social contact with people outside of the foster care system such as teachers, church members, mentors, and friends.

(p) To attend independent living program classes and activities if he or she meets the age requirements.

(q) To attend all court hearings and address the court.

(r) To have storage space for private use.

(s) To participate in creating and reviewing his or her



205506

case plan if he or she is 14 years of age or older or, if younger, is of an appropriate age and capacity to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan, and to have the ability to object to provisions of the case plan.

(t) To be free from unreasonable searches of his or her personal belongings.

(u) To the confidentiality of all juvenile court records consistent with state law.

(v) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(w) If he or she is 16 years of age or older, to have access to existing information regarding the educational and financial assistance options available to him or her, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, postsecondary educational services and support, the Keys to Independence program, and the tuition waiver available under s. 1009.25.

(x) To not be moved by the department or a community-based care lead agency to another out-of-home placement unless the current home is unsafe or the change is court-ordered and, if moved, the right to a transition that respects his or her relationships and property pursuant to s. 409.145.

(y) To have a guardian ad litem appointed to represent his or her best interests and, if appropriate, an attorney ad litem



205506

98 appointed to represent his or her legal interests. The guardian
99 ad litem and attorney ad litem shall have immediate and
100 unlimited access to the children they represent.
101



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2019	.	
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The Committee on Children, Families, and Elder Affairs (Book)
recommended the following:

Senate Amendment

Delete lines 309 - 317
and insert:

3. Documentation that a consumer credit report for the
child was requested from all three credit reporting agencies
pursuant to federal law at no charge to the child and that any
results were provided to the child. The case plan must include
documentation of any barriers to obtaining the credit reports.
If the consumer credit report reveals any accounts, the case



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11 plan must detail how the department ensured the child received
12 assistance with interpreting the credit report and resolving any
13 inaccuracies, including any referrals made for such assistance.
14

By Senator Book

32-00847-19

2019646__

A bill to be entitled

An act relating to child welfare; amending s. 39.4085, F.S.; providing legislative findings and intent; specifying the rights of children and young adults in out-of-home care; providing roles and responsibilities for the Department of Children and Families, community-based care lead agencies, and other agency staff; providing roles and responsibilities for caregivers; requiring the department to adopt certain rules; creating s. 39.4088, F.S.; requiring the Florida Children's Ombudsman to serve as an autonomous entity within the department for certain purposes; providing general roles and responsibilities for the ombudsman; requiring the ombudsman to collect certain data; requiring the ombudsman, in consultation with the department and other specified entities and by a specified date, to develop standardized information explaining the rights of children and young adults placed in out-of-home care; requiring the department, community-based care lead agencies, and agency staff to use the information provided by the ombudsman in carrying out specified responsibilities; requiring the department to establish a statewide toll-free telephone number for the ombudsman; requiring the department to adopt certain rules; amending s. 39.6011, F.S.; requiring that a case plan be developed in a face-to-face conference with a caregiver of a child under certain circumstances; providing additional requirements for the content of a case

32-00847-19

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plan; providing additional requirements for a case plan when a child is 14 years of age or older or is of an appropriate age and capacity; requiring the department to provide a copy of the case plan to the caregiver of a child placed in a licensed foster home; amending s. 39.604, F.S.; requiring a caseworker to provide information about subsidies provided by early learning coalitions to caregivers of certain children; amending s. 39.701, F.S.; providing additional requirements for social study reports for judicial review; amending s. 409.145, F.S.; providing additional requirements for caregivers; providing additional requirements for records and information the department and any additional providers are required to make available to caregivers; amending s. 409.175, F.S.; providing additional requirements for the licensure and operation of family foster homes, residential child-caring agencies, and child-placing agencies; amending s. 409.1753, F.S.; requiring a lead agency, rather than the department, to provide caregivers with a contact when the caseworker is unavailable; amending s. 409.988, F.S.; requiring lead agencies to recruit and retain foster homes; amending s. 39.6013, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 39.4085, Florida Statutes, is amended to

32-00847-19

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59 read:

60 (Substantial rewording of section. See

61 s. 39.4085, F.S., for present text.)

62 39.4085 Foster Children's Bill of Rights.-

63 (1) LEGISLATIVE FINDINGS AND INTENT.-

64 (a) The Legislature finds that children in, and young
65 adults leaving, out-of-home care face more developmental,
66 psychosocial, and economic challenges than their peers outside
67 of the child welfare system and are more likely to be
68 unemployed, undereducated, homeless, and dependent on public
69 assistance; and to experience early parenthood and to suffer
70 from substance abuse and mental health disorders.

71 (b) The Legislature also finds that emotional trauma,
72 separation from family, frequent changes in placement, and
73 frequent changes in school enrollment, as well as being
74 dependent on the state to make decisions regarding current and
75 future life options, may contribute to feelings of limited
76 control over life circumstances for children and young adults in
77 out-of-home care.

78 (c) The Legislature also recognizes that there are basic
79 human rights guaranteed to everyone, but children and young
80 adults in out-of-home care have additional rights that they
81 should be aware of in order to better advocate for themselves.

82 (d) Therefore, it is the intent of the Legislature to
83 empower these children and young adults by helping them become
84 better informed of their rights so they can become stronger
85 self-advocates.

86 (2) BILL OF RIGHTS.-The department's child welfare system
87 shall operate with the understanding that the rights of children

32-00847-19

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88 and young adults in out-of-home care are critical to their
89 safety, permanence, and well-being and shall work with all
90 stakeholders to help such children and young adults become
91 knowledgeable about their rights and the resources available to
92 them. A child should be able to remain in the custody of his or
93 her parents or legal custodians unless a qualified person
94 exercising competent professional judgment determines that
95 removal is necessary to protect the child's physical, mental, or
96 emotional health or safety. The rights of a child or young adult
97 placed in out-of-home care are:

98 (a) To live in a safe, healthy, and comfortable home where
99 he or she is treated with respect and where the caregiver is
100 aware of and understands the child's history, needs, and risk
101 factors.

102 (b) To be free from physical, sexual, emotional, or other
103 abuse, or corporal punishment. This includes the right to be
104 placed away from other children or young adults who are known to
105 pose a threat of harm to him or her because of his or her own
106 risk factors or those of the other child or young adult.

107 (c) To receive adequate and healthful food, adequate
108 clothing, and an allowance.

109 (d) To receive medical, dental, vision, and mental health
110 services, as needed.

111 (e) To be free of the administration of medication or
112 chemical substances, unless authorized by a parent or the court.

113 (f) To be able to contact and visit his or her family
114 members and fictive kin at least once per month, unless
115 prohibited by court order.

116 (g) To be placed together with his or her siblings, or to

32-00847-19

2019646__

117 maintain contact with and visit his or her siblings at least
118 once per week, unless prohibited by court order.

119 (h) To be able to contact the Florida Children's Ombudsman,
120 as described in s. 39.4086, regarding violations of rights; to
121 speak to the ombudsman confidentially; and to be free from
122 threats or punishment for making complaints.

123 (i) To make and receive confidential telephone calls and to
124 send and receive unopened mail, unless prohibited by court
125 order.

126 (j) To attend the religious services and activities of his
127 or her choice, and to not be compelled to unwillingly attend
128 religious services or activities.

129 (k) To maintain a bank account and manage personal income,
130 consistent with his or her age and developmental level, unless
131 prohibited by the case plan.

132 (l) To not be locked in any room, building, or facility
133 premises, unless placed in a residential treatment center by
134 court order.

135 (m) To attend school and participate in extracurricular,
136 cultural, and personal enrichment activities consistent with his
137 or her age and developmental level.

138 (n) To work and develop job skills at an age-appropriate
139 level that is consistent with state law.

140 (o) To have social contact with people outside of the
141 foster care system such as teachers, church members, mentors,
142 and friends.

143 (p) To attend independent living program classes and
144 activities if he or she meets the age requirements.

145 (q) To attend all court hearings and speak with the judge.

32-00847-19

2019646__

146 (r) To have storage space for private use.

147 (s) To participate in creating and reviewing his or her
148 case plan if he or she is 14 years of age or older or, if
149 younger, is of an appropriate age and capacity to receive
150 information about his or her out-of-home placement and case
151 plan, including being told of changes to the plan, and to have
152 the ability to object to provisions of the case plan.

153 (t) To be free from unreasonable searches of his or her
154 personal belongings.

155 (u) To the confidentiality of all juvenile court records
156 consistent with state law.

157 (v) To have fair and equal access to all available
158 services, placement, care, treatment, and benefits, and to not
159 be subjected to discrimination or harassment on the basis of
160 actual or perceived race, ethnic group identification, ancestry,
161 national origin, color, religion, sex, sexual orientation,
162 gender identity, mental or physical disability, or HIV status.

163 (w) If he or she is 16 years of age or older, to have
164 access to existing information regarding the educational and
165 financial assistance options available to him or her, including,
166 but not limited to, the coursework necessary for vocational and
167 postsecondary educational programs, postsecondary educational
168 services and support, the Keys to Independence program, and the
169 tuition waiver available under s. 1009.25.

170 (x) To not be moved by the department or a community-based
171 care lead agency to another out-of-home placement unless the
172 current home is unsafe or the change is court-ordered and, if
173 moved, the right to a transition that respects his or her
174 relationships and property pursuant to s. 409.145.

32-00847-19

2019646__

175 (y) To have a guardian ad litem appointed to represent his
176 or her best interests and, if appropriate, an attorney ad litem
177 appointed to represent his or her legal interests. The guardian
178 ad litem and attorney ad litem shall have immediate and
179 unlimited access to the children they represent.

180 (3) ROLES AND RESPONSIBILITIES OF THE DEPARTMENT,
181 COMMUNITY-BASED CARE LEAD AGENCIES, AND OTHER AGENCY STAFF.—

182 (a) The department shall develop training related to the
183 rights of children and young adults in out-of-home care under
184 this section. All child protective investigators, case managers,
185 and other appropriate staff must complete annual training
186 relating to these rights.

187 (b) The department shall provide a copy of this bill of
188 rights to all children and young adults entering out-of-home
189 care, and the department shall explain the bill of rights to the
190 child or young adult in a manner the child or young adult can
191 understand. Such explanation must occur in a manner that is the
192 most effective for each individual and must use words and
193 terminology that make sense to the child or young adult. If a
194 child or young adult has cognitive, physical, or behavioral
195 challenges that would prevent him or her from fully
196 comprehending the bill of rights as presented, such information
197 must be documented in the case record.

198 (c) The caseworker or other appropriate agency staff shall
199 document in court reports and case notes the date he or she
200 reviewed the bill of rights in age-appropriate language with the
201 foster child or young adult.

202 (d) The bill of rights must be reviewed with the child or
203 young adult by appropriate staff upon entry into out-of-home

32-00847-19

2019646__

care and must be subsequently reviewed with the child or young adult every 6 months until the child leaves care and upon every change in placement. Each child or young adult must be given the opportunity to ask questions about any of the rights that he or she does not clearly understand.

(e) Facilities licensed to care for six or more children and young adults in out-of-home care must post information about the rights of these individuals in a prominent place in the facility.

(4) ROLES AND RESPONSIBILITIES OF CAREGIVERS.—All caregivers must ensure that a child or young adult in their care is aware of and understands his or her rights under this section and must assist the child or young adult in contacting the Florida Children's Ombudsman, if necessary.

(5) RULEMAKING.—The department shall adopt rules to implement this section.

Section 2. Section 39.4088, Florida Statutes, is created to read:

39.4088 Florida Children's Ombudsman.—The Florida Children's Ombudsman shall serve as an autonomous entity within the department for the purpose of providing children and young adults who are placed in out-of-home care with a means to resolve issues related to their care, placement, or services without fear of retribution. The ombudsman shall have access to any record of a state or local agency which is necessary to carry out his or her responsibilities and may meet or communicate with any child or young adult in the child or young adult's placement or elsewhere.

(1) GENERAL ROLES AND RESPONSIBILITIES OF THE OMBUDSMAN.—

32-00847-19

2019646__

233 The ombudsman shall:

234 (a) Disseminate information on the rights of children and
235 young adults in out-of-home care under s. 39.4085 and the
236 services provided by the ombudsman.

237 (b) Attempt to resolve a complaint informally.

238 (c) Conduct whatever investigation he or she determines is
239 necessary to resolve a complaint.

240 (d) Update the complainant on the progress of the
241 investigation and notify the complainant of the final outcome.

242
243 The ombudsman may not investigate, challenge, or overturn court-
244 ordered decisions.

245 (2) DATA COLLECTION.—The ombudsman shall:

246 (a) Document the number, source, origin, location, and
247 nature of all complaints.

248 (b) Compile all data collected over the course of the year
249 including, but not limited to, the number of contacts to the
250 toll-free telephone number; the number of complaints made,
251 including the type and source of those complaints; the number of
252 investigations performed by the ombudsman; the trends and issues
253 that arose in the course of investigating complaints; the number
254 of referrals made; and the number of pending complaints.

255 (c) Post the compiled data on the department's website.

256 (3) DEVELOPMENT AND DISSEMINATION OF INFORMATION.—

257 (a) By January 1, 2020, the ombudsman, in consultation with
258 the department, children's advocacy and support groups, and
259 current or former children and young adults in out-of-home care,
260 shall develop standardized information explaining the rights
261 granted under s. 39.4085. The information must be age-

32-00847-19

2019646__

appropriate, reviewed and updated by the ombudsman annually, and made available through a variety of formats.

(b) The department, community-based care lead agencies, and other agency staff must use the information provided by the ombudsman to carry out their responsibilities to inform children and young adults in out-of-home care of their rights pursuant to the duties established under s. 409.145.

(c) The department shall establish a statewide toll-free telephone number for the ombudsman and post the number on the homepage of the department's website.

(4) RULEMAKING.—The department shall adopt rules to implement this section.

Section 3. Subsections (4) through (8) of section 39.6011, Florida Statutes, are redesignated as subsections (5) through (9), respectively, paragraph (a) of subsection (1) and paragraph (b) of present subsection (6) of that section are amended, paragraph (f) is added to subsection (2) of that section, and a new subsection (4) is added to that section, to read:

39.6011 Case plan development.—

(1) The department shall prepare a draft of the case plan for each child receiving services under this chapter. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan of abusing, neglecting, or abandoning a child. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not a consent to a finding of dependency or termination of parental rights. The case plan shall be developed subject to the following requirements:

32-00847-19

2019646__

291 (a) The case plan must be developed in a face-to-face
292 conference with the parent of the child, any court-appointed
293 guardian ad litem, and, if appropriate, the child and the
294 temporary custodian or caregiver of the child.

295 (2) The case plan must be written simply and clearly in
296 English and, if English is not the principal language of the
297 child's parent, to the extent possible in the parent's principal
298 language. Each case plan must contain:

299 (f) If the child has attained 14 years of age or is
300 otherwise of an appropriate age and capacity:

301 1. A document that describes the rights of the child under
302 s. 39.4085 and the right to be provided with the documents
303 pursuant to s. 39.701.

304 2. A signed acknowledgement by the child or young adult, or
305 the caregiver if the child is too young or otherwise unable to
306 sign, that the child has been provided with a copy of the
307 document and that the rights contained in the document have been
308 explained to the child in a way that the child understands.

309 3. Documentation that a consumer credit report for the
310 child was requested from at least one reputable credit reporting
311 agency at no charge to the child and that any results were
312 provided to the child. The case plan must include documentation
313 of any barriers to obtaining the credit reports. If the consumer
314 credit report reveals any accounts, the case plan must detail
315 how the department ensured the child received assistance with
316 interpreting the credit report and resolving any inaccuracies,
317 including any referrals made for such assistance.

318 (4) If the child has attained 14 years of age or, if
319 younger, is of an appropriate age and capacity, the child must:

32-00847-19

2019646__

320 (a) Be consulted on the development of the case plan; have
321 the opportunity to attend a face-to-face conference, if
322 appropriate; have the opportunity to express a placement
323 preference; and have the option to choose two members for the
324 case planning team who are not a foster parent or caseworker for
325 the child.

326 1. An individual selected by a child to be a member of the
327 case planning team may be rejected at any time if there is good
328 cause to believe that the individual would not act in the best
329 interest of the child. One individual selected by a child to be
330 a member of the child's case planning team may be designated to
331 act as the child's advisor and, as necessary, advocate with
332 respect to the application of the reasonable and prudent parent
333 standard to the child.

334 2. The child may not be included in any aspect of case plan
335 development if information could be revealed or discussed which
336 is of a nature that would best be presented to the child in a
337 therapeutic setting.

338 (b) Sign the case plan, unless there is reason to waive the
339 child's signature.

340 (c) Receive an explanation of the provisions of the case
341 plan from the department.

342 (d) After the case plan is agreed on and signed by all
343 parties, and after jurisdiction attaches and the case plan is
344 filed with the court, be provided a copy of the case plan within
345 72 hours before the disposition hearing.

346 (7)(6) After the case plan has been developed, the
347 department shall adhere to the following procedural
348 requirements:

32-00847-19

2019646__

(b) After the case plan has been agreed upon and signed by the parties, a copy of the plan must be given immediately to the parties, including the child if appropriate, the caregiver if the child is placed in a licensed foster home, and to other persons as directed by the court.

1. A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.

2. In each case in which a child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home and shall be submitted to the court before the disposition hearing for the court to review and approve.

3. After jurisdiction attaches, all case plans must be filed with the court, and a copy provided to all the parties whose whereabouts are known, not less than 3 business days before the disposition hearing. The department shall file with the court, and provide copies to the parties, all case plans prepared before jurisdiction of the court attached.

Section 4. Paragraph (c) is added to subsection (3) of section 39.604, Florida Statutes, to read:

39.604 Rilya Wilson Act; short title; legislative intent; child care; early education; preschool.—

(3) REQUIREMENTS.—

(c) For children placed in a licensed foster home and who are required to be enrolled in an early education or child care program under this section, the caseworker shall inform the caregiver of the amount of the subsidy provided by an early

32-00847-19

2019646__

learning coalition, that this amount may not be sufficient to
pay the full cost of the services, and that the caregiver will
be responsible for paying the difference between the subsidy and
the full cost charged by the early education or child care
program.

Section 5. Paragraph (a) of subsection (2) and paragraph
(a) of subsection (3) of section 39.701, Florida Statutes, are
amended to read:

39.701 Judicial review.—

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF
AGE.—

(a) *Social study report for judicial review.*—Before every
judicial review hearing or citizen review panel hearing, the
social service agency shall make an investigation and social
study concerning all pertinent details relating to the child and
shall furnish to the court or citizen review panel a written
report that includes, but is not limited to:

1. A description of the type of placement the child is in
at the time of the hearing, including the safety of the child
and the continuing necessity for and appropriateness of the
placement.

2. Documentation of the diligent efforts made by all
parties to the case plan to comply with each applicable
provision of the plan.

3. The amount of fees assessed and collected during the
period of time being reported.

4. The services provided to the foster family or legal
custodian in an effort to address the needs of the child as
indicated in the case plan.

32-00847-19

2019646__

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;

b. The parent did substantially comply with the case plan; or

c. The parent has partially complied with the case plan, with a summary of additional progress needed and the agency recommendations.

6. A statement from the foster parent or legal custodian providing any material evidence concerning the return of the child to the parent or parents.

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

10. If the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the progress the child has made in acquiring independent living skills.

11. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the

32-00847-19

2019646__

last judicial review hearing.

12. Copies of the child's current health, mental health, and education records as identified in s. 39.6012.

13. Documentation that the Foster Children's Bill of Rights, as described in s. 39.4085, has been provided to and reviewed with the child.

14. A signed acknowledgement by the child, or the caregiver if the child is too young or otherwise unable to sign, stating that the child has been provided an explanation of the rights under s. 39.4085.

(3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

(a) In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, the court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed pursuant to ss. 743.044, 743.045, 743.046, and 743.047, and for any of these disabilities that the court finds is in the child's best interest to remove. The court shall continue to hold timely judicial review hearings. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At each review hearing held under this subsection, in addition to any information or report provided to the court by the foster parent, legal custodian, or guardian ad litem, the child shall be given the opportunity to address the court with any information relevant to the child's best interest, particularly in relation to independent living transition services. The department shall include in the social study report for judicial

32-00847-19

2019646__

review written verification that the child has:

1. A current Medicaid card and all necessary information concerning the Medicaid program sufficient to prepare the child to apply for coverage upon reaching the age of 18, if such application is appropriate.

2. A certified copy of the child's birth certificate and, if the child does not have a valid driver license, a Florida identification card issued under s. 322.051.

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

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

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

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

32-00847-19

2019646__

494 7. A clear understanding of where he or she will be living
495 on his or her 18th birthday, how living expenses will be paid,
496 and the educational program or school in which he or she will be
497 enrolled.

498 8. Information related to the ability of the child to
499 remain in care until he or she reaches 21 years of age under s.
500 39.013.

501 9. A letter providing the dates that the child is under the
502 jurisdiction of the court.

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

505 11. The child's educational records.

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

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

508 14. A statement encouraging the child to attend all
509 judicial review hearings occurring after the child's 17th
510 birthday.

511 15. Information on how to obtain a driver license or
512 learner's driver license.

513 16. Been provided with the Foster Children's Bill of
514 Rights, as described in s. 39.0485, and that the rights have
515 been reviewed with the child.

516 17. Signed an acknowledgement stating that he or she has
517 been provided an explanation of the rights or, if the child is
518 too young or otherwise unable to sign, that such acknowledgment
519 has been signed by the child's caregiver.

520 Section 6. Paragraphs (a) and (d) of subsection (2) of
521 section 409.145, Florida Statutes, are amended to read:

522 409.145 Care of children; quality parenting; "reasonable

32-00847-19

2019646__

and prudent parent" standard.—The child welfare system of the department shall operate as a coordinated community-based system of care which empowers all caregivers for children in foster care to provide quality parenting, including approving or disapproving a child's participation in activities based on the caregiver's assessment using the "reasonable and prudent parent" standard.

(2) QUALITY PARENTING.—A child in foster care shall be placed only with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion and ethnicity, special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies shall provide such caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

(a) *Roles and responsibilities of caregivers.*—A caregiver shall:

1. Participate in developing the case plan for the child and his or her family and work with others involved in his or her care to implement this plan. This participation includes the caregiver's involvement in all team meetings or court hearings related to the child's care.

2. Complete all training needed to improve skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home, to meet the child's special needs, and to work effectively with child welfare agencies, the

32-00847-19

2019646__

court, the schools, and other community and governmental agencies.

3. Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication.

4. Effectively advocate for the child in the caregiver's care with the child welfare system, the court, and community agencies, including the school, child care, health and mental health providers, and employers.

5. Participate fully in the child's medical, psychological, and dental care as the caregiver would for his or her biological child.

6. Support the child's educational success by participating in activities and meetings associated with the child's school or other educational setting, including Individual Education Plan meetings and meetings with an educational surrogate if one has been appointed, assisting with assignments, supporting tutoring programs, and encouraging the child's participation in extracurricular activities.

a. Maintaining educational stability for a child while in out-of-home care by allowing the child to remain in the school or educational setting that he or she attended before entry into out-of-home care is the first priority, unless not in the best interest of the child.

b. If it is not in the best interest of the child to remain in his or her school or educational setting upon entry into out-of-home care, the caregiver must work with the case manager, guardian ad litem, teachers and guidance counselors, and educational surrogate if one has been appointed to determine the

32-00847-19

2019646__

best educational setting for the child. Such setting may include a public school that is not the school of origin, a private school pursuant to s. 1002.42, a virtual instruction program pursuant to s. 1002.45, or a home education program pursuant to s. 1002.41.

7. Work in partnership with other stakeholders to obtain and maintain records that are important to the child's well-being, including child resource records, medical records, school records, photographs, and records of special events and achievements.

8. Ensure that the child in the caregiver's care who is between 13 and 17 years of age learns and masters independent living skills.

9. Ensure that the child in the caregiver's care is aware of the requirements and benefits of the Road-to-Independence Program.

10. Work to enable the child in the caregiver's care to establish and maintain naturally occurring mentoring relationships.

11. Pay the difference between the subsidy from an early learning coalition and the full cost charged by an early education or child care program.

12. Ensure that the child in the caregiver's care is aware of and understands his or her rights under s. 309.4085.

13. Assist the child in contacting the Florida Children's Ombudsman, if necessary.

(d) *Information sharing.*—Whenever a foster home or residential group home assumes responsibility for the care of a child, the department and any additional providers shall make

32-00847-19

2019646__

610 available to the caregiver as soon as is practicable all
611 relevant information concerning the child. Records and
612 information that are required to be shared with caregivers
613 include, but are not limited to:

614 1. Medical, dental, psychological, psychiatric, and
615 behavioral history, as well as ongoing evaluation or treatment
616 needs or treatment plans and information on how the caregiver
617 can support any treatment plan within the foster home;

618 2. School records;

619 3. Copies of his or her birth certificate and, if
620 appropriate, immigration status documents;

621 4. Consents signed by parents;

622 5. Comprehensive behavioral assessments and other social
623 assessments and information on how the caregiver can manage any
624 behavioral issues;

625 6. Court orders;

626 7. Visitation and case plans;

627 8. Guardian ad litem reports;

628 9. Staffing forms; and

629 10. Judicial or citizen review panel reports and
630 attachments filed with the court, except confidential medical,
631 psychiatric, and psychological information regarding any party
632 or participant other than the child.

633 Section 7. Paragraph (b) of subsection (5) of section
634 409.175, Florida Statutes, is amended to read:

635 409.175 Licensure of family foster homes, residential
636 child-caring agencies, and child-placing agencies; public
637 records exemption.—

638 (5) The department shall adopt and amend rules for the

32-00847-19

2019646__

639 levels of licensed care associated with the licensure of family
640 foster homes, residential child-caring agencies, and child-
641 placing agencies. The rules may include criteria to approve
642 waivers to licensing requirements when applying for a child-
643 specific license.

644 (b) The requirements for licensure and operation of family
645 foster homes, residential child-caring agencies, and child-
646 placing agencies shall include:

647 1. The operation, conduct, and maintenance of these homes
648 and agencies and the responsibility which they assume for
649 children served and the evidence of need for that service.

650 2. The provision of food, clothing, educational
651 opportunities, services, equipment, and individual supplies to
652 assure the healthy physical, emotional, and mental development
653 of the children served.

654 3. The appropriateness, safety, cleanliness, and general
655 adequacy of the premises, including fire prevention and health
656 standards, to provide for the physical comfort, care, and well-
657 being of the children served.

658 4. The ratio of staff to children required to provide
659 adequate care and supervision of the children served and, in the
660 case of foster homes, the maximum number of children in the
661 home.

662 5. The good moral character based upon screening,
663 education, training, and experience requirements for personnel.

664 6. The department may grant exemptions from
665 disqualification from working with children or the
666 developmentally disabled as provided in s. 435.07.

667 7. The provision of preservice and inservice training for

32-00847-19

2019646__

all foster parents and agency staff.

8. Satisfactory evidence of financial ability to provide care for the children in compliance with licensing requirements.

9. The maintenance by the agency of records pertaining to admission, progress, health, and discharge of children served, including written case plans and reports to the department.

10. The provision for parental involvement to encourage preservation and strengthening of a child's relationship with the family.

11. The transportation safety of children served.

12. The provisions for safeguarding the cultural, religious, and ethnic values of a child.

13. Provisions to safeguard the legal rights of children served, as well as rights of children established under s. 39.4085.

Section 8. Section 409.1753, Florida Statutes, is amended to read:

409.1753 Foster care; duties.—The department shall ensure that each lead agency provides, ~~within each district~~, each foster home with ~~is given~~ a telephone number for the foster parent to call during normal working hours whenever immediate assistance is needed and the child's caseworker is unavailable. This number must be staffed and answered by individuals possessing the knowledge and authority necessary to assist foster parents.

Section 9. Paragraph (1) is added to subsection (1) of section 409.988, Florida Statutes, to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

32-00847-19

2019646__

697 (1) Shall recruit and retain foster homes. In performing
698 such duty, a lead agency shall:

699 1. Develop a plan to recruit and retain foster homes using
700 best practices identified by the department and specify how the
701 lead agency complies with s. 409.1753.

702 2. Annually submit such plan to the department for
703 approval.

704 3. Provide to the department a quarterly report detailing
705 the number of licensed foster homes and beds and occupancy rate.

706 4. Conduct exit interviews with foster parents who
707 voluntarily give up their license to determine the reasons for
708 giving up their license and identify suggestions for how to
709 better recruit and retain foster homes, and provide a quarterly
710 summary of such interviews to the department.

711 Section 10. Subsection (8) of section 39.6013, Florida
712 Statutes, is amended to read:

713 39.6013 Case plan amendments.—

714 (8) Amendments must include service interventions that are
715 the least intrusive into the life of the parent and child, must
716 focus on clearly defined objectives, and must provide the most
717 efficient path to quick reunification or permanent placement
718 given the circumstances of the case and the child's need for
719 safe and proper care. A copy of the amended plan must be
720 immediately given to the persons identified in s. 39.6011(7)(b)
721 ~~s. 39.6011(6)(b).~~

722 Section 11. This act shall take effect October 1, 2019.



2019 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

BILL INFORMATION

BILL NUMBER:	SB 646
BILL TITLE:	<u>Child Welfare</u>
BILL SPONSOR:	Senator Book
EFFECTIVE DATE:	October 1, 2019

COMMITTEES OF REFERENCE

1) Children, Families and Elder Affairs
2) Appropriations Subcommittee on Health and Human Services
3) Appropriations
4)
5)

CURRENT COMMITTEE

Children, Families and Elder Affairs

SIMILAR BILLS

BILL NUMBER:	NA
SPONSOR:	NA

IDENTICAL BILLS

BILL NUMBER:	HB 823
SPONSOR:	Representative Ausley

PREVIOUS LEGISLATION

BILL NUMBER:	NA
SPONSOR:	NA
YEAR:	NA
LAST ACTION:	NA

Is this bill part of an agency package?

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BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 8, 2019 For further information, please contact John Paul Fiore at (850) 488-9410
LEAD AGENCY ANALYST:	Brandie McCabe, OCW
ADDITIONAL ANALYST(S):	Heather Rosenberg – Children's Ombudsman
LEGAL ANALYST:	Kelly McGrath, OGC
FISCAL ANALYST:	Sue Zwirz, Budget

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill specifies the rights of children and young adults in out-of-home care and requires the Florida children's ombudsman to serve as an autonomous entity within the Department of Children and Families (Department) for certain purposes. A case plan is required to be developed in a face-to-face conference with a caregiver and child when appropriate. A caseworker is required to provide information about subsidies provided by early learning coalitions to caregivers of certain children. Lastly the bill provides additional requirements for the licensure and operation of family foster homes, residential child-caring agencies, and child-placing agencies.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 1.

Section 39.4085, F.S., declares the legislative intent for the design and delivery of child welfare services for dependent children, establishing 23 goals, guided by the principle of achieving safety and wellbeing for children in shelter or foster care. This section of the statutes further specifies that dependent children receive a copy of this section and that the goals are fully explained when they are placed in the custody of the Department. The language is explicit that the intent is to create goals, not rights, and that no person shall have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of the goals by the legislature. The goals are synchronized with various requirements found in Chapters 39 and 409, F.S., (see additional comments) to ensure compliance.

Currently, the Department provides preservice and in-service training to child protective investigators, case managers, and other child welfare professionals related to the goals established in s.39.4085, F.S. In addition, the Department published a universal document sometime in 2007-2008 titled "Rights and Expectations for Children and Youth in Shelter or Foster Care" in collaboration with Florida Youth SHINE. The brochure has not been updated since that time; however, community-based care lead agencies (CBCs) are contracted to administer this section of the law. They are provided the funds and flexibility to develop and enhance training and learning tools to ensure the children and young adults understand the services and supports that they are entitled to.

Section 2.

The Department created an ombudsman position September 2016 with the intent to listen and be a voice for children and youth involved in the child welfare system. The ombudsman receives complaints about placement, care, and services, assisting in mediating concerns. The ombudsman is a resource to identify and explain relevant policies or procedures to children, young adults, and their caregivers.

Section 3.

Section 39.6011, F.S., outlines a case plan and requires that it be developed in a face-to-face conference with the parent of the child, any court-appointed Guardian ad Litem, and if appropriate, the child, and temporary custodian of the child. All parties including caregivers are required to be notified timely of meetings, and hearings. As a responsibility of the Department, CBC, and other agency staff, must request active participation in developing the case plan for the child which includes the caregiver as outlined in s. 409.145, F.S.

In addition, two Department informational memos were published in 2015, providing updated federal requirements, pursuant to Public Law 113-183. New provisions specific to children 14 years of age and older gives them the right to choose up to two members of the case planning team who are not foster parents or case managers to assist in the development stages of the case plan. Also, CBCs are required to obtain credit reports from each of the three reporting agencies, Transunion, Equifax, and Experian. The results are to be provided to youth and any discrepancies must be addressed. Florida Safe Families Network (FSFN) received enhancements to capture data on the credit check for youth in out-of-home care with the release on January 4, 2019.

Section 39.6011 (3), F.S., further outlines that before all parties sign the case plan, the Department shall explain provisions of the plan to all persons involved in its implementation, which include the child if appropriate.

Section 4.

Section 39.604, F.S., outlines the legislative intent and requirements under the Rilya Wilson Act. The legislative intent states that children who are currently in out-of-home care be provided age-appropriate education programs. Section 39.604(3), F.S., mandates the attendance of children from birth to school age if they are enrolled in an

early education or child care program. Currently, child protective investigators and case managers provide referrals to local Early Learning Coalitions (ELC) for caregivers. Caregivers are informed of the additional cost, if any, by ELC at their appointment.

Section 5.

Section 39.701, F.S., addresses the general provisions of the judicial review and the requirements of the review hearings relevant to proceedings relating to dependent children. Before every judicial review hearing the Department shares a written social study report to the court that includes specific information pertaining to the child as outlined in this section.

Section 6.

Section 409.145, F.S., requires the Department to coordinate a system of care that empowers caregivers for children in foster care to provide quality parenting and exercise a “reasonable and prudent parent standard” when approving or disapproving a child’s participation in activities. This section highlights seven goals, in addition to goals established in s.39.4085, F.S., outlining roles and responsibilities of caregivers, Department, CBCs, and other agency staff, relevant to ensuring the appropriate care of children in foster care.

Section 7.

Section 409.175, F.S., requires licensure of family foster homes, residential child caring agencies, and child placing agencies. This section outlines the general training requirements for foster parents and their responsibilities as it pertains to the care of children. This section also details the requirements for conditions of the home environment for all licensed homes and facilities.

Section 8.

Section 409.1753, F.S., requires the Department to ensure, within each district, that each foster home is given a telephone number to call during normal working hours whenever immediate assistance is needed and the child’s caseworker is unavailable. The number must be staffed and answered by individuals possessing the knowledge and authority necessary to assist foster parents.

Section 9.

Section 409.988, F.S., outlines CBC’s duties and general provisions pertaining to serving children in the child welfare system or children at risk of entering the system. The provisions include that each CBC shall be licensed as a child-caring or child-placing agency. The Department in Chapter 409, F.S., and Rule 65C-13.035(5), Florida Administrative Code (FAC), specifies that the supervising agency shall conduct an exit interview with licensed out-of-home caregivers who are closing voluntarily. This interview is an opportunity to explore any recommendations for improvement that the licensed out-of-home caregiver may be willing to share.

Section 10.

Section 39.6013, F.S., outlines requirements for amending the case plan. Copies of the amended plan must be immediately given to the persons identified in the case plan development.

2. EFFECT OF THE BILL:

Section 1.

This section amends s. 39.4085, F.S., to establish *rights*, replacing the existing *goals* language. The rewording of this section expands the intent of the provisions to all children and young adults in out-of-home care, not just children in the legal custody of the Department or in licensed foster care. Section 39.4085, F.S., would not be entitled The Foster Children’s Bill of Rights (Bill of Rights), and it specifies the legal entitlement of 25 distinct privileges, intended to empower children and young adults to self-advocate.

This section requires the Department to develop training, learning tools, and oversight activities to ensure child welfare professionals are administering the Bill of Rights as intended. In addition, the Department will need to update statutes, rules, and other operating procedures to meet all the new specified responsibilities.

This section requires the Department to develop specific training, learning tools, and oversight activities to ensure caregivers, to include relatives and non-relatives, are educated on the Bill of Rights and understand their role and responsibility of assisting children and young adults in their care in contacting the Florida Children’s Ombudsman, if necessary.

Section 2.

This section amends s. 39.4088, F.S., defining the ombudsmen role, outlining responsibilities, allowing the person that holds the position to have the freedom to self-govern and have access to any state or local record necessary to carry out their responsibilities. The present text provides the ombudsmen full autonomy when investigating complaints or concerns on behalf of children and young adults.

The ombudsmen will also be required to collect data regarding complaints, develop standardized information, and disseminate to all stakeholders.

The Department will be required to establish a statewide toll-free telephone number for the ombudsman and have it posted on the Department's website.

Section 3.

This section adds language in s. 39.6011, F.S., to require each case plan to include the following information if the child has attained 14 years of age or is otherwise of an appropriate age and capacity:

- A document that describes the rights of children in s. 39.4085, F.S.;
- A signed acknowledgement by the child or young adult, or the caregiver if the child is too young or otherwise unable to sign and that the rights were explained to the child in a way that the child understands; and
- Documentation that a consumer credit report for the child was requested from at least one reputable credit reporting agency at no charge to the child, any results were provided to the child, any barriers to obtaining the credit reports were documented, details of how the Department ensured the child received assistance with interpreting the report and resolving any inaccuracies including any referrals made for assistance;
- The language also requires that if a child has reached age 14 or if younger, is of an appropriate age and capacity, the child must be consulted on the development of the case plan;
- Have an opportunity to attend a face-to-face conference;
- Have an opportunity to express a placement preference;
- Have the option to choose up to two members of the case planning team who are not foster parents or case managers to assist in the development stages. These individuals may be rejected at any time if there is good cause to believe that the individuals would not act in the best interest of the child; and
- Sign the case plan, receive an explanation of the provisions of the plan, and receive a copy of the plan.

Section 4.

This section amends s. 39.604, F.S., to add the requirement that caseworkers inform the caregiver of the amount of the subsidy provided by an ELC, that the amount may not be enough to pay the full child care program costs, and the caregiver will be responsible for the difference. Determining the subsidy amount for all child care and early education centers in advance and knowing the difference in subsidy and total costs will require the collaboration of the Department of Education, Office of Early Learning, and the ELC throughout the state.

Section 5.

This section amends s. 39.701, F.S., to add specific items that need to be included in the child's social study report to the court. Those items are the documentation of the Bill of Rights and the signed acknowledgement by the child or caregiver in the event the child is too young. These same items are repeated at the special 17-year old judicial review that occurs 90 days after the child's 17th birthday. The effects are the same as referenced in Section 1.

Section 6.

This section amends s. 409.145, F.S., to add language to the caregiver's roles and responsibilities as follows:

- Requires foster parents to pay the difference in child care fees that are not covered by the subsidy from an Early Learning Coalition. This language codifies the Department's current practice;
- Requires the caregiver to ensure the child understand their rights; and
- Assists the child in contacting the Florida Children's Ombudsman if necessary.

The caregiver is to receive any medical, dental, or psychological treatment plans and information on how to support the plan and information on how to manage any behavioral issues.

Section 7.

This section amends s. 409.175, F.S., to add language in this section to incorporate the Bill of Rights. This requirement would be in addition to current licensing provisions to safeguard the legal rights of children.

Section 8.

This section amends s. 409.1753, F.S., to strike language “within each district,” and replaces it with “each lead agency provides each foster home with a telephone number to call for assistance when the child’s caseworker is unavailable.”

Section 9.

This section amends s. 409.988, F.S., to add specific duties for CBCs requiring the recruitment and retention of foster homes. The new language requires CBCs to:

- Develop a plan for accomplishing the recruitment and retention of foster homes,
- Use best practices,
- Submit their plans to the Department annually,
- Provide quarterly reports to the Department detailing the number of licensed foster homes and beds and occupancy rate,
- Conduct exit interviews with foster parents who voluntarily give up their license to determine reasons and identify suggestions for how to better recruit and retain homes. This information must be summarized and submitted to the Department for quarterly review.

Section 10.

This section amends s. 39.6013, F.S., to conform a cross-reference.

Section 11.

This section provides an effective date of October 1, 2019.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES

If yes, explain:	Section 1. – s. 39.4085(5), F.S., requires the Department to adopt rules to implement this section.
What is the expected impact to the agency’s core mission?	None
Rule(s) impacted (provide references to F.A.C., etc.):	65C-28, Out-of-Home Care, 65C-30, General Child Welfare Provisions, 65C-13 Foster Care Licensing, 65C-14 Group Care Licensing, 65C-15 Child-Placing Agencies, 65C-41, Extended Foster Care, 65C-33 Child Welfare Training and Certification, 65C-35 Psychotropic Medication for Children in Out-Home-Care, 65C-43 Placement and Services for Sexually Exploited Children.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	Unknown
Provide a summary of the proponents’ and opponents’ positions:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

If yes, provide a description:	No
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO

Board:	NA
Board Purpose:	NA
Who Appoints:	NA
Appointee Term:	NA
Changes:	NA
Bill Section Number(s):	NA

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?**

Revenues:	None
Expenditures:	None
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	NA

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None
Expenditures:	Indeterminate - The exact amount for the establishment and management of a toll-free number is unknown as the Department cannot anticipate the volume or duration of the calls. While the establishment of a line is nominal, there is a \$20 monthly fee of the line and the state rate for toll free calls is two cents per minute. The Department currently has a Children's Ombudsman position that will be responsible for the additional duties included in the bill regarding establishing the toll-free number, collecting and reporting data annually, and developing a brochure. It is projected that the additional workload can be performed within existing resources.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	NA

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None
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Expenditures:	None
Other:	NA

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	NA
Bill Section Number:	NA

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	No
If yes, describe the anticipated impact to the agency including any fiscal impact.	NA

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No
If yes, describe the anticipated impact including any fiscal impact.	NA

ADDITIONAL COMMENTSSection 3. (s. 39.6011, F.S., - Case Plan Development)

The present text outlining the requirement for obtaining credit reports does not meet the federal mandate of requiring the Department to ensure reports are received from all three reporting agencies, Transunion, Equifax, and Experian. The current language only specifies "from at least one reputable credit reporting agency....".

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	Section 39.407(2)(a), F.S., provides that before ordinary medical treatment can be delivered, there must be consent from the parent or a court order for treatment. But, s. 39.407(2)(b), F.S., provides that if the parent or legal custodian is unavailable and it is after normal working hours so that a court order cannot be obtained, an agent of the Department shall have authority to consent to necessary medical treatment, including immunization, for the child. The authority is limited to the time reasonably necessary to obtain court authorization. Lines 111-112 of the bill conflict with s. 39.407(2)(b), F.S., to the extent that Chapter 39, F.S., currently allows necessary medical treatment that requires the administration of medication or chemical substances to be authorized by the Department in the absence of parent authorization and when a court order cannot be obtained. Section 39.407(3)(c), F.S., requires that the Department file a motion seeking the court's authorization to initially provide or continue to provide psychotropic medication to a child in its legal custody except under particular circumstances. The first exception to administration in the absence of a court order is in s. 39.407(3)(b), F.S., which allows the Department to take possession of any prescribed psychotropic medication the child is receiving at the time of removal and may continue to provide the medication as prescribed until the shelter hearing if parental authorization to continue to provide the medication cannot be obtained. The second exception to administration in the absence of a court order is in s. 39.407(3)(e), F.S., which allows the medication to be provided in advance of the issuance of a court order if the child's prescribing physician certifies in the signed medical report that delay in providing a prescribed psychotropic medication would more likely than not cause significant harm to the child. Lines 111-112 of the bill would be in conflict with these two statutory exceptions to a court order. Lines 116-118 required the child to be placed together with his or her siblings, or to maintain contact with and visit his or her siblings at least once per week, unless prohibited by court order. The court only has jurisdiction to determine the placement of a child under its supervision. If a child's sibling, as defined in s. 39.01(8), F.S., is not under the court's jurisdiction, the court will be unable to satisfy the requirements in proposed s. 39.4085(2)(g), F.S., of placing the siblings together or ordering that contact or visitation be once per month.
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We all have a voice. And it's our responsibility to use it. To ask the right the questions. To have meaningful conversation. To support positive solutions.

Maura believed in all of this and more. And it's in her memory that we are using a collective voice to break down barriers and address violence in our culture. Through research focused on mental health policy, hate in our society, and gun safety, we are shaping a future where everyone can feel, and truly be, safe.

Silence is the enemy.

I can hear Maura's Voice. I hope you can too.

Be a part of our voice.

Who We Are

On November 2, 2018 a man walked into a hot yoga studio in Tallahassee, Florida and opened fire. He killed two women including Maura Binkley.

This organization was started as a voice for Maura and victims of every mass violent act that has befallen this country.

We are a foundation for research, created to better understand the interconnective relationship of mental illness, hate, and violence, and their impacts on the public safety of our nation.

Our intent is to provide policymakers and leaders with fact-based information on the underlying issues of systemic violence in the hopes of uncovering workable solutions to a better future.

What We Can Do For You

Violent acts occurring in the United States span decades and across every type of setting from schools to movie theatres to fitness facilities. These incidents will continue if we do not take actionable steps to makes changes in public safety efforts.

We know every day you are being tasked with solving this situation.

As you are creating meaningful solutions, we want to help:

- 1. Make the Case:** Provide an unbiased, third-party voice for the need of these solutions.
- 2. Find the Facts:** Conduct research on the questions you anticipate receiving surrounding proposed policy.
- 3. Align and Implement:** Mobilize individuals and groups who will make your solution implementable.

What We Believe

We believe in dialogue not debate. That the right solutions should not have a political affiliation. Because these solutions impact everyone and will create a ripple effect for generations to come. We approach our work through three main mantras:

- **Ideas Before Ideology**
- **Research Before Rhetoric**
- **Policy Before Politics**

How To Contact Us

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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 Children, Families, and Elder Affairs

BILL: SB 670

INTRODUCER: Senator Rader

SUBJECT: Assisted and Independent Living Facility Task Force

DATE: March 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 670 establishes the Assisted and Independent Living Facility Task Force (the task force) within the Agency for Persons with Disabilities (APD). The objective of the task force is studying and evaluating proposals to construct assisted living facilities (ALFs, currently licensed by the Agency for Health Care Administration) or independent living facilities (which are not a licensed entity under current law) for individuals with an intellectual disability, autism, or a mental illness. The bill requires APD to use existing resources to administer and support the task force. The bill identifies the members of the task force and directs that a report containing the findings, conclusions, and recommendations of the task force be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2020.

The bill is effective upon becoming law and will likely have an insignificant fiscal impact.

II. Present Situation:

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities in the state. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.¹ APD's overarching goal is to prevent or reduce the severity of the developmental disability and implement community-based services that will help individuals with developmental disabilities achieve their greatest potential for independent and productive living in the least restrictive means.²

¹ Section 393.063(9), F.S.

² Section 393.062, F.S.

Persons with developmental disabilities reside in various types of residential settings. Some individuals with developmental disabilities live with family, some live in their own homes, while others may live in community-based residential facilities.³ Pursuant to s. 393.067, F.S., APD licenses and regulates community-based residential facilities that serve and assist individuals with developmental disabilities; these include foster care facilities, group home facilities, and residential habilitation centers.⁴

Individuals who meet Medicaid eligibility requirements may choose to receive services in the community through the state's Medicaid Home and Community-Based Services (HCBS) waiver for individuals with developmental disabilities administered by APD or in an intermediate care facility for the developmentally disabled (ICF/DD).⁵ While the majority of APD clients live in the community, a small number live in ICF/DDs. ICF/DDs are considered institutional placements and are licensed and certified by the Agency for Health Care Administration pursuant to part VIII of ch. 400, F.S.⁶

Section 393.063, F.S., identifies the various types of congregate living facilities available to APD clients based on individual needs and choices.⁷ Pursuant to s. 393.067, F.S., APD licenses foster care facilities, group home facilities, residential habilitation center facilities, and comprehensive transitional education programs.⁸

Assisted Living Facilities

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.¹⁰ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.¹¹

An ALF must have a standard license issued by the AHCA under part I of ch. 429, F.S., and part II of ch. 408, F.S.¹² In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include

³ A "residential facility" is a facility providing room and board and personal care for persons who have developmental disabilities, s. 393.063(28), F.S.

⁴ Agency for Persons with Disabilities, *Planning Resources*, <http://apd.myflorida.com/planning-resources/> (last visited Feb. 25, 2019).

⁵ Section 393.0662, F.S.

⁶ Section 393.063(25), F.S.

⁷ Agency for Persons with Disabilities, *Senate Bill 670 Agency Analysis* (February 7, 2019) (on file with the Senate Committee on Children, Families and Elder Affairs).

⁸ *Id.*

⁹ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

¹⁰ Section 429.02(17), F.S.

¹¹ Section 429.02(1), F.S.

¹² Section 429.07(2), F.S.

limited nursing services,¹³ limited mental health services,¹⁴ and extended congregate care services.¹⁵

Currently, there are 3,083 licensed ALF's in Florida.¹⁶

Independent Living Communities

Independent living communities are communities in which healthy individuals can live on their own but that do not offer assisted living or nursing services. Independent living communities can offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.¹⁷ Currently, there are over 200 independent living communities in Florida.¹⁸

III. Effect of Proposed Changes:

Section 1 establishes the Assisted and Independent Living Task Force within APD for administrative purposes only. APD is to use existing and available resources to support the activities of the task force. The bill directs the task force to evaluate policy proposals that incentivize building contractors and developers to create space for ALFs or independent living facilities within mixed-use developments for individuals who have an intellectual disability, autism, or a mental illness.

The bill also provides that the task force consists of 16 members from various stakeholder groups. Members of the task force shall serve without compensation or reimbursement for per diem or travel expenses, and the first meeting of the task force shall take place by August 1, 2019. The task force must meet as often as necessary to fulfill its responsibilities under the bill, and meetings may be conducted in person, by teleconference, or by other electronic means.

The task force must work in consultation with local and state government to identify potential barriers and opportunities in current law, recommend modifications to existing laws, rules, or policies, recommend financial and regulatory incentives, and propose funding mechanisms to incentivize building contractors and developers to create space for ALFs and independent living facilities within mixed-use developments. The task force must also propose an overall governing structure for managing spaces for ALFs and independent living facilities within mixed-use developments.

The task force must submit a report containing its findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by

¹³ Section 429.07(3)(c), F.S.

¹⁴ Section 429.075, F.S.

¹⁵ Section 429.07(3)(b), F.S.

¹⁶ Agency for Health Care Administration, Florida Health Finder Search, *facility/provider type: Assisted Living Facility*, (search conducted Feb. 26, 2019), available at <http://www.floridahealthfinder.gov/facilitylocator/FacilitySearch.aspx> (last visited Feb. 26, 2019).

¹⁷ Senior Living.org, *Selecting an Independent Living Community* (Feb. 14, 2011), available at <http://www.seniorliving.org/lifestyles/independent-living-communities/> (last visited Feb. 26, 2019).

¹⁸ According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at <http://www.aplaceformom.com/independent-living/florida> (last visited Feb. 26, 2019).

February 1, 2020. The task force will terminate on the earlier of the date the report is submitted, and this section expires February 1, 2021.

Section 2 provides that the bill shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There will likely be an insignificant fiscal impact to the state as APD is directed to use existing resources to facilitate housing the task force within the agency, and members are to serve without compensation or travel reimbursement. Moreover, APD does not anticipate a fiscal impact to the state or the private sector.¹⁹

VI. Technical Deficiencies:

None.

¹⁹ *Supra* note 7.

VII. Related Issues:

SB 670 refers to both assisted living facilities and independent living facilities. Because assisted living facilities are licensed by the state, using the term “independent living facility” may cause some confusion as independent living facilities are not licensed entities and the term is not defined. Additionally, the term independent living services has a separate meaning in ch. 413, F.S., related to services provided for disabled individuals.²⁰ It may be advisable to use a more specific term, such as independent living community or facility for independent living, to describe the living arrangements intended to be covered in the bill in order to avoid any confusion.

VIII. Statutes Affected:

This bill creates section 393.25 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.)

None.

B. Amendments:

None.

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

²⁰ Section 413.20(12), F.S.

By Senator Rader

29-01236-19

2019670__

A bill to be entitled

An act relating to the Assisted and Independent Living Facility Task Force; creating s. 393.25, F.S.; establishing the Assisted and Independent Living Facility Task Force within the Agency for Persons with Disabilities; providing for duties, membership, and meetings of the task force; requiring the task force to submit a report to the Governor and Legislature by a specified date; providing for termination of the task force; providing an effective date.

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

Section 1. Section 393.25, Florida Statutes, is created to read:

393.25 Assisted and Independent Living Facility Task Force.—

(1) The Assisted and Independent Living Facility Task Force is established within the Agency for Persons with Disabilities for administrative purposes only. The agency shall use existing and available resources to administer and support the activities of the task force under this section.

(2) The task force shall develop and evaluate policy proposals that incentivize building contractors and developers to create space for assisted living facilities or independent living facilities within mixed-use developments which may be used as low-cost, supportive, and affordable housing for individuals who are in need of such housing and who have an intellectual disability or autism, as those terms are defined in

29-01236-19

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s. 393.063, or a mental illness, as defined in s. 394.455.

(3) The task force shall consist of the following members:

(a) The director of the Agency for Persons with Disabilities or his or her designee, who shall serve as the chair of the task force.

(b) The Secretary of Children Families or his or her designee.

(c) The executive director of the Department of Economic Opportunity or his or her designee.

(d) The Secretary of Business and Professional Regulation or his or her designee.

(e) The executive director of the Commission for the Transportation Disadvantaged or his or her designee.

(f) A representative from the Florida Supportive Housing Coalition.

(g) A representative from the Florida Housing Finance Corporation.

(h) A representative from the Florida Housing Coalition.

(i) A representative from the Florida Independent Living Council.

(j) A representative from the National Alliance on Mental Illness of Florida.

(k) A representative from the Florida Council for Community Mental Health.

(l) A representative from the Florida League of Cities.

(m) A representative from the Florida Association of Counties.

(n) A representative from the Florida Coalition for the Homeless.

29-01236-19

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59 (o) A representative from the Association of Florida
60 Community Developers.

61 (p) A representative from the Associated Builders and
62 Contractors, Inc., of Florida.

63 (4) Members of the task force shall serve without
64 compensation and are not entitled to reimbursement for per diem
65 or travel expenses. The task force shall convene its first
66 meeting by August 1, 2019, and shall meet as often as necessary
67 to fulfill its responsibilities under this section. Meetings may
68 be conducted in person, by teleconference, or by other
69 electronic means.

70 (5) In consultation with the applicable local and state
71 governmental entities, the task force shall:

72 (a) Identify potential barriers and opportunities in
73 existing policies, rules, or laws to incentivize building
74 contractors and developers to create space for assisted living
75 facilities and independent living facilities within mixed-use
76 developments.

77 (b) Recommend modifications to existing policies, rules, or
78 laws or propose new policies, rules, or laws that would allow
79 for the creation of space for assisted living facilities and
80 independent living facilities within mixed-use developments.

81 (c) Recommend financial and regulatory incentives to
82 encourage building contractors and developers to create space
83 for assisted living facilities and independent living facilities
84 within mixed-use developments.

85 (d) Propose funding mechanisms for the development and
86 maintenance of spaces for assisted living facilities and
87 independent living facilities within mixed-use developments.

29-01236-19

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88 (e) Propose an overall governing structure for managing
89 spaces for assisted living facilities and independent living
90 facilities within mixed-use developments.

91 (6) The task force shall submit a report by February 1,
92 2020, to the Governor, the President of the Senate, and the
93 Speaker of the House of Representatives which includes its
94 findings, conclusions, and recommendations. The task force shall
95 terminate on the earlier of the date the report is submitted.

96 (7) This section expires February 2, 2021.

97 Section 2. This act shall take effect upon becoming a law.



2019 AGENCY LEGISLATIVE BILL ANALYSIS

Agency for Persons with Disabilities

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 670
BILL TITLE:	<u>Assisted and Independent Living Facility Task Force</u>
BILL SPONSOR:	Senator Rader
EFFECTIVE DATE:	July 1, 2019

<u>COMMITTEES OF REFERENCE</u>
1) Committee references not assigned.
2)
3)
4)
5)

<u>CURRENT COMMITTEE</u>
Committee references not assigned.

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 253
SPONSOR:	Representative Gottlieb

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	N/A
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	N/A
SPONSOR:	

<u>Is this bill part of an agency package?</u>
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	February 7, 2019 For further information, please contact Jeff Ivey at (850) 414-5853
LEAD AGENCY ANALYST:	Liesl Ramos
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	Kathleen Brown-Blake
FISCAL ANALYST:	Debbie Patten

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates the Assisted and Independent Living Facility Task Force (Task Force) to develop and evaluate policy proposals regarding construction of assisted living facilities (ALFs) or independent living facilities (ILFs) for individuals who have an intellectual disability, autism, or a mental illness, and requires the Agency for Persons with Disabilities (APD) to administer and support the activities of the Task Force.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 393.063, Florida Statutes (F.S.) defines the different types of congregate living facilities available to APD clients based on their need and choice. Pursuant to s. 393.067, F.S., APD licenses foster care facilities, group home facilities, residential habilitation center facilities, and comprehensive transitional education programs. ALFs are licensed by the Agency for Health Care Administration (AHCA).

The term “facility” is typically associated with some type of congregate licensed home. Independent living, on the other hand, is associated with a non-licensed living setting for APD clients who live in their own home without staff supervision or waiver supports (such as supported living coaching and personal supports). The term “independent living facility” is not defined in Chapter 393, F.S.

APD is not presently involved in the licensure or approval of either ALFs or independent living settings.

2. EFFECT OF THE BILL:

This bill creates the Task Force to develop and evaluate policy proposals regarding construction of ALFs or ILFs for individuals who have an intellectual disability, autism, or a mental illness. The bill also requires the Task Force to develop and evaluate policy proposals that incentivize building contractors and developers to create space for ALFs or ILFs within mixed-use developments for individuals who have an intellectual disability, autism, or a mental illness.

The Director of APD shall serve as the chair of the Task Force. The Task Force shall include the heads, or their designee, for the Department of Children and Families, Department of Economic Opportunity, Department of Business and Professional Regulation, Commission for the Transportation Disadvantaged, Florida Supportive Housing Coalition, Florida Housing Finance Corporation, Florida Housing Coalition, Florida Independent Living Council, National Alliance on Mental Illness of Florida, Florida Council for Community Mental Health, Florida League of Cities, Florida Association of Counties, Florida Coalition for the Homeless, Association of Florida Community Developers, and Associated Builders and Contractors, Inc., of Florida.

The Task Force shall meet starting on August 1, 2019 and identify potential barriers and opportunities to incentivize building contractors and developers to create space for ALFs and ILFs with mixed use. Recommendations and proposed funding shall be made in a report to the Governor, the President of the Senate and the Speaker of the House by February 1, 2020.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

If yes, explain:	The Task Force would recommend modifications to existing policies, rules, or laws or propose new policies, rules, or laws that would allow for the creation of space for assisted and ILFs within mixed-use developments.
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	TBD

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
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Provide a summary of the proponents' and opponents' positions:	
--	--

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

If yes, provide a description:	Yes. The Task Force shall submit a report, including its findings, conclusions, and recommendations, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
Date Due:	February 1, 2020
Bill Section Number(s):	Section 1.,(6)

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

Board:	N/A
Board Purpose:	
Who Appoints:	
Appointee Term:	
Changes:	
Bill Section Number(s):	N/A

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?**

Revenues:	None
Expenditures:	None
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	No

If yes, was this appropriated last year?	No
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3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None
Expenditures:	None
Other:	None

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	No
Bill Section Number:	

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	No
If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No
If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	<u>Regulatory Authority:</u> Statutory authority over ALFs is found under Chapter 429, F.S., which provides that AHCA has the authority to license ALFs and any residential unit for independent living located within a facility certified for continuing care pursuant to Chapter 651, F.S. Many ILFs are a part of a continuing care community, meaning the Independent living facility could be located on the same campus as an ALF or nursing home licensed by AHCA.
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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Children, Families, and Elder Affairs
Governmental Oversight and Accountability
Military and Veterans Affairs and Space

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR VICTOR M. TORRES, JR.
15th District

March 4, 2019

Lauren Book, Chair
Committee on Children, Families and Elder Affairs
404 S. Monroe Street
Tallahassee, FL 32399

RE: Request for excusal from March 4, 2019 committee meeting

Dear Chair Book:

Due to a family issue, I am unable to attend today's meeting of the Committee on Children, Families and Elder Affairs. Please accept this letter as a formal request for excusal of this absence. Please let me know if you have any questions or need any additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Victor M. Torres, Jr.", with a stylized flourish at the end.

Victor M. Torres, Jr.
Florida State Senator
District 15

c: Claude Hendon, Staff Director, Committee on Children, Families and Elder Affairs
Lisa Vickers, Chief of Staff, President Galvano

REPLY TO:

- ☐ 101 Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (850) 410-4817
- ☐ 226 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: SB 301
Caption: Senate Committee on Children, Families, and Elder Affairs

Type:
Judge:

Started: 3/4/2019 3:46:08 PM
Ends: 3/4/2019 5:01:49 PM **Length:** 01:15:42

3:46:07 PM Meeting called to order
3:46:10 PM Comments from Chair
3:46:11 PM Roll Call - Quorum is present
3:46:21 PM
3:46:32 PM
3:46:41 PM
3:46:55 PM The Florida Youth SHINE Group
3:47:34 PM Camber Page, Youth Services Program Coordinator, FYS, waives in support
3:47:49 PM Christina Spudeas, Florida Children First, waives in support
3:48:00 PM Abria Pryer, Orange County Chapter of FYS
3:48:08 PM
3:48:11 PM
3:48:24 PM Anna Zhang, Tallahassee Chapter FYS & FYS Statewide Chair
3:48:25 PM
3:49:59 PM Senator Book
3:50:40 PM Senator Rader
3:52:03 PM Questions? None
3:52:11 PM
3:52:11 PM Esperanza Harb, Orange County Chapter of FYS
3:54:42 PM
3:54:46 PM Nayelis Jimanez, Orlando Chapter of FYS
3:58:22 PM Senator Book
3:58:56 PM Abria Pryer, Orange County Chapter of FYS
4:00:10 PM Senator Rader to close on bill, waives close
4:00:48 PM Senator Book
4:01:04 PM Senator Harrell
4:01:54 PM Vice Chair Mayfield in chair
4:01:55 PM Tab 1 - SB 646 by Senator Book - Child Welfare
4:02:17 PM Chair
4:03:15 PM Questions? None
4:04:03 PM Amendment 205506 by Senator Book
4:04:23 PM Questions? None
4:04:29 PM Debate? None
4:04:32 PM
4:04:33 PM Senator Book waives close
4:04:35 PM Amendment 205506 is adopted
4:04:43 PM Amendment 643980 by Senator Book
4:04:51 PM Questions?
4:04:54 PM Debate? None
4:04:57 PM Senator Book waives close
4:05:04 PM Amendment 643980 is adopted
4:05:07 PM Back on SB 646 as amended - no objection
4:05:19 PM Barney Bishop III, President, CEO, Florida Smart Justice Alliance, waives in support
4:05:30 PM Dr. Danielle Thomas, Legislation Chair, Florida PTA, waives in support
4:05:39 PM Amber Barrett, Youth Service Program Specialist, waives in support
4:05:58 PM Camber Page, Youth Services Program Coordinator, FYS, waives in support
4:06:15 PM Christina Spudeas, Florida Children First, waives in support
4:06:28 PM Geori Berman, Florida Youth SHINE Statewide, Florida Children First, waives in support
4:06:50 PM Greg Pound, speaking for self for information
4:08:56 PM Chair
4:09:11 PM Senator Rader
4:10:40 PM Senator Book to close

4:11:03 PM Roll Call SB 646 - Favorable as a CS
4:11:31 PM Senator Book back in chair
4:13:41 PM Mr. Jeff Binkley, father of one of the Victims, Maura's Voice
4:16:44 PM Senator Rader
4:19:25 PM Jeff Brinkley
4:19:47 PM Senator Book
4:21:07 PM Dr. Jim Clark, Dean & Professor, FSU, College of Social Work, Maura's Voice
4:27:41 PM Questions? None
4:28:55 PM Dr. TK Logan, Professor, University of Kentucky, College of Medicine, Maura's Voice, at request of
Chairman
4:33:51 PM Senator Book
4:34:53 PM Dr. Logan on sub-culture "In Cell"
4:35:37 PM Dr. Clark
4:39:06 PM Senator Harrell
4:39:15 PM Dr. Clark
4:40:37 PM Senator Harrell
4:40:41 PM Dr. Clark and Dr. Logan
4:42:32 PM Senator Harrell
4:43:34 PM Dr. Clark
4:44:06 PM Senator Book
4:46:20 PM Dr. Logan
4:47:15 PM Dr. Clark
4:49:53 PM Jeff Brinkley, Maura's Voice
4:51:10 PM Senator Harrell
4:51:16 PM Jeff Brinkley
4:52:06 PM Senator Book
4:53:47 PM Tab 2 SB 670 by Senator Rader - Assisted and Independent
4:54:46 PM Questions? None
4:54:50 PM Appearance Cards?
4:54:53 PM Michael Daniels, Exec. Director, Fla. Alliance for Assistive Services Technology, waives in support
4:55:04 PM Alisa LaPolt, Lobbyist, National Alliance of Mental Illness - affiliates, speaking for the bill
4:58:09 PM Senator Book
4:58:29 PM Greg Pond, representing self
5:00:04 PM Debate? None
5:00:08 PM Senator Rader waives close
5:00:11 PM Roll Call SB 670 - favorable
5:00:32 PM Senator Rader personal privilege to introduce Son
5:01:08 PM Senator Harrell personal privilege to introduce in-laws
5:01:30 PM Show Senator Harrell as voting favorably for SB 646
5:01:37 PM Chair
5:01:39 PM Senator Mayfield moves to adjourn
5:01:42 PM Any objection? None. This meeting is adjourned