

<b>Tab 3</b>	<b>SB 88</b> by <b>Stewart (CO-INTRODUCERS) Book, Torres</b> ; Child Care Facilities
<b>Tab 5</b>	<b>SB 354</b> by <b>Montford</b> ; (Identical to H 00193) Child Care Subsidies for Foster Parents
<b>Tab 6</b>	<b>SB 364</b> by <b>Rader (CO-INTRODUCERS) Torres</b> ; (Similar to H 00039) Independent Living Task Force
<b>Tab 2</b>	<b>SPB 7002</b> by <b>CF</b> ; OGSR/State Child Abuse Death Review Committee
<b>Tab 4</b>	<b>SB 124</b> by <b>Bean</b> ; (Similar to H 00185) Custody of Minor Children by Extended Family
692654	D S RCS CF, Bean Delete everything after 11/05 03:10 PM
<b>Tab 7</b>	<b>SB 400</b> by <b>Gibson</b> ; (Identical to H 00253) Elder Abuse Fatality Review Teams

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**  
**Senator Book, Chair**  
**Senator Mayfield, Vice Chair**

**MEETING DATE:** Tuesday, November 5, 2019  
**TIME:** 2:00—4:00 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
1	Presentation on Gender Dysphoria by Gilbert Smith, D.O., Department of Psychiatry, Nicklaus Children's Hospital		Not Considered
Consideration of proposed bill:			
2	<b>SPB 7002</b>	OGSR/State Child Abuse Death Review Committee; Amending a provision relating to an exemption from public records and meeting requirements for certain identifying information held or discussed by the State Child Abuse Death Review Committee or a local committee; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
3	<b>SB 88</b> Stewart	Child Care Facilities; Citing this act at the "Child Safety Alarm Act"; requiring that, by a specified date, vehicles used by child care facilities and large family child care homes to transport children be equipped with a reliable alarm system that prompts the driver to inspect the vehicle for children before exiting the vehicle; requiring the Department of Children and Families to adopt by rule minimum safety standards for such systems and to maintain a list of approved alarm manufacturers and alarm systems, etc.  CF 11/05/2019 Favorable IS RC	Favorable Yeas 7 Nays 0
4	<b>SB 124</b> Bean (Similar H 185)	Custody of Minor Children by Extended Family; Revising the purposes of ch. 751, F.S.; providing that a petition for concurrent custody may include certain requests; providing requirements for orders granting concurrent or temporary custody; requiring the court to establish any conditions for the transition of custody of the child to the parent which are in the child's best interest, under certain circumstances, etc.  CF 11/05/2019 Fav/CS JU RC	Fav/CS Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Tuesday, November 5, 2019, 2:00—4:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 354</b> Montford (Identical H 193)	Child Care Subsidies for Foster Parents; Providing an early education or child care subsidy for certain foster parents, etc.  CF 11/05/2019 Favorable AHS AP	Favorable Yeas 7 Nays 0
6	<b>SB 364</b> Rader (Similar H 39, S 340)	Independent Living Task Force; Establishing the Independent Living Task Force within the Florida Housing Finance Corporation for certain purposes; requiring the corporation to use existing and available resources to administer and support the activities of the task force; requiring the task force to submit a report to the Governor and the Legislature by a specified date, etc.  CF 11/05/2019 Favorable CA RC	Favorable Yeas 7 Nays 0
7	<b>SB 400</b> Gibson (Identical H 253)	Elder Abuse Fatality Review Teams; Authorizing the establishment of elder abuse fatality review teams in each judicial circuit, to be housed, for administrative purposes only, in the Department of Elderly Affairs; authorizing elder abuse fatality review teams in existence on a certain date to continue to exist; requiring each review team to annually submit to the department by a certain date a summary report containing specified information; providing immunity from monetary liability for review team members under certain conditions, etc.  CF 11/05/2019 Favorable JU AP	Favorable Yeas 7 Nays 0

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Other Related Meeting Documents

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There are no  
documents  
under this tab.



# CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Committee on Children, Families & Elder Affairs

Judge:

Started: 11/5/2019 2:00:38 PM

Ends: 11/5/2019 2:42:21 PM

Length: 00:41:44

2:00:41 PM Meeting called to order  
2:00:45 PM Roll Call - quorum is present  
2:01:00 PM Tab 1- We will not have a presentation on Gender Dysphoria today. Dr Gilbert Smith is not available today.  
2:01:05 PM Tab 3 - SB 88 Senator Stewart - Child Care Facilities  
2:02:13 PM Questions? None  
2:03:17 PM  
2:03:50 PM Questions ? None  
2:04:18 PM Jeffrey Deen, Regional Counsel for the 5th District, representing Criminal Conflict & civil Regional  
Counsels 1, 3, 4, 5, Speaking for the bill  
2:06:29 PM Chair  
2:07:31 PM Debate? None  
2:07:34 PM Senator Torres  
2:09:48 PM Senator Rader  
2:10:10 PM  
2:10:39 PM  
2:12:00 PM Chair  
2:13:00 PM Senator Stewart to close on SB 88  
2:13:10 PM Roll Call SB 88 Favorable  
2:13:24 PM  
2:13:36 PM Chair  
2:13:37 PM Tab 5 - SB 354 - Senator Montford - Child Care Subsidies for Foster Parents  
2:15:28 PM Chair  
2:15:31 PM Questions? None  
2:15:55 PM Allen Abramowitz, Executive Director Statewide Guardian Ad Litem Program, waives in support  
2:16:08 PM Victoria Zepp, Chief Policy and Research, Fla. Coalition for Children, waives in support  
2:16:14 PM Cathy Harcus, Program Director, Foster Family Support, BBCB/LMC, speaking for the bill  
2:18:00 PM Chair  
2:18:16 PM Molly Ciore, Program Manager, Foster Family Support, speaking for the bill  
2:22:40 PM Erin Smeltzer, Association of Early Learning Coalition, waives in support  
2:22:54 PM Roy Miller, President, The Children's Campaign, waives in support  
2:23:01 PM Daniel Burns. Tallahassee area Foster and Adoptive Parent Association, speaking for the bill  
2:24:58 PM Debate? None  
2:25:58 PM Senator Mumford to close  
2:26:19 PM Roll Call on SB 354- Favorable  
2:27:21 PM Tab 7 - SB 400- by Senator Gibson - Elder Abuse Fatality Review Teams  
2:29:35 PM Chair  
2:29:41 PM Questions? None  
2:29:48 PM Ivonne Ferrendez - Associate State Director, AARP, waives in support  
2:29:59 PM Debate? None  
2:30:04 PM Senator Gibson to close  
2:30:23 PM Roll Call SB 400 - Favorable  
2:31:00 PM Tab 4 SB 124 by Senator Bean - Custody of Minor Children by Extended Family  
2:33:44 PM Chair  
2:33:49 PM Strike all Amendment 692654  
2:33:57 PM Questions? None  
2:34:05 PM Appearance cards on the bill as amended?  
2:34:12 PM Alan Abramowitz, Exec. Director, Statewide Guardian ad Litem Program, waives in support  
2:34:16 PM Debate on amendment? None  
2:34:18 PM Questions on amendment? None  
2:34:24 PM  
2:34:30 PM Senator Bean to close on amendment

**2:34:35 PM** Voice vote on amendment - Favorable  
**2:34:38 PM** Back on bill as amended  
**2:35:19 PM** Senator Harrell  
**2:35:27 PM** Senator Bean to close on bill as amended  
**2:35:38 PM** Roll Call - CS/SB 124 - Favorable  
**2:36:10 PM** Tab 6 - SB 364 - by Senator Rader - Independent Living Task Force  
**2:36:33 PM** Chair  
**2:37:04 PM** Questions? None  
**2:37:10 PM** Tim Parson - Director of Gov. Relations, Liberty Partners, Florida Assisted Living Association, waives in support  
**2:37:20 PM** Margaret J. Hooper, Director of Public Policy Advocacy, - waives in support  
**2:37:36 PM** Alisa LaPolt, Lobbyist, Independent Living Task Force- speaking in support of the bill  
**2:38:23 PM** Debate? None  
**2:38:27 PM** Senator Rader waives to close  
**2:38:35 PM** Roll Call on SB 364 - Favorable  
**2:38:58 PM**  
**2:39:20 PM** Tab 2- SB SPB 7002 by Children, Families, and Elder Affairs Committee, Open Government Sunset Review for the State Child Abuse Death Review Committee  
**2:40:08 PM** Questions? None  
**2:40:13 PM** Debate? None  
**2:40:18 PM** Senator Mayfield moves that SPB 7002 be submitted as committee bill  
**2:40:30 PM** Roll Call SPB 7002 - Favorably as committee bill  
**2:41:05 PM** Presentation by Victoria Zepp, OGSR/State Child Abuse, Clay County, Florida  
**2:41:58 PM** Chair  
**2:42:01 PM** Any other business before the committee? None  
**2:42:10 PM** Is there objection? Seeing none, Senator Mayfield moves we adjourn. Any objection? Seeing none, show the motion adopted.  
**2:42:13 PM** Meeting is adjourned.

**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.)

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

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BILL: SB 88

INTRODUCER: Senators Stewart and Book

SUBJECT: Child Care Facilities

DATE: November 1, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	_____	_____	<u>IS</u>	_____
3.	_____	_____	<u>RC</u>	_____

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## I. Summary:

SB 88 creates the “Child Safety Alarm Act” and requires that after January 1, 2021, vehicles used by child care facilities to transport children must be equipped with an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area. This change is in response to reported deaths of small children who are left in vehicles.

The bill requires the Department of Children and Families (the Department or DCF) to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

The bill is expected to have a significant fiscal impact on private entities and has an effective date of October 1, 2020.

## II. Present Situation:

Death by hyperthermia or vehicular heat stroke deaths have become more prevalent since federal law required that children ride in the backseat due to the danger of front passenger seat airbags.<sup>1</sup> The national average number of these deaths is 38 per year.<sup>2</sup> Fifty-four percent of hyperthermia deaths involve children under the age of one.<sup>3</sup> Between 1998 and 2019, Florida has the second

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<sup>1</sup> See Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car is a Horrifying Mistake. Is it a Crime?*, THE WASHINGTON POST, Mar. 8, 2009, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/27/AR2009022701549.html> (last visited October 31, 2019).

<sup>2</sup> See Kids and Cars.org, Children Vehicular Heatstroke Deaths by Year, available at: <https://www.kidsandcars.org/how-kids-get-hurt/heat-stroke/> (last visited October 31, 2019).

<sup>3</sup> See Kids and Cars.org, Fact Sheet, available at: <http://www.kidsandcars.org/wp-content/uploads/2018/10/Heatstroke-fact-sheet-2018-1.pdf> (last visited October 31, 2019).



highest number of child deaths from vehicular heat stroke.<sup>4</sup> To date, 50 children have fallen victim to vehicular heat stroke deaths nationwide in 2019 alone.<sup>5</sup> 5 of the 50 deaths in 2019 have occurred in Florida.<sup>6</sup>

## **Technology Based Prevention**

### ***Automobile Manufacturers***

The auto industry has been aware of the problem for years. General Motors (GM) tried over ten years ago to find a solution, but found the results were unreliable. At the 2002 New York Auto Show, GM unveiled a system that would be able to detect the heartbeat of a child left in a car and then measure the vehicle's temperature. If it was becoming dangerously hot, it would sound the horn to alert a parent or passersby. GM later reported that the system was abandoned after it was found "not reliable enough to put into production."<sup>7</sup>

Ford was among the other automakers who also expressed interest in developing such a system, but a decade later, the technology isn't available on any automobile as a factory standard feature or option. Auto safety groups have called for manufacturers to do more, but for several reasons including cost, technology, liability and privacy issues, there is still no foolproof way of preventing overheating deaths or warning of the possibility before they happen.<sup>8</sup>

In 2016, GM announced it would introduce a new safety system to remind drivers to check for children in the rear seats, and that it could eventually develop features to detect forgotten children.<sup>9</sup> The National Highway Traffic Safety Administration (NHTSA) said it has no plans to require automakers to add in-vehicle technology that would alert those who leave young children behind in hot cars.<sup>10</sup>

### ***Aftermarket Systems***

There are numerous aftermarket warning systems that alert a parent to a child left in a safety seat, shopping cart, or elsewhere, but federal regulators have questioned their efficacy.

A preliminary assessment performed on technology devices aimed at helping to prevent a child from being unintentionally left in a hot car concluded that they are not reliable and limited in

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<sup>4</sup> National Safety Council, Hot Car Deaths, available at: <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (last visited October 31, 2019).

<sup>5</sup> See Kids and Cars, 2019 Child Hot Car Deaths, available at: <https://www.kidsandcars.org/2019-child-hot-car-deaths/> (last visited October 31, 2019).

<sup>6</sup> *Id.*

<sup>7</sup> Paul Eisenstein, *Death in Hot Cars: Why Can't the Automakers Prevent the Danger?* July 14, 2014, available at: <http://www.nbcnews.com/storyline/hot-cars-and-kids/death-hot-cars-why-cant-automakers-prevent-danger-n152911> (last visited October 31, 2019).

<sup>8</sup> *Id.*

<sup>9</sup> David Shepardson, *GM has a way to help prevent drivers from forgetting children in the back seat*, Business Insider, January 12, 2016, available at: <https://www.businessinsider.com/r-gm-unveils-technology-to-help-avoid-child-heatstroke-deaths-2016-1> (last visited October 31, 2019).

<sup>10</sup> *Id.*

their effectiveness, according to a study by NHTSA and the Children's Hospital of Philadelphia.<sup>11</sup>

The study found several limitations in these products after conducting tests, including inconsistencies in arming sensitivity, variations in warning signal distance, potential interference from other electronic devices, children inadvertently disarming the device by slumping over or sleeping out of position, and limitations in the products' susceptibility to misuse or other common scenarios, such as a beverage spill. Many of the products tested require extensive setup work by caregivers and parents, potentially giving them a false sense of security. Moreover, since the devices are restraint-based, they wouldn't address the 20 to 40 percent of children who are killed in hot cars when they enter a vehicle without adult permission.<sup>12</sup>

### ***Licensing Standards for Child Care Facilities and Large Family Child Care Homes***

The department establishes licensing standards that each licensed child care facility in the state must meet.<sup>13</sup> A child care facility is defined in Florida law as “any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.”<sup>14</sup>

A large family child care home is defined as an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.<sup>15</sup>

The department currently oversees 6,016 licensed child care entities including child care facilities, large family child care homes and family day care homes.<sup>16</sup> In addition, there are homes that are only registered by the agency, facilities that are exempt from licensure due to a religious affiliation,<sup>17</sup> and homes currently licensed by five counties in the state.<sup>18</sup> Of these homes, 1,979 child care facilities and large family child care homes regulated by the department reported that they transport children as of August 2019.<sup>19</sup>

Statutory licensing standards for child care facilities are extensive and reference transportation and vehicles, including the requirement that minimum standards include accountability for

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<sup>11</sup> Consumer Reports, *Warning systems to detect children left in hot cars found unreliable, study finds*, available at <https://www.consumerreports.org/cro/news/2012/08/warning-systems-to-detect-children-left-in-hot-cars-found-unreliable-study-finds/index.htm>. (last visited October 31, 2019).

<sup>12</sup> Ryan Jaslow, *Gov't study: Devices that alert parents they left a child in a car deemed unreliable*, CBS News, July 31, 2012, available at <https://www.cbsnews.com/news/govt-study-devices-that-alert-parents-they-left-a-child-in-car-deemed-unreliable/> (last visited October 31, 2019).

<sup>13</sup> Section 402.305, F.S.

<sup>14</sup> Section 402.302(2), F.S.

<sup>15</sup> Section 402.302(11), F.S.

<sup>16</sup> Florida Department of Children and Families, *DCF Quick Facts*, (Quarter 2, Fiscal Year 2018-2019), available at: <http://www.dcf.state.fl.us/general-information/quick-facts/cc/> (last visited October 31, 2019).

<sup>17</sup> Section 402.316, F.S.

<sup>18</sup> Section 402.306, F.S. Those five counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

<sup>19</sup> Florida Department of Children and Families, *Agency Analysis of 2020 Senate Bill 88* (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs

children being transported.<sup>20</sup> The Florida Administrative Code provides requirements for licensed child care facilities and large family child care homes to follow in relation to vehicles that are owned, operated, or regularly used by the facility or home, as well as vehicles that provide transportation through a contract or agreement with an outside entity.<sup>21</sup>

Providers are required to maintain a driver's log for all children being transported. This log must include the child's name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver's log and that all children have left the vehicle. Upon arrival at the destination, the driver of the vehicle must mark each child off the log as the child departs the vehicle, conduct a physical inspection and visual sweep of the vehicle, and sign, date, and record the driver's log immediately to verify all children were accounted for and that the sweep was conducted. Upon arrival at the destination, a second staff member must also conduct a physical inspection and visual sweep of the vehicle and sign, date, and record the driver's log to verify all children were accounted for and that the driver's log is complete.<sup>22</sup>

Current standards for child care facilities and large family child care homes do not address alarm systems in vehicles, however, Palm Beach County and Broward County have requirements similar to the one proposed in the bill.<sup>23</sup>

### III. Effect of Proposed Changes:

**Section 1** provides a short title for the bill — the “Child Safety Alarm Act.”

**Section 2** amends s. 402.305, F.S., relating to licensing standards for child care facilities, to require that on or after January 1, 2020, vehicles used by child care facilities and large family child care homes to transport children must have an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area.

The bill requires the department to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles. The bill also modifies existing minimum safety standards in statute pertaining to transportation for child care facilities. Under the bill, these standards must include:

- The required use of seat belts in all vehicles used by child care facilities and large family child care homes to transport children;
- Annual inspections for all such vehicles;
- Limitations on the number of children that may be transported within each vehicle;
- Procedures to ensure that children are not inadvertently left in vehicles when transported by the facility; and
- Relevant accountability measures for each facility.

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<sup>20</sup> Section 402.305, F.S

<sup>21</sup> See 65C-22.001(6) and 65C-20.13(8), F.A.C.

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

<sup>23</sup> Florida Department of Children and Families, Agency Analysis of 2020 Senate Bill 88 (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs.

The bill also clarifies that child care facilities and large family child care homes are not responsible for the safe transport of children when they are being transported by a parent or guardian.

**Section 3** provides an effective date of October 1, 2020.

#### **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 identified.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The department reported approximately 1,979 child care providers currently offer a transportation service. These programs would be required to purchase, at a minimum, one of the alarm systems required by this bill.<sup>24</sup>

The fiscal impact on individual providers will vary based on unit cost, installation costs, and possible future warranty fees. As of 2019, the DCF anticipates the unit costs to vary from \$130 to \$156. Installation costs may range from \$100 to \$450 depending on the unit and installer.<sup>25</sup>

<sup>24</sup> Florida Department of Children and Families, Agency Analysis of 2020 Senate Bill 88 (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs.

<sup>25</sup> *Id.*

**C. Government Sector Impact:**

The DCF advised there is a workload increase in establishing and maintaining a list of approved alarm manufacturers. In addition, there is a cost of approximately \$6,500 for rule promulgation to adopt minimum safety standards for the alarm systems. However, according to the DCF this minimal fiscal impact can be absorbed through existing resources.<sup>26</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

DCF notes that the language “safe transport” at line 44 regarding child care facilities not bearing responsibility for children being transported by parents or guardians may require further clarification, as it is unclear what specific duties are imposed on providers and when they would apply to a particular child care facility or large family home.<sup>27</sup>

**VIII. Statutes Affected:**

This bill substantially amends section 402.305 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.

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

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<sup>26</sup> *Id.*

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

By Senator Stewart

13-00035-20

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1                   A bill to be entitled  
2           An act relating to child care facilities; providing a  
3           short title; amending s. 402.305, F.S.; requiring  
4           that, by a specified date, vehicles used by child care  
5           facilities and large family child care homes to  
6           transport children be equipped with a reliable alarm  
7           system that prompts the driver to inspect the vehicle  
8           for children before exiting the vehicle; requiring the  
9           Department of Children and Families to adopt by rule  
10          minimum safety standards for such systems and to  
11          maintain a list of approved alarm manufacturers and  
12          alarm systems; providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16           Section 1. This act may be cited as the "Child Safety Alarm  
17 Act."

18           Section 2. Subsection (10) of section 402.305, Florida  
19 Statutes, is amended to read:

20           402.305 Licensing standards; child care facilities.—

21           (10) TRANSPORTATION SAFETY.—

22           (a) Minimum standards shall include all of the following:

23           1. Requirements for child restraints or seat belts in  
24 vehicles used by child care facilities and large family child  
25 care homes to transport children.

26           2. ~~Requirements for annual inspections of such the~~  
27 vehicles.

28           3. ~~Limitations on the number of children that may be~~  
29 transported in such the vehicles.

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30       4. Procedures to ensure that ~~avoid leaving~~ children are  
31 not inadvertently left in vehicles when transported by the  
32 facility or home, ~~and that systems are in place to ensure~~  
33 accountability for children transported by such facilities and  
34 homes ~~the child care facility.~~

35       (b) By January 1, 2021, all vehicles used by child care  
36 facilities and large family child care homes to transport  
37 children must be equipped with a reliable alarm system approved  
38 by the department which prompts the driver to inspect the  
39 vehicle for children before exiting the vehicle. The department  
40 shall adopt by rule minimum safety standards for such systems  
41 and shall maintain a list of approved alarm manufacturers and  
42 alarm systems that meet or exceed those standards.

43       (c) A child care facility or large family child care home  
44 is not responsible for the safe transport of children when they  
45 are being transported by a parent or guardian.

46       Section 3. This act shall take effect October 1, 2020.



# 2020 AGENCY LEGISLATIVE BILL ANALYSIS

## Department of Children and Families

<u><b>BILL INFORMATION</b></u>	
<b>BILL NUMBER:</b>	SB 88
<b>BILL TITLE:</b>	<b><u>Child Care Facilities</u></b>
<b>BILL SPONSOR:</b>	Senator Stewart
<b>EFFECTIVE DATE:</b>	October 1, 2020

<u><b>COMMITTEES OF REFERENCE</b></u>
1) Children, Families, and Elders Affairs
2) Infrastructure and Security
3) Rules
4)
5)

<u><b>CURRENT COMMITTEE</b></u>
Not yet assigned

<u><b>SIMILAR BILLS</b></u>	
<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A

<u><b>PREVIOUS LEGISLATION</b></u>	
<b>BILL NUMBER:</b>	2012: HB 419/SB0274 2011: HB 1131/SB 1140 HB 1150 (Compare Bills) 2018: SB 486/HB 0305 2019: HB 69/ SB 94
<b>SPONSOR:</b>	2012: Rep. Berman; Sachs 2011: Rep. Berman; Latvala, Sachs 2018: Sen. Stewart; Rep. Antone 2019: Sen. Stewart; Rep. Antone
<b>YEAR:</b>	2012 2011 2018 2019
<b>LAST ACTION:</b>	2012: SB 0274 –Died in Budget Subcommittee on Health and Human Service Appropriations; HB 419 Died in Health and Human Services Access Subcommittee 2011: HB 1131 Died in HHS Access Subcommittee; SB 1140 Died in Messages SB1150 Died in Messages 2018: SB 486 Died in Transportation HB 0486 Died in Children, Families & Seniors Subcommittee 2019: HB 69 Died in Health Care Appropriations SB 94 Died in Messages

<u><b>IDENTICAL BILLS</b></u>	
<b>BILL NUMBER:</b>	NA
<b>SPONSOR:</b>	NA

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



<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	8/16/2019
<b>LEAD AGENCY ANALYST:</b>	Samantha Wass de Czege, Child Care
<b>ADDITIONAL ANALYST(S):</b>	Cynthia Campbell; Yemi Quijada, Child Care
<b>LEGAL ANALYST:</b>	Stefanie Camfield, OGC
<b>FISCAL ANALYST:</b>	Sandra Smith, Budget

## **POLICY ANALYSIS**

### **1. EXECUTIVE SUMMARY**

The bill cites this act as the "Child Safety Alarm Act" and requires, by a specified date, that vehicles used by child care facilities and large family child care homes to transport children be equipped with a reliable alarm system that prompts the driver to inspect the vehicle for children before exiting the vehicle. The Department of Children and Families (Department) is required to adopt by rule minimum safety standards for such systems and to maintain a list of approved alarm manufacturers and alarm systems, etc.

### **2. SUBSTANTIVE BILL ANALYSIS**

#### **1. PRESENT SITUATION:**

##### **Section 2.**

Section 402.305 (10) F.S., requires that the Department establish licensing standards for transportation safety, including child restraints or seat belts in vehicles used by child care facilities and large family child care homes to transport children, requirements for annual inspection of the vehicles, limitations on the number of children in the vehicles, procedures to avoid leaving children in vehicles when transported by the facility, and accountability for children transported by the child care facility or large family child care home. A child care facility is not responsible for children when they are transported by a parent or guardian.

The Department established the licensing standards for transportation safety in Chapters 65C-20, Florida Administrative Code (F.A.C.), Family Day Care Standards and Large Family Child Care Home Standards, and 65C-22, F.A.C., Child Care Standards.

##### **Licensed Large Family Child Care Homes:**

Rule 65C-20.008 (6), F.A.C., incorporates the "Family Day Care Home and Large Family Child Care Home Licensing Handbook" (Family Day Care Home Handbook), dated May 2019, that establishes the standards for family child care homes and large family child care homes which includes requirements that homes must follow when transportation services are provided to the children in care. Such requirements are applicable to vehicles that are owned, operated, or regularly used by the home and vehicles that provide transportation through a contract or agreement with an outside entity.

Section 2.4 Transportation in the Family Day Care Home Handbook currently requires family day care homes and large family child care homes that transport children meet standards addressing: driver requirements, transportation log, emergency care plans, vehicle requirements, and seatbelt/child restraints. The Transportation Log standards address ways to ensure children are not left in the vehicle as follows:

**2.4.2 Transportation Log:** A log must be maintained for all children being transported in the vehicle or on foot away from and/or to the premises of the home. The log must be retained for a minimum of 12 months. The log must include each child's name, date, time of departure, time of arrival and the signature of the driver verifying all children were accounted for during the visual sweep.

- A. Prior to transporting children, the transportation log must be recorded, and dated immediately, verifying that all children were accounted for and that the log is complete.
- B. Upon arrival at the destination, the driver of the vehicle must:
  1. Mark each child off the log as the child departs the vehicle;
  2. Conduct a physical inspection and visual sweep of the vehicle to ensure

- that no child is left in the vehicle; and
- 3. Record, sign, and date the transportation log immediately, verifying that all children were accounted for, and that the visual sweep was conducted.
- 4. If the provider contracts/agrees with an outside entity/person to provide transportation, then the provider must perform the duties of the driver outlined above in numbers 1-3.

**Large Family Child Care Home**

In addition to the transportation log requirements above, the home employee or person(s) authorized by the large family child care home operator must:

- C. Conduct a second physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and
- D. Sign, date and record the transportation log immediately, verifying that all children were accounted for, and that the log is complete.

**Licensed Child Care Facilities:**

Section 2.5 Transportation in the Child Care Facility Handbook currently requires child care facilities that transport children meet standards addressing: driver requirements, transportation log, emergency care plans, vehicle requirements, and seatbelt/child restraints. The Transportation Log standards address ways to ensure children are not left in the vehicle as follows:

**2.5.2 Transportation Log:**

- A. A log must be maintained for all children being transported in a vehicle or on foot away from the premises of the child care facility. The log must be retained on file at the facility for a minimum of 12 months and available for review by the licensing authority. The log must include:
  - 1. Each child's name;
  - 2. The date and time of departure;
  - 3. Time of arrival at the destination;
  - 4. The signature of the driver (or in the case of travelling on foot, the signature of the child care personnel); and
  - 5. The signature of a second staff member or person(s) authorized by the provider to verify the transportation log and that all children have arrived safely and left the vehicle (if applicable).
- B. Prior to transporting children, the transportation log must be recorded, signed, and dated immediately, verifying that all children were accounted for and that the log is complete.
- C. Upon arrival at the destination by vehicle or by foot, the child care personnel must record, sign and date the transportation log immediately, verifying that all children were accounted for. The same must occur immediately upon returning to the facility premises.
- D. Upon arrival at the destination by vehicle, the driver of the vehicle must:
  - 1. Mark each child off the log as the child departs the vehicle;
  - 2. Conduct a physical inspection and visual sweep of the vehicle interior to ensure that no child is left in the vehicle; and
  - 3. Record, sign, and date the transportation log immediately, verifying that all children were accounted for, and that the visual sweep was conducted.
  - 4. Ensure that a second staff member signs and dates the transportation log verifying that all children were accounted for, and that the log is complete.
- E. Upon arrival at the destination by vehicle, a second and different staff member must:
  - 1. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and
  - 2. Sign, date and record the transportation log immediately, verifying that all children were accounted for, and that the log is complete.

**Licensed School-Age Child Care Facilities:**

Section 2.5 Transportation in the School-Age Child Care Facility Handbook currently requires school-age facilities that transport children meet standards addressing: driver requirements, transportation log, emergency care plans, vehicle requirements, and seatbelt/child restraints. The Transportation Log standards address ways to ensure children are not left in the vehicle as follows:

**2.5.2 Transportation Log**

- A. A log must be maintained for all children being transported in the vehicle or on foot away from and/or to the premises of the child care facility. The log must be retained on file at the facility for a minimum of 12

months and available for review by the licensing authority. The log must include:

1. Each child's name;
2. Date and time of departure;
3. Time of arrival at the destination;
4. The signature of the driver (or in the case of traveling on foot, the signature of the child care personnel); and
5. The signature of a second child care personnel or person(s) authorized by the parent to verify the transportation log and that all children have left the vehicle (if applicable).

**Transportation by Foot**

- B. Prior to transporting children by foot, the transportation log must be recorded with each child's name, the date and time of departure, and initialed by the child care personnel verifying that all children were accounted for and that the log is complete.
- C. Upon arrival at the destination by foot, the child care personnel must:
  1. Record the date and time the child(ren) arrived at the destination on the transportation log immediately,
  2. Conduct roll call, record, date, and initial verifying that all children were accounted for.
  3. The same must occur prior to leaving that location and immediately upon returning to the facility premises. The first and second child care personnel must sign the log verifying all children are accounted for and the log is complete at each destination.
- D. Upon arrival at the destination by foot, a second and different child care personnel must:
  1. Witness roll call to verify all children are accounted for and that the log is complete.
  2. Sign and date the transportation log.

**Transportation by Vehicle**

- E. Prior to transporting children by vehicle, the transportation log must be recorded with each child's name, the date and time of departure, and initialed by the child care personnel verifying that all children were accounted for and that the log is complete.
- F. Upon arrival at the destination, the driver of the vehicle must:
  1. Mark each child off the log as the child departs the vehicle;
  2. Conduct a physical inspection and visual sweep of the vehicle interior to ensure that no child is left in the vehicle; and
  3. Record, sign, and date the transportation log immediately, verifying that all children were accounted for, and that the visual sweep was conducted.
  4. Ensure that a second child care personnel conducts a second visual sweep, signs and dates the transportation log verifying that all children were accounted for, and that the log is complete.
  5. If the provider contracts with an outside entity to provide transportation, then the provider must assign a child care personnel to perform the duties of the driver outlined above in numbers 1-3.
- G. Upon arrival at the destination by vehicle, a second and different child care personnel must:
  1. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and
  2. Sign, date and record the transportation log immediately, verifying that all children were accounted for, and that the log is complete.

**2. EFFECT OF THE BILL:**

**Section 2.**

This section amends s. 402.305, F.S., requiring the Department to add additional minimum standards that include procedures to ensure that children are not inadvertently left in vehicles, as well as, have systems in place to ensure accountability for children transported by facilities and homes. Also, the section requires that all vehicles used to transport children by a child care facility or a large family child care home be equipped with a reliable alarm system approved by the Department that prompts the driver to inspect the vehicle before exiting the vehicle on or before January 1, 2021.

The section requires the Department to adopt by rule minimum safety standards for alarm systems and to maintain a list of approved alarm manufacturers and alarm systems which meet or exceed standards. In addition, the section amends s. 402.305(10)(c), F.S., clarifying that a child care facility is not responsible for the safe transport of children when they are being transported by a parent or guardian.

Based on these amendments, the Department is required to determine/create a level of standards for these alarm systems and maintain a list of approved alarm systems.

**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:	The bill requires the Department to adopt additional minimum safety standards for procedures and systems to ensure accountability for children being transported, require reliable alarm systems in vehicles used to transport children, and maintain a listing of approved alarm systems.
What is the expected impact to the agency's core mission?	None.
Rule(s) impacted (provide references to F.A.C., etc.):	65C-20.008(6), F.A.C. 65C-22.001(6), F.A.C. 65C-22.008(5), F.A.C.

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

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	N/A

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO**

If yes, provide a description:	None
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:	No
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

## FISCAL ANALYSIS

### 1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	Pinellas, Hillsborough, and Sarasota counties would be required to adopt standards that address the minimum standards in the bill. On or before January 1, 2021, all vehicles used by child care facilities and large family child care homes must be equipped with a reliable alarm system, approved by the Department, that prompts the driver to inspect the vehicle before exiting vehicle.
Does the legislation increase local taxes or fees?	The Department's Office of Administrative Services finds that this bill does not increase local taxes or fees.
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?	The Department's Office of Administrative Services finds that this section is not applicable.

### 2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	The Department recognizes that there is a workload increase in establishing and maintaining a list of approved alarm manufacturers. In addition, there is a cost of approximately \$6,500 for rule promulgation to adopt minimum safety standards for the alarm systems. However, this minimal fiscal impact can be absorbed through existing resources.
Does the legislation contain a State Government appropriation?	The Department's Office of Administrative Services finds that this bill does not contain a State Government Appropriation.
If yes, was this appropriated last year?	The Department's Office of Administrative Services finds that this section is not applicable.

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

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	<p>Approximately 1,979 providers report to the Department that they offer a transportation service. These programs would be required to purchase at a minimum one of the alarm systems required by this bill.</p> <p>The fiscal impact on individual providers will vary based on unit cost, installation costs, possible future warranty, maintenance/repair, and replacement fees. The lowest cost would be \$130 for the alarm plus \$100 for installation for a total of \$230 and the highest cost would be \$156 for the alarm plus \$450 for installation for a total of \$606.</p> <p>Also, facilities and homes may incur additional costs to comply with standards adopted pursuant to the bill for procedures to ensure that children are not inadvertently left in vehicles and systems are in place to hold facilities and homes accountable when transporting children.</p>
Other:	The Department's Office of Administrative Services finds that this section is not applicable.

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? NO.**

Does the bill increase taxes, fees or fines?	The Department's Office of Administrative Services finds that this bill does not increase taxes, fees or fines.
Does the bill decrease taxes, fees or fines?	The Department's Office of Administrative Services finds that this bill does not decrease taxes, fees or fines.
What is the impact of the increase or decrease?	The Department's Office of Administrative Services finds that this section is not applicable.
Bill Section Number:	The Department's Office of Administrative Services finds that this section is not applicable.

**TECHNOLOGY IMPACT**

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	The Department's Office of Information Technology Services finds that this bill does impact the Department's technology systems.
If yes, describe the anticipated impact to the agency including any fiscal impact.	New inspection template that includes new standards pertaining to this bill.

**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.	N/A

**ADDITIONAL COMMENTS**

DCF regulates 62 of the 67 counties in Florida – five counties have Local Licensing Authority and must meet or exceed DCF standards. Two of the Local Licensing counties, Palm Beach and Broward, have requirements similar to the one proposed in this bill.

Please note: Since Broward and Palm Beach counties already have a similar regulation in place, their providers were not included in our count of providers who would be impacted.

The wording "safe transport" was added to existing statutory language regarding child care facility not being responsible for children being transported by parent or guardians. Clarification needs to be added as to what "safe transport" means and when it applies to the facility or home.

Licensed Family Day Care Homes also provide transportation, but the bill only indicates large family day care homes. Afterschool Programs exempt from licensure pursuant to Chapter 65C-22.008, F.A.C., transport children to programs and would not be captured in this bill as being required to have such an alarm.

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments  
and recommended action:

The Department's Office of the General Counsel has no issues, concerns, or  
comments on this bill.

THE FLORIDA SENATE

APPEARANCE RECORD

November 5th, 2019

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 88

Meeting Date

Bill Number (if applicable)

Topic Child Care Facilities; "Child Safety Alarm Act"

Amendment Barcode (if applicable)

Name Jeffrey Deen

Job Title Regional Counsel for the 5th District

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City

State

Zip

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing Criminal Conflict and Civil Regional Counsels 1,3,4,5

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 88  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, November 5, 2019  
**TIME:** 2:00—4:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
7	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**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.)

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

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BILL: SB 354

INTRODUCER: Senator Montford

SUBJECT: Child Care Subsidies for Foster Parents

DATE: November 5, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	<b>Pre-meeting</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 354 provides an additional subsidy of up to \$300 for foster care parents who place their foster children in an early education or child care program which provides a state subsidy that is insufficient to pay the full cost of care.

The Rilya Wilson Act requires out-of-home caregivers of foster children who are enrolled in an early education or child care program to maintain enrollment of the children in the program and ensure attendance at least 5 days per week. Child care subsidies provided by the Early Learning Coalitions are often insufficient to cover the full cost of child care, creating a financial barrier for placement of children with foster parents. The bill provides that foster parents will receive an additional \$300 per month to cover the difference between the amount of the subsidy and the full cost of child care services.

The bill will likely have an indeterminate fiscal impact and has an effective date of July 1, 2020.

**II. Present Situation:**

**Child Welfare System**

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children. If the problems cannot be ameliorated, the child welfare system finds other caregivers for children, such as relative and non-relative caregivers, foster families, or adoptive families.<sup>1</sup>

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<sup>1</sup> See s. 39.001(1), F.S.

## Foster Care

A licensed foster home is identified when placement with a relative or non-relative caregiver is not possible. This type of setting is intended to provide a temporary, safe place to live until a child can be reunited with his or her family, an adoptive family is identified, or other permanency is achieved. Section 409.175(2)(e), F.S., defines a “family foster home” as a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs. A family foster home does not include a person who cares for a child of a friend for a period not to exceed 90 days, a relative who cares for a child and does not receive reimbursement for such care from the state or federal government, or an adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption.<sup>2</sup>

## Foster Parent Qualifications

In order to qualify as a potential foster parent, an individual must:<sup>3</sup>

- Attend an orientation,
- Complete 20 to 30 hours of foster parent training,
- Have a child abuse and criminal background check,
- Participate in a home inspection, and
- Participate in a home study to review readiness for fostering.

The recruitment, training, and licensing of foster parents is conducted by 18 community-based care agencies that maintain contracts with the Department of Children and Families.<sup>4</sup> Families are licensed to care for up to five children, including foster parents’ biological and adopted children. Foster parents are responsible for the care and well-being of the child, including maintaining their health, safety, and best interests and encouraging emotional and developmental growth. Following placement, a foster child is closely monitored by a case worker, who provides support and additional training related to special needs.<sup>5</sup>

Section 409.145(2)(a), F.S., specifies the roles and responsibilities of foster parents, which include:<sup>6</sup>

- participating in the development of the child’s case plan and assisting in implementing the case plan;
- completing all training needed to improve skills in parenting a child who has experienced trauma;

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<sup>2</sup> Section 409.175(2)(e), F.S.

<sup>3</sup> Department of Children and Families, How Do I Become A Foster Parent?, available at <https://www.myflfamilies.com/service-programs/foster-care/how-do-i.shtml> (last visited November 1, 2019).

<sup>4</sup> Department of Children and Families, Fostering in Florida, available at <https://www.myflfamilies.com/service-programs/foster-care/fostering.shtml> (last visited November 1, 2019).

<sup>5</sup> Department of Children and Families, 2017-2018 Office of Child Welfare Annual Performance Report, available at <https://www.myflfamilies.com/service-programs/child-welfare/docs/2018LMRs/2018%20Annual%20Performance%20Report.pdf> (last visited November 1, 2019).

<sup>6</sup>Section 409.175(2)(e), F.S.

- respecting and supporting the child's ties to members of his or her biological family and assist with maintaining allowable visitation;
- effectively advocating for the child;
- participating fully in the child's medical, psychological, and dental care as the caregiver would for his or her biological child;
- supporting the child's educational success by participating in activities and meetings associated with the child's school;
- working in partnership with other stakeholders to obtain and maintain records that are important to the child's well-being;
- ensuring that children between the ages of 13 and 17 learn and master independent living skills;
- ensuring that the child is aware of the requirements and benefits of the Road-to-Independence Program; and
- working to enable the child to establish and maintain naturally occurring mentoring relationships.

### **Foster Parent Compensation**

The current room and board rates paid to foster parents under statute are:<sup>7</sup>

- \$457.95 monthly for children 0-5 years of age.
- \$469.68 monthly for children 6-12 years of age.
- \$549.74 monthly for children 13-21 years of age.<sup>8</sup>

According to s. 409.145(4)(a), F.S., foster parents shall receive an annual cost of living increase. Additionally, the board rate amount may be increased upon agreement between the department, the community-based care lead agency, and the foster parent.<sup>9</sup> These rates do not include medical and behavioral health needs, which are covered by Medicaid. In addition, the amount of the basic monthly payment is before any deductions for income of the child.<sup>10</sup>

### **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 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.<sup>11</sup>

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

<sup>7</sup> Section 409.145(4)(a), F.S.

<sup>8</sup> Family foster parents receive this monthly room and board rate through the child reaching age 21.

<sup>9</sup> Section 409.145(4)(c), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> 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 November 1, 2019).

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.<sup>12</sup> The school readiness program is housed with the Office of Early Learning, within the Department of Education.

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.<sup>13</sup>

Under the Rilya Wilson Act, children in the foster care system who are enrolled in an early education or child care program must be kept in the program and attend the program at least 5 days per week.<sup>14</sup> 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.<sup>15</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 409.145, F.S., related to care of children, to provide that in addition to the foster care room and board rate provided under current law, a foster care parent who is required to place a child in an early education or child care program and who chooses a program where the state subsidy from an early learning coalition is insufficient to pay the full cost of care shall receive a payment of up to \$300 per month to cover the difference between the amount of the subsidy provided by the early learning coalition and the full cost of the services.

**Section 2** provides an effective date of July 1, 2020.

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<sup>12</sup> Section 1002.83, F.S.

<sup>13</sup> Section 1002.87, F.S.

<sup>14</sup> Section 39.604, F.S.

<sup>15</sup> Rule 65C-13.030, F.A.C.

**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 identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill allows an additional subsidy of up to \$300 to be paid to a foster parent who is required under s. 39.604, F.S., to place a child in an early education or child care program. Section 39.604, F.S., only requires the foster parent to place the child in an early education or child care program if they are already in a program when they come into foster care. DCF does not track the number of children who come into care and are already in a child care or an early learning program, however DCF has provided three scenarios for fiscal impact projections: one in which 100% in out-of-home care ages 0 to preschool-age are already in an early education or child care program and are therefore eligible for the subsidy under the bill, one in which 50% are eligible, and one in which 25% are eligible. The fiscal impact projections for each assumption are as follows:<sup>16</sup>

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<sup>16</sup> Department of Children and Families, Agency Legislative Bill Analysis of SB 354, September 24, 2019. On file with the Senate Committee on Children, Families, and Elder Affairs.

<b>Percentage Receiving Subsidy</b>	<b>Total Cost</b>
100%	\$14,997,081
50%	\$7,499,482
25%	\$3,749,741

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 409.145 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.

By Senator Montford

3-00111-20

2020354\_\_

1                                   A bill to be entitled  
 2           An act relating to child care subsidies for foster  
 3           parents; amending s. 409.145, F.S.; providing an early  
 4           education or child care subsidy for certain foster  
 5           parents; providing an effective date.

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

9           Section 1. Subsection (4) of section 409.145, Florida  
 10 Statutes, is amended to read:

11           409.145 Care of children; quality parenting; "reasonable  
 12 and prudent parent" standard.—The child welfare system of the  
 13 department shall operate as a coordinated community-based system  
 14 of care which empowers all caregivers for children in foster  
 15 care to provide quality parenting, including approving or  
 16 disapproving a child's participation in activities based on the  
 17 caregiver's assessment using the "reasonable and prudent parent"  
 18 standard.

19           (4) FOSTER CARE ROOM AND BOARD RATES; ADDITIONAL SUBSIDY  
 20 FOR CHILD CARE EXPENSES.—

21           (a) Effective July 1, 2018, room and board rates shall be  
 22 paid to foster parents as follows:

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24                                   Monthly Foster Care Rate

0-5 Years Age	6-12 Years Age	13-21 Years Age
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\$457.95

\$469.68

\$549.74

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(b) Each January, foster parents shall receive an annual cost of living increase. The department shall calculate the new room and board rate increase equal to the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, not seasonally adjusted, or successor reports, for the preceding December compared to the prior December as initially reported by the United States Department of Labor, Bureau of Labor Statistics. The department shall make available the adjusted room and board rates annually.

(c) Effective July 1, 2019, foster parents of level I family foster homes, as defined in s. 409.175(5)(a), l shall receive a room and board rate of \$333.

(d) Effective July 1, 2019, the foster care room and board rate for level II family foster homes, l as defined in s. 409.175(5)(a), l shall be the same as the new rate established for family foster homes as of January 1, 2019.

(e) Effective January 1, 2020, paragraph (b) shall only apply to level II through level V family foster homes, as defined in s. 409.175(5)(a).

(f) The amount of the monthly foster care room and board rate may be increased upon agreement among the department, the community-based care lead agency, and the foster parent.

(g) From July 1, 2018, through June 30, 2019, community-based care lead agencies providing care under contract with the department shall pay a supplemental room and board payment to foster care parents of all family foster homes, on a per-child basis, for providing independent life skills and normalcy

3-00111-20

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54 supports to children who are 13 through 17 years of age placed  
55 in their care. The supplemental payment shall be paid monthly to  
56 the foster care parents in addition to the current monthly room  
57 and board rate payment. The supplemental monthly payment shall  
58 be based on 10 percent of the monthly room and board rate for  
59 children 13 through 21 years of age as provided under this  
60 section and adjusted annually. Effective July 1, 2019, such  
61 supplemental payments shall only be paid to foster parents of  
62 level II through level V family foster homes.

63 (h) In addition to the foster care room and board rate, a  
64 foster parent who is required under s. 39.604 to place a child  
65 in an early education or a child care program and who chooses a  
66 program in which the state subsidy from an early learning  
67 coalition under part VI of chapter 1002 is insufficient to pay  
68 the full cost shall receive a payment of up to \$300 per month to  
69 pay the difference between the amount of the early learning  
70 coalition subsidy and the full cost of the services.

71 Section 2. This act shall take effect July 1, 2020.



## 2020 AGENCY LEGISLATIVE BILL ANALYSIS

### Department of Children and Families

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	SB 354
<b>BILL TITLE:</b>	<b><u>Child Care Subsidies for Foster Parents</u></b>
<b>BILL SPONSOR:</b>	Senator Montford
<b>EFFECTIVE DATE:</b>	July 1, 2020

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Children, Families, and Elder Affairs
2) Appropriations Subcommittee on Health and Human Services
3) Appropriations
4)
5)

<b><u>CURRENT COMMITTEE</u></b>
Not assigned yet

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	NA
<b>SPONSOR:</b>	

<b><u>PREVIOUS LEGISLATION</u></b>	
<b>BILL NUMBER:</b>	SB 1144 HB 1367
<b>SPONSOR:</b>	Senator Montford Representative Diamond
<b>YEAR:</b>	2019
<b>LAST ACTION:</b>	Died in Appropriations Subcommittee on Health and Human Services Died in Children, Families and Seniors Subcommittee

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	HB 193
<b>SPONSOR:</b>	Representative Roth

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

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	September 24, 2019
<b>LEAD AGENCY ANALYST:</b>	Courtney Smith, Office of Child Welfare
<b>ADDITIONAL ANALYST(S):</b>	
<b>LEGAL ANALYST:</b>	Jodi Abramowitz, Office of General Counsel
<b>FISCAL ANALYST:</b>	Sue Zwirz, Budget

## POLICY ANALYSIS

### **1. EXECUTIVE SUMMARY**

The bill provides up to a \$300 additional subsidy for child care expenses for certain caregivers who are required to place a child in an early education child care program and who choose a program where the state subsidy is insufficient to pay the full cost of care.

### **2. SUBSTANTIVE BILL ANALYSIS**

#### **1. PRESENT SITUATION:**

##### **Section 1**

Currently, when a child is placed in a foster home, foster parents can access assistance to pay for child care expenses through the state's school readiness (subsidized) program. This funding support is insufficient to cover the total cost of quality child care services for these children. In addition, foster parents are required to pay a "parent fee" to the child care provider as well other fees for registration, tuition, activities and supplies.

Section 39.604(3)(a), F.S., requires a child from birth to the age of school entry, who is under court-ordered protective supervision or in out-of-home care and is enrolled in an early education or child care program, to attend the child care or early education program five days a week. However, the court may grant an exception if it determines that it is in the child's best interest from birth to age three years to either remain at home with a stay-at-home caregiver or attend an early education or child care program fewer than 5 days a week. There is no requirement for a child who is placed in out-of-home care to attend an early education or child care program if they are not already attending at the time of placement.

Rule 65C-13.030, F.A.C., requires the cost of child care to be assumed by the licensed out-of-home caregiver to the extent that subsidized child care is unavailable.

#### **2. EFFECT OF THE BILL:**

##### **Section 1**

Section 409.145(4), F.S., is amended to provide an additional subsidy amount for child care expenses to licensed out-of-home caregivers who have children placed with them who were in an early education or child care program when they came into care. In addition to the foster care room and board rates, foster parents would receive an amount up to \$300 to assist with child care expenses. This additional resource will close a gap between what the state's school readiness (subsidized) program pays for child care and what the caregiver is required to pay as a differential fee and parent fee.

#### **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:	No
What is the expected impact to the agency's core mission?	NA
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 65C-13.030, F.A.C.

#### **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:	N/A

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO**

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?**

Board:	No
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

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

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	The Department's Office of Administrative Services finds that there are no expenditures generated by this bill.
Does the legislation increase local taxes or fees?	The Department's Office of Administrative Services finds that this bill does not increase local taxes or fees.
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?	The Department's Office of Administrative Services finds that this section is not applicable.

**2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?**

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	The bill allows an additional subsidy of up to \$300 to be paid to a foster parent who is required under s. 39.604, F.S., to place a child in an early education or child care program. Section 39.604, F.S., only requires the foster parent to place the child in an early education or child care program if they are in a program when they come into foster care. The Department does not track the number of children who come into care and are already in a child care or an early learning program. The below projections assume 100 percent of children,

	<p>50 percent of children, and 25 percent of children in out-of-home care ages 0 to preschool could be eligible for a subsidy.</p> <p>According to the Office of Early Learning’s (OEL) 2018 Market Rate Report, the Gold Seal Quality Care Market Rate weekly average per service group is:</p> <p>Infants Care: \$191.51          Toddler Care: \$169.68          Preschool Care: \$152.21</p> <p>The average weekly subsidy rate paid by the Early Learning Coalition is:</p> <p>Infant Care: \$156.76          Toddler Care: \$130.49          Preschool Care: \$117.54</p> <p>Comparing the average cost of care and the average subsidy rate paid for a foster child attending a Gold Seal Quality Care child care center, there is a weekly funding gap which must be assumed by the foster parents.</p> <p>Infant Care: \$34.75            (\$191.51 - \$156.76)          Toddler Care: \$39.19        (\$169.68 - \$130.49)          Preschool Care: \$34.67      (\$152.21 - \$117.54)</p> <p>\$36.20 (Weekly average funding gap of all age groups (ages 0-5) weekly costs based on the OEL’s Market Rate Survey) x 52 weeks = \$1,882.40 is the annual funding gap per child.</p> <p>The funding gap does not include any additional parent/registration fees that are not waived by a coalition, which may be additional costs incurred by the foster parent. All the funding for this issue will be general revenue.</p> <p>Children in licensed foster placements and in relative/non-relative care receiving subsidized child care between the age of 0 to 5: 7,967.</p> <p>\$1,882.40 (annual funding gap) x 7,967 (100% of population) = \$14,997,081 if every child 0-pre-school was eligible for a subsidy.</p> <p>\$1,882.40 (annual funding gap) x 3,984 (50% of population) = \$7,499,482, if 50% of children 0-pre-school was eligible for a subsidy.</p> <p>\$1,882.40 (annual funding gap) x 1,992 (25% of population) = \$3,749,741, if 25% of children 0-pre-school was eligible for a subsidy.</p>
<p>Does the legislation contain a State Government appropriation?</p>	<p>The Department’s Office of Administrative Services finds that this bill does not contain a State Government Appropriation.</p>
<p>If yes, was this appropriated last year?</p>	<p>The Department’s Office of Administrative Services finds that this section is not applicable.</p>

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

<p>Revenues:</p>	<p>The Department’s Office of Administrative Services finds that there are no revenues generated by this bill.</p>
<p>Expenditures:</p>	<p>The Department’s Office of Administrative Services finds that there are no expenditures generated by this bill.</p>
<p>Other:</p>	<p>The Department’s Office of Administrative Services finds that this section is not applicable.</p>

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

Does the bill increase taxes, fees or fines?	The Department's Office of Administrative Services finds that this bill does not increase taxes, fees or fines.
Does the bill decrease taxes, fees or fines?	The Department's Office of Administrative Services finds that this bill does not decrease taxes, fees or fines.
What is the impact of the increase or decrease?	The Department's Office of Administrative Services finds that this section is not applicable.
Bill Section Number:	The Department's Office of Administrative Services finds that this section is not applicable.

**TECHNOLOGY IMPACT**

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	The Department's Office of Information Technology Services finds that this bill does not impact the Department's technology systems.
If yes, describe the anticipated impact to the agency including any fiscal impact.	The Department's Office of Information Technology Services finds that this section is not applicable.

**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.	N/A

**ADDITIONAL COMMENTS**

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LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

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Issues/concerns/comments  
and recommended action:

The Department's Office of the General Counsel has no issues, concerns, or  
comments on this bill.



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19

*Meeting Date*

354

*Bill Number (if applicable)*

Topic Child Care Subsidies for Foster Parents

*Amendment Barcode (if applicable)*

Name Alan Abramowitz

Job Title Executive Director

Address 600 Calhoun Ave.

Phone 850.241.3232

*Street*

Tallahassee

FL

32399

Email alan.abramowitz@gal.fl.gov

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Statewide Guardian ad Litem Program

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19

Meeting Date

354

Bill Number (if applicable)

Topic

Child Care Subsidies

Amendment Barcode (if applicable)

Name

VICTORIA ZEPP

Job Title

Chief Policy & Research Officer

Address

411 E. College Ave

Phone

850/561-1102

City

State

32301

Zip

Email

VICTORIA@FLCHILDREN.org

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

FL Coalition for Children

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19

Meeting Date

SB 354

Bill Number (if applicable)

Topic

Foster Care ELC Funding

Name

Cathy Marcus

Amendment Barcode (if applicable)

Job Title

Program Director Foster Family Support

Address

700 W. 23<sup>rd</sup> St Bldg N

Phone

850-819-7902

Street

PC

FL

32404

Email

charcus@mccares.org

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

BBCBC/LMC

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the...

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19 Meeting Date

SB 354 Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Molly Clore

Job Title Foster Family Support Program Manager

Address 1000 W. Tharpe St. Suite 15

Phone 820 591 1923

Tallahassee, FL 32303

Email molly.clore@bigbandcbc.org

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11.5.19

Meeting Date

354

Bill Number (if applicable)

Topic Child Care Subsidies for Foster Children

Amendment Barcode (if applicable)

Name Erin Smeltzer

Job Title

Address 206 B S. Monroe St.

Street

Phone 880.577.1749

Tallahassee FL 32301

City

State

Zip

Email esmeltzer@aefl.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing Association of Early Learning Coalitions

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/2019  
Meeting Date

SB 354  
Bill Number (if applicable)

Topic CHILD CARE SUBSIDIES - FOSTER PARENTS

Amendment Barcode (if applicable)

Name ROY MILLER

Job Title PRESIDENT

Address 111 SOUTH MAGNOLIA #4  
Street

Phone 850-425-2600

TRH FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing THE CHILDREN'S CAMPAIGN

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-5-19

Meeting Date

SB 354

Bill Number (if applicable)

Topic Daycare Subsidy

Amendment Barcode (if applicable)

Name Daniel Burns

Job Title \_\_\_\_\_

Address 5080 Tallow Point Rd.

Phone 850-322-2052

Street

Tallahassee

FL

32304

Email danielrburns@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Tallahassee Area Foster & Adoptive Parent Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 354  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, November 5, 2019  
**TIME:** 2:00—4:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
7	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable    RCS=Replaced by Committee Substitute    TP=Temporarily Postponed    WD=Withdrawn  
 UNF=Unfavorable    RE=Replaced by Engrossed Amendment    VA=Vote After Roll Call    OO=Out of Order  
 -R=Reconsidered    RS=Replaced by Substitute Amendment    VC=Vote Change After Roll Call    AV=Abstain from Voting



**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.)

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

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BILL: SB 364

INTRODUCER: Senator Rader

SUBJECT: Independent Living Task Force

DATE: November 4, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	<b>Favorable</b>
2.			CA	
3.			RC	

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**I. Summary:**

SB 364 creates a 23 member Independent Living Task Force (the task force) within the Florida Housing Finance Corporation (FHFC). The objective of the task force is to develop and evaluate policy proposals that incentivize building contractors and developers to create low-cost, supportive, and affordable housing for individuals who are in need of such housing and who have a developmental disability or a mental illness.

The task force must submit a written report containing findings, conclusions, and recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives, no later than December 1, 2020.

The bill requires the FHFC to use existing resources to administer and support the task force.

The bill provides for dissolution of the task force by January 1, 2021.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**Task Force Requirements under section 20.03, Florida Statutes**

Section 20.03(8), F.S., defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of a task force terminates upon the completion of its assignment.

## Independent Living

The term “independent living” is not defined in Florida Statutes. “Independent living” can refer to when an elderly person still has the physical and mental capacity to live independently but wants companionship or otherwise needs supportive services.<sup>1</sup> It can also encompass a living arrangement for people with disabilities who need supportive services.

In 1988, the Legislature created the Florida Independent Living Council.<sup>2</sup> The council is responsible for, among other things, jointly developing and submitting the state plan for independent living.<sup>3</sup> The council works to ensure that persons with disabilities have an opportunity for input into the development of the State Plan for Independent living and works for systematic change in the areas that are the biggest barriers to people with disabilities participating fully in their communities.<sup>4</sup> The council describes the independent living philosophy as “promot[ing] consumer control of services, self-determination and equal access and participation in every aspect of community life, to the level that individual wishes.”<sup>5</sup>

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.<sup>6</sup> Currently, there are over 200 independent living communities in Florida.<sup>7</sup>

## Florida Housing Finance Corporation

The Florida Housing Finance Corporation, a public corporation administratively housed within the Department of Economic Opportunity (DEO),<sup>8</sup> is the state’s affordable housing finance agency. As such, the corporation is responsible for increasing the amount of affordable housing available to individuals and families by stimulating investment of private capital and encouraging public and private sector housing partnerships. To accomplish this, the corporation uses federal and state resources to finance the development of safe, affordable homes and rental housing and to assist first-time homebuyers.<sup>9</sup>

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<sup>1</sup> According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at <http://www.aplaceformom.com/independent-living/florida> (last visited November 1, 2019).

<sup>2</sup> Chapter 88-214, Laws of Fla.

<sup>3</sup> Section 413.395, F.S.

<sup>4</sup> Floridasilc.org, *About Independent Living*, available at <https://www.floridasilc.org/independent-living/> (last visited November 1, 2019).

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

<sup>6</sup> Senior Living.org, *Selecting an Independent Living Community* (Feb. 14, 2011), available at <http://www.seniorliving.org/lifestyles/independent-living-communities/> (last visited November 1, 2019).

<sup>7</sup> According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at <http://www.aplaceformom.com/independent-living/florida> (last visited November 1, 2019).

<sup>8</sup> Section 420.504(1), F.S.

<sup>9</sup> *See* ss. 420.502 and 420.507, F.S.

## Developmental Disabilities in Florida

Section 393.063(9), F.S., defines developmental disabilities to mean “a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, 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.”

The Florida Developmental Disabilities Council estimates there are approximately 100,000 individuals living in the state who meet the developmental disability criteria.

## Mental Illness and Substance Abuse

Mental health is a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to contribute to his or her community.<sup>10</sup>

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress or impaired functioning.<sup>11</sup> Thus, mental health refers to an individual’s mental state of well-being whereas mental illness signifies an alteration of that well-being.

Mental illness affects millions of people in the United States each year. One in five adults experiences mental illness in a given year,<sup>12</sup> and one in five children ages 13-18 have or will have a serious debilitating mental illness at some point during their life.<sup>13</sup> Half of all lifetime cases of mental illness begin by age 14, and scientists are discovering that changes in the body leading to mental illness may start much younger, before any symptoms appear.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** establishes the Independent Living Task Force within the FHFC for administrative purposes only. The FHFC 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 units within mixed-use developments for individuals who have a developmental disability or a mental illness.

The task force is to be chaired by the executive director of the FHFC, or his or her designee, and composed of 23 members, to include:

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<sup>10</sup> World Health Organization, *Mental Health: Strengthening Our Response*, <https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response> (last visited November 1, 2019).

<sup>11</sup> Id.

<sup>12</sup> National Alliance on Mental Illness, *Mental Health Facts in America*, <http://www.nami.org/NAMI/media/NAMI-Media/Infographics/GeneralMHFacts.pdf> (last visited November 1, 2019).

<sup>13</sup> National Alliance on Mental Illness, *Mental Health Facts: Children & Teens*, <http://www.nami.org/NAMI/media/NAMI-Media/Infographics/Children-MH-Facts-NAMI.pdf> (last visited November 1, 2019).

<sup>14</sup> National Institute of Mental Health, *Children and Mental Health*, <https://www.nimh.nih.gov/health/publications/treatment-of-children-with-mental-illness-fact-sheet/index.shtml> (last visited November 1, 2019).

- The Secretary of the Department of Children Families, or his or her designee;
- The executive director of the Agency for Persons with Disabilities or his or her designee;
- The executive director of the Department of Economic Opportunity, or his or her designee;
- The Secretary of Business and Professional Regulation, or his or her designee;
- The executive director of the Commission for the Transportation Disadvantaged, or his or her designee;
- An individual appointed by the Governor;
- A representative from the Florida Supportive Housing Coalition;
- A representative from the Florida Housing Coalition;
- A representative from the ARC of Florida;
- A representative from the Florida Independent Living Council;
- A representative from the National Alliance on Mental Illness of Florida;
- A representative from the Florida League of Cities;
- A representative from the Florida Association of Counties;
- A representative from the Florida Developmental Disabilities Council;
- A representative from the banking industry who finances mixed-use developments;
- A representative from the Associated Builders and Contractors of Florida;
- A representative from the Florida Association of Rehabilitation Facilities;
- A representative from the Coalition of Affordable Housing Providers;
- A representative from the Association of Florida Community Developers;
- A representative from the Commercial Real Estate Development Association;
- A representative from the Florida Assisted Living Association;
- An attorney who is a member in good standing of the Elder Law Section of the Florida Bar.

Members of the task force shall serve without compensation or reimbursement for per diem or travel expenses. The task force is directed to convene its first meeting by June 1, 2020. 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 bill directs the task force to 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, evaluate policy proposals, and propose funding mechanisms to incentivize building contractors and developers to create low-cost, supportive, and affordable housing units within mixed-use developments for individuals with developmental disabilities or mental illness.

The task force must submit a final report containing its findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2020. The task force must dissolve on or before January 1, 2021.

**Section 2** provides that the bill takes 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 identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The bill provides that the task force members are to serve without compensation and are not entitled to reimbursement for per diem or travel expense. Thus, to the extent travel is required, the members will incur associated costs.

## C. Government Sector Impact:

The DEO anticipates that it will incur a minor amount of travel and other administrative expenses as the FHFC is housed within DEO and it is the agency directed to use existing resources to administer and support the activities of the task force.<sup>15</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>15</sup> Florida Department of Economic Opportunity, Agency Analysis of 2020 Senate Bill 364 (October 7, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs.

**VIII. Statutes Affected:**

This bill creates section 420.5075 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.

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

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By Senator Rader

29-00639-20

2020364\_\_

1                   A bill to be entitled  
2           An act relating to the Independent Living Task Force;  
3           creating s. 420.5075, F.S.; establishing the  
4           Independent Living Task Force within the Florida  
5           Housing Finance Corporation for certain purposes;  
6           requiring the corporation to use existing and  
7           available resources to administer and support the  
8           activities of the task force; providing for duties,  
9           membership, and meetings of the task force; requiring  
10          the members of the task force to serve without  
11          compensation; requiring the task force to submit a  
12          report to the Governor and the Legislature by a  
13          specified date; providing for expiration of specified  
14          provisions on, and the dissolution of the task force  
15          by, a specified date; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19           Section 1. Section 420.5075, Florida Statutes, is created  
20 to read:

21           420.5075 Independent Living Task Force.—

22           (1) The Independent Living Task Force, a task force as  
23 defined in s. 20.03(8), is established within the Florida  
24 Housing Finance Corporation for administrative purposes only.  
25 The corporation shall use existing and available resources to  
26 administer and support the activities of the task force under  
27 this section.

28           (2) The task force shall develop and evaluate policy  
29 proposals that incentivize building contractors and developers

29-00639-20

2020364\_\_

30 to create units within mixed-use developments that may be used  
31 as low-cost, supportive, and affordable housing for individuals  
32 who are in need of such housing and who have a developmental  
33 disability, as defined in s. 393.063, or a mental illness, as  
34 defined in s. 394.455.

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

36 (a) The executive director of the Florida Housing Finance  
37 Corporation or his or her designee, who shall serve as chair of  
38 the task force.

39 (b) The director of the Agency for Persons with  
40 Disabilities or his or her designee.

41 (c) The Secretary of Children and Families or his or her  
42 designee.

43 (d) The executive director of the Department of Economic  
44 Opportunity or his or her designee.

45 (e) The Secretary of Business and Professional Regulation  
46 or his or her designee.

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

49 (g) An individual appointed by the Governor.

50 (h) The following members appointed by the executive  
51 director of the Florida Housing Finance Corporation:

52 1. A representative from the Florida Supportive Housing  
53 Coalition.

54 2. A representative from the Florida Housing Coalition.

55 3. A representative from the Florida Independent Living  
56 Council.

57 4. A representative from the ARC of Florida.

58 5. A representative from the National Alliance on Mental



29-00639-20

2020364\_\_

59 Illness-Florida.

60 6. A representative from the Florida League of Cities.

61 7. A representative from the Florida Association of  
62 Counties.

63 8. A representative from the Association of Florida  
64 Community Developers.

65 9. A representative from the Associated Builders and  
66 Contractors of Florida.

67 10. A representative from the Florida Association of  
68 Rehabilitation Facilities.

69 11. A representative from the Florida Developmental  
70 Disabilities Council.

71 12. A representative from the banking industry who finances  
72 mixed-used developments.

73 13. A representative from the Coalition of Affordable  
74 Housing Providers.

75 14. A representative from the Commercial Real Estate  
76 Development Association.

77 15. A representative from the Florida Assisted Living  
78 Association.

79 16. An attorney who is a member in good standing of the  
80 Elder Law Section of The Florida Bar.

81 (4) Members of the task force shall serve without  
82 compensation and are not entitled to reimbursement for per diem  
83 or travel expenses. The task force shall convene its first  
84 meeting by June 1, 2020, and shall meet as often as necessary to  
85 fulfill its responsibilities under this section. Meetings may be  
86 conducted in person, by teleconference, or by other electronic  
87 means.

29-00639-20

2020364\_\_

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

90 (a) Identify potential barriers and opportunities in  
91 existing policies, rules, or laws to incentivize building  
92 contractors and developers to create low-cost, supportive, and  
93 affordable housing units for individuals with developmental  
94 disabilities or mental illness within mixed-use developments.

95 (b) Recommend modifications to existing policies, rules, or  
96 laws or propose new policies, rules, or laws, such as allowing  
97 greater density, which would allow for the creation of low-cost,  
98 supportive, and affordable housing units for individuals with  
99 developmental disabilities or mental illness within mixed-use  
100 developments.

101 (c) Recommend financial and regulatory incentives to  
102 encourage building contractors and developers to create low-  
103 cost, supportive, and affordable housing units for individuals  
104 with developmental disabilities or mental illness within mixed-  
105 use developments.

106 (d) Propose funding mechanisms for the development and  
107 maintenance of spaces for low-cost, supportive, and affordable  
108 housing units for individuals with developmental disabilities or  
109 mental illness within mixed-use developments.

110 (6) The task force shall submit a report by December 1,  
111 2020, to the Governor, the President of the Senate, and the  
112 Speaker of the House of Representatives which includes its  
113 findings, conclusions, and recommendations.

114 (7) This section expires on, and the task force must  
115 dissolve on or before, January 1, 2021.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19

*Meeting Date*

364

*Bill Number (if applicable)*

Topic Independant Task Force

*Amendment Barcode (if applicable)*

Name Shane Messer

Job Title Government Relations

Address 316 East Park Ave

*Street*

Phone 850-224-6048

Tallahassee

FL

32301

Email shane@floridabha.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Behavioral Health Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19 Meeting Date

364 Bill Number (if applicable)

Topic Independent Living Task Force

Amendment Barcode (if applicable)

Name Tim Parson

Job Title Director of Gov. Relations, Liberty Partners

Address 113 E. College Ave. Street

Phone 850-841-1726

Tallahassee FL 32302 City State Zip

Email t1m@libertypartnersfl.com

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Assisted Living Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-5-19

Meeting Date

SB364

Bill Number (if applicable)

Topic Independent Living Task Force

Amendment Barcode (if applicable)

Name Margaret S. Hooper

Job Title Director of Public Policy Advocacy

Address 124 Marriott Drive #203 Phone 850 488 4180

Street

Tallahassee, FL 32301

City

State

Zip

Email

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19  
Meeting Date

364  
Bill Number (if applicable)

Topic Independent Living Task Force

Amendment Barcode (if applicable)

Name Alisa LaPolta

Job Title Lobbyist

Address PO Box 1344

Phone 850-443-1319

Tallahassee FL 32302  
City State Zip

Email alisa@go topsail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



**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.)

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

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BILL: SPB 7002

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/State Child Abuse Death Review Committee

DATE: November 1, 2019      REVISED: \_\_\_\_\_

---

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Delia _____	Hendon _____	_____	<b>CF Submitted as Comm.Bill/Fav</b>

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**I. Summary:**

SB 7002 amends s. 383.412, F.S., to save from repeal the exemption for certain identifying information held by the State Child Abuse Death Review Committee or a local child abuse death review committee. Current law provides a public record exemption for any information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by and which information is held by the CADR or a local committee. Portions of meetings of the CADR or a local committee at which confidential or exempt information is discussed are exempt from public meeting requirements. The bill removes the scheduled repeal date, resulting in the continuation of the exemption.

The bill is not expected to have a fiscal impact.

The bill takes effect October 1, 2020.

**II. Present Situation:**

**Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>3</sup> The Public Records Act states that

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> Public records laws are found throughout the Florida Statutes.



[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>4</sup>

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.<sup>5</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

Only the Legislature may create an exemption to public records requirements.<sup>10</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>11</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>12</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>13</sup>

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<sup>4</sup> Section 119.01(1), F.S.

<sup>5</sup> *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

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

<sup>12</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>13</sup> FLA. CONST., art. I, s. 24(c)

When creating or expanding a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>14</sup> Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,<sup>16</sup> with specified exceptions.<sup>17</sup> The Act provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>18</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>19</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>20</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>21</sup> or
- It protects trade or business secrets.<sup>22</sup>

The Act also requires specified questions to be considered during the review process.<sup>23</sup> In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

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<sup>14</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>16</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

<sup>17</sup> Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>18</sup> Section 119.15(3), F.S.

<sup>19</sup> Section 119.15(6)(b), F.S.

<sup>20</sup> Section 119.15(6)(b)1., F.S.

<sup>21</sup> Section 119.15(6)(b)2., F.S.

<sup>22</sup> Section 119.15(6)(b)3., F.S.

<sup>23</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>24</sup> If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>25</sup>

### Exemptions Under Review

Current law provides both a public records and a public meetings exemption for the State Child Abuse Death Review Committee and local child abuse death review committees.<sup>26</sup>

Information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by the state committee or a local committee is confidential and exempt from public records requirements.<sup>27</sup> In addition, confidential or exempt information obtained by the state committee or a local committee retains its confidential or exempt status.<sup>28</sup> The state and local committees may share with each other any relevant confidential or exempt information regarding case reviews.<sup>29</sup> Any person who knowingly or willfully violates the public records exemption commits a misdemeanor of the first degree.<sup>30,31</sup> Portions of meetings of the State Child Abuse Death Review Committee or a local committee at which confidential and exempt information is discussed are exempt from public meetings requirements.<sup>32</sup>

Pursuant to the Open Government Sunset Review Act, these exemptions will repeal on October 2, 2020, unless saved from repeal by the Legislature.<sup>33</sup>

The public records exemption was initially enacted by the Legislature in 1999 and amended and reenacted, thereafter in 2005, 2010, and 2015.<sup>34, 35</sup> The stated purpose for the exemption was “to increase the potential for reduced morbidity or mortality of children and reduce the potential for

- 
- Is the record or meeting protected by another exemption?
  - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>24</sup> FLA. CONST. art. I, s. 24(c).

<sup>25</sup> Section 119.15(7), F.S.

<sup>26</sup> Section 383.412, F.S.

<sup>27</sup> Section 383.412(2)(a), F.S.

<sup>28</sup> Section 383.412(2)(b), F.S.

<sup>29</sup> Section 383.412(4), F.S.

<sup>30</sup> Section 383.412(5), F.S.

<sup>31</sup> A misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year and a fine not to exceed \$1,000. *See* 775.082(4)(a) and 775.083(1)(d), F.S.

<sup>32</sup> Section 383.412(3), F.S.

<sup>33</sup> Section 383.412(6), F.S.

<sup>34</sup> *See* Chs. 99-210, 2005-190, 2010-40, and 2015-77, Laws of Florida

<sup>35</sup> The initial act sunset in 2004 when legislation to reenact the exemption failed to pass both chambers of the Legislature. *See* Florida Senate, *Website Archive*, Senate 0462: Relating to Child Fatalities/Pub. Rec./OGSR [http://archive.flsenate.gov/session/index.cfm?BI\\_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2004&billnum=462](http://archive.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2004&billnum=462) (last visited Oct. 31, 2019).

poor outcomes for children, thereby improving the overall quality of life for children.”<sup>36</sup> The Legislature found that the release of sensitive, personal information could hamper open communication and coordination among parties during the death review and that the harm resulting from the release of such information substantially outweighed any public benefit.<sup>37</sup>

### **Senate Review of s. 383.412, F.S.**

In the course of conducting the Open Government Sunset Review of s. 383.412, F.S., the Senate Children, Families, and Elder Affairs Committee Staff met with representatives from the Department of Health (DOH) and the Department of Children and Families (DCF) and conducted surveys of each of the 23 local review committees.

Originally enacted in 1999, the subject exemption was most recently amended in 2015. SB 7032 extended the exemption to cases reviewed by a committee where the death was determined not to be the result of abuse or neglect and limits the exemption for cases involving verified abuse or neglect.<sup>38</sup> The statute was also amended to authorize the release of confidential information to a governmental agency in furtherance of its duties or a person or entity for research or statistical purposes.<sup>39</sup>

DOH and DCF staff stated that the exemptions have been effective and recommended making no changes to the statewide exemption. Similarly, surveys of the 23 local committees showed near unanimous support for keeping the local exemption in place unchanged.<sup>40</sup>

Based upon a review of this public records exemption under the Open Government Sunset Review Act, as well as discussions with and recommendations of DOH and DCF and survey results from the 23 local committees, the professional staff of the Senate Children, Families, and Elder Affairs Committee recommends that the Legislature retain the public records exemption established in s. 383.412, F.S.

### **III. Effect of Proposed Changes:**

The bill is based on an Open Government Sunset Review of public records exemptions for personal identifying information held by DOH and by the local child abuse death review committees.

The bill amends s. 383.412, F.S., to continue the current public records exemption. Records containing the specified personal identifying information will continue to be exempt from public disclosure.

By removing the scheduled repeal of the exemption, the exemption is no longer subject to review under the Open Government Sunset Review Act.

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<sup>36</sup> Ch. 99-210, s. 2, Laws of Fla.

<sup>37</sup> *Id.*

<sup>38</sup> Ch. 2015-77, Laws of Fla.

<sup>39</sup> *Id.*

<sup>40</sup> Summary of 2019 Local Child Abuse Death Review Committee Surveys. On file with the Senate Committee on Children, Families, and Elder Affairs.

The bill takes effect October 1, 2020.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

**Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment. (or if it expands the exemption, it does require an extraordinary vote)

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal identifying information related to the surviving family members in child abuse-related death cases. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 383.412 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.

**FOR CONSIDERATION** By the Committee on Children, Families, and Elder Affairs

586-01016-20

20207002pb

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; amending s. 383.412, F.S., relating  
 4           to an exemption from public records and meeting  
 5           requirements for certain identifying information held  
 6           or discussed by the State Child Abuse Death Review  
 7           Committee or a local committee; removing the scheduled  
 8           repeal of the exemption; providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Subsection (6) of section 383.412, Florida  
 13 Statutes, is amended to read:

14           383.412 Public records and public meetings exemptions.—

15           (1) For purposes of this section, the term "local  
 16 committee" means a local child abuse death review committee or a  
 17 panel or committee assembled by the State Child Abuse Death  
 18 Review Committee or a local child abuse death review committee  
 19 pursuant to s. 383.402.

20           (2) (a) Any information held by the State Child Abuse Death  
 21 Review Committee or a local committee which reveals the identity  
 22 of the surviving siblings of a deceased child whose death  
 23 occurred as the result of a verified report of abuse or neglect  
 24 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
 25 I of the State Constitution.

26           (b) Any information held by the State Child Abuse Death  
 27 Review Committee or a local committee which reveals the identity  
 28 of a deceased child whose death has been reported to the central  
 29 abuse hotline but determined not to be the result of abuse or

586-01016-20

20207002pb

30 neglect, or the identity of the surviving siblings, family  
31 members, or others living in the home of such deceased child, is  
32 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
33 of the State Constitution.

34 (c) Information made confidential or exempt from s.  
35 119.07(1) and s. 24(a), Art. I of the State Constitution which  
36 is obtained by the State Child Abuse Death Review Committee or a  
37 local committee shall retain its confidential or exempt status.

38 (3) (a) Portions of meetings of the State Child Abuse Death  
39 Review Committee or a local committee at which information made  
40 confidential and exempt pursuant to subsection (2) is discussed  
41 are exempt from s. 286.011 and s. 24(b), Art. I of the State  
42 Constitution. The closed portion of a meeting must be recorded,  
43 and no portion of the closed meeting may be off the record. The  
44 recording shall be maintained by the State Child Abuse Death  
45 Review Committee or a local committee.

46 (b) The recording of a closed portion of a meeting is  
47 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
48 Constitution.

49 (4) The State Child Abuse Death Review Committee and local  
50 committees may share information made confidential and exempt by  
51 this section:

52 (a) With each other;

53 (b) With a governmental agency in furtherance of its  
54 duties; or

55 (c) With any person or entity authorized by the Department  
56 of Health to use such relevant information for bona fide  
57 research or statistical purposes. A person or entity who is  
58 authorized to obtain such relevant information for research or



586-01016-20

20207002pb

59 statistical purposes must enter into a privacy and security  
60 agreement with the Department of Health and comply with all laws  
61 and rules governing the use of such records and information for  
62 research or statistical purposes. Anything identifying the  
63 subjects of such relevant information must be treated as  
64 confidential by the person or entity and may not be released in  
65 any form.

66 (5) Any person who knowingly or willfully makes public or  
67 discloses to any unauthorized person any information made  
68 confidential and exempt under this section commits a misdemeanor  
69 of the first degree, punishable as provided in s. 775.082 or s.  
70 775.083.

71 ~~(6) This section is subject to the Open Government Sunset~~  
72 ~~Review Act in accordance with s. 119.15, and shall stand~~  
73 ~~repealed on October 2, 2020, unless reviewed and saved from~~  
74 ~~repeal through reenactment by the Legislature.~~

75 Section 2. This act shall take effect October 1, 2020.

## **2019 Local Child Abuse Death Review Committee Survey Summary**

In the summer of 2019, the professional staff of the Senate Committee on Children, Families, and Elder Affairs, in conjunction with the professional staff of the House Oversight, Transparency, and Public Management Subcommittee, met with staff from the Department of Health and the Department of Children and Families. At issue was the history and continued efficacy of the public records exemptions in section 383.412, Florida Statutes. Following the meeting, a survey for the 23 local child abuse death review committees throughout the state was developed by jointly by staff of the Senate and House committees. All but 3 of the 23 committees recommended keeping the exemptions in place unchanged. Two committees recommended changes which could not be addressed through modifying the public records exemptions, and one did not respond. A copy of the survey is reprinted below.

### **The House Oversight, Transparency & Public Management Subcommittee**

### **The Senate Committee on Children, Families, and Elder Affairs**

**August 2019**

### **Open Government Sunset Review Questionnaire**

**(Child Abuse Death Review Committees)**

**PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 13, 2019, TO BOTH:**

**Frank X. Moehrle Jr.**  
**Attorney**  
**House Oversight, Transparency & Public**  
**Management Subcommittee**  
**Frank.Moehrle@myfloridahouse.gov**  
**Phone: (850) 717-4890**

**Peter Delia**  
**Senior Attorney**  
**Senate Committee on Children, Families,**  
**and Elder Affairs**  
**Delia.Peter@flsenate.gov**  
**Phone: (850) 487-5343**

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Section 383.412, Florida Statutes, provides a public records exemption for certain identifying information held by the State Child Abuse Death Review Committee or a local committee which reveals the identity of the surviving siblings of a deceased child whose death occurred as a result of a verified report of abuse or neglect and the identity of a deceased child whose death has been reported to the central abuse hotline but was determined not to be the result of abuse or neglect or the identity of the surviving siblings, family members, or others living in the home of such deceased child. The portions of meetings held by these committees in which this identifying information is discussed are exempt from

public meeting requirements. The closed portion of the meeting must be recorded and those recordings are exempt from public record requirements. These public record and meeting exemptions stand repealed on October 2, 2020, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of these public record and meeting exemptions, please answer the following questions. A copy of section 383.412, Florida Statutes, is attached for your convenience.

---

**Name of local committee/circuit:**

**Name of person completing the questionnaire:**

**Title of person completing the questionnaire:**

**Telephone number of person completing the questionnaire:**

**E-mail address of person completing the questionnaire:**

**Date that this questionnaire was completed:**

**I. Local Child Abuse Death Review Committee**

1. Please describe the process in which your local child abuse death review committee (CADR) reviews the child death after receiving the case file from the Department of Children and Families (DCF)?
2. Does your local CADR only review verified instances of child abuse death or do you also review cases that are unsubstantiated or have no indicators of child abuse?
3. How does your local CADR interact with the State Committee?
4. What types of information does your local CADR consider in the review of the child abuse death? How does the committee access the information?

5. How often does the local CADR meet annually?
6. Approximately how many child abuse death cases does the local CADR review annually?
7. On average, how long does a child abuse death review take?
8. Does the local CADR distribute child abuse case files and information to committee members? If so, are the documents collected and destroyed after the meeting has concluded?
  - a. Does anyone other than the CADR chair have access to full case files?
  - b. Are case files accessed via the MOVEit database or through some other means?
9. Are local CADR members allowed to take notes during child death reviews? If so, are those notes collected and destroyed after the meeting has concluded?
10. Does your local CADR conduct their own investigations or do they rely solely on information supplied from outside sources? Please explain.
11. Once the review is completed, how does your local CADR share its findings? If you report your findings, is there a deadline to do so?

## **II. Public Record Exemption for Certain Information held by Child Abuse Death Review Committees**

Section 383.412, Florida Statutes, provides a public record exemption for the following information held by any local CADR:

- Any information which reveals the identity of the surviving siblings of a deceased child whose death occurred as the result of a verified report of abuse or neglect; and
- Any information which reveals the identity of a deceased child whose death has been reported to the central abuse hotline but determined not to be the result of abuse or neglect, or the identity of the surviving siblings, family members, or others living in the home of such deceased child.

This information held by a local CADR is confidential and exempt from public record requirements. The local CADRs may share information made confidential and exempt with each other, with a governmental agency in furtherance of its duties, or with any person or entity authorized by the Department of Health to use such relevant information for bona fide research or statistical purposes.

1. What types of records (names, addresses, phone numbers) does your local CADR consider to be identifying information of the deceased child or surviving siblings, family members, or others living in the home of such deceased child?
  - a. Does your local CADR share such identifying information with any other entities?
  - b. Does your local CADR destroy the personal identifying information at some point? If “yes,” when?
2. Has your local CADR received a public record request for the confidential and exempt identifying information of deceased children or their siblings, family members, or others living in the home of such deceased child?
  - a. If “yes,” please describe the types of entities requesting such information, if available, and how many requests were received each year since July 1, 2015.
  - b. If “yes,” was the information released? Please explain.
3. There is a distinction between records that are made “*exempt*” and records that are made “*confidential and exempt*.” A record classified as exempt from public disclosure may be disclosed under certain circumstances. If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated by statute.

The exemption under review provides that such information is confidential and exempt from public record requirements. As such, the confidential and exempt information may only be released as provided in statute. Section 383.412, Florida Statutes, authorizes the release of such information to another governmental entity in the performance of its duties and responsibilities and to any person or entity authorized by the Department of Health (DOH) to use such information for bona fide research or statistical purposes. A person or entity who is authorized to obtain this information must enter into a privacy and security agreement with DOH.

- a. Has your local CADR released confidential and exempt identifying information to another governmental entity or to a person or entity authorized by DOH? Please explain the circumstances surrounding such release of information.
- b. If the information was released to a person or entity authorized by DOH, how did your local CADR know that such person or entity was authorized by DOH?
- c. Are there other entities to which your local CADR believes the information should be released? If “yes,” please list those entities who may need access to such information.

4. Has your local CADR had any difficulties interpreting or applying the public record exemption for identifying information of deceased children and their siblings, family, or others living in the home? Please explain.
5. Does any other state or federal law protect the identifying information held by your local CADR? If “yes”:
  - a. Please provide the specific state or federal citation for each exemption and specify the types of information each state or federal law protects.
  - b. Please explain which exemption your local CADR relies upon when responding to a public record request?
  - c. Can the public record exemption be repealed or merged with the other exemption(s)? Please explain.
6. Has the public record exemption under review ever been the subject of litigation? If “yes,” please explain and provide the appropriate case citations.
7. Which of the following actions does your local CADR recommend the Legislature take (Please select one):
  - Repeal the public records exemption.
  - Reenact the public records exemption as is.
  - Reenact the public records exemption with changes.
8. Please provide a brief explanation of your recommendation in question 7.
9. Has your local CADR received complaints about the public record exemption? If “yes,” please explain.
10. Please provide any additional comments regarding the public record exemption under review.

### **III. Public Meeting Exemption under Review**

Section 383.412, Florida Statutes, provides that portions of meetings of local CADRs in which identifying information of deceased children, their siblings, families or others living in the house are exempt. The closed portion of a meeting must be recorded, and no portion of the closed meeting may be off the record. The recording must be maintained by the CADR.

1. What portions of a local CADR meetings do you consider exempt pursuant to the public meeting exemption under review?
2. Has your local CADR ever kept any portion of a meeting exempt from public meeting requirements under this statute? Please specify the number of such occurrences for each year, beginning in 2015.
3. How does your local CADR keep the portion of the proceeding exempt from public meeting requirements? For instance, does the committee conduct “*open*” and “*closed*” portions of the meeting? If “*closed*” proceedings are conducted, how are those proceedings “*closed*?”
4. Are minutes or other records kept for those portions of the meeting?
5. Has the public meeting exemption under review ever been the subject of litigation? If “*yes*,” please explain and provide the appropriate case citations.
6. Has your local CADR had any difficulties interpreting or applying the public meeting exemption? Please explain.
7. Has the public meeting exemption under review been the subject of litigation? If “*yes*,” please explain and provide the appropriate case citations.
8. Can the information discussed in the exempt portion of a meeting be readily obtained by alternative means? If “*yes*,” how?
9. Does any other state or federal law protect such a portion of a meeting from public disclosure? If “*yes*”:
  - a. Please provide the specific state or federal citation for each exemption.
  - b. Please explain which exemption your local CADR relies upon when closing access to a meeting?
  - c. Can the public meeting exemption under review be repealed or merged with the other exemption(s)? Please explain.

10. Has the public meeting exemption under review ever been the subject of litigation? If “yes,” please explain and provide the appropriate case citations.

11. Which of the following actions does your local CADR recommend the Legislature take (Please select one):

- Repeal the public meeting exemption.
- Reenact the public meeting exemption as is.
- Reenact the public meeting exemption with changes.

12. Please provide a brief explanation of your recommendation in question 11.

13. Has your local CADR received complaints about the public meeting exemption? If “yes,” please explain.

14. Please provide any additional comments regarding the public meeting exemption under review.

#### **IV. Public Record Exemption for Recordings of meetings of Child Abuse Death Review Committees**

Section 383.412, Florida Statutes, provides that the recording of a closed portion of a meeting of a local CADR is exempt from section 119.07(1), Florida Statutes.

1. How long does your local CADR maintain the recording of the closed portion of a meeting?

2. Has your local CADR received a public record request for the exempt recording of the closed portion of a meeting?

- a. If “yes,” please describe the types of entities requesting such information, if available, and how many requests were received each year since July 1, 2015.
- b. If “yes,” was the information released? Please explain.

3. Has your local CADR had any difficulties interpreting or applying the public record exemption for recordings of meetings? Please explain.



4. Does any other state or federal law protect the recordings held by your local CADR? If “yes”:
- Please provide the specific state or federal citation for each exemption and specify the types of information each state or federal law protects.
  - Please explain which exemption your local CADR relies upon when responding to a public record request?
  - Can the public record exemption for the recording of a closed portion of a meeting be repealed or merged with the other exemption(s)? Please explain.
5. Has the public record exemption under review ever been the subject of litigation? If “yes,” please explain and provide the appropriate case citations.
6. Which of the following actions does your local CADR recommend the Legislature take (Please select one):
- Repeal the public records exemption.
  - Reenact the public records exemption as is.
  - Reenact the public records exemption with changes.
7. Please provide a brief explanation of your recommendation in question 6.
8. Has your local CADR received complaints about the public record exemption? If “yes,” please explain.
9. Please provide any additional comments regarding the public record exemption under review.

## **Public Record and Meeting Exemption under Review**

### **383.412 Public records and public meetings exemptions.—**

(1) For purposes of this section, the term “local committee” means a local child abuse death review committee or a panel or committee assembled by the State Child Abuse Death Review Committee or a local child abuse death review committee pursuant to s. 383.402.

(2)(a) Any information held by the State Child Abuse Death Review Committee or a local committee which reveals the identity of the surviving siblings of a deceased child whose death occurred as the result of a verified report of abuse or neglect is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Any information held by the State Child Abuse Death Review Committee or a local committee which reveals the identity of a deceased child whose death has been reported to the central abuse hotline but determined not to be the result of abuse or neglect, or the identity of the surviving siblings, family members, or others living in the home of such deceased child, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Information made confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution which is obtained by the State Child Abuse Death Review Committee or a local committee shall retain its confidential or exempt status.

(3)(a) Portions of meetings of the State Child Abuse Death Review Committee or a local committee at which information made confidential and exempt pursuant to subsection (2) is discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. The closed portion of a meeting must be recorded, and no portion of the closed meeting may be off the record. The recording shall be maintained by the State Child Abuse Death Review Committee or a local committee.

(b) The recording of a closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(4) The State Child Abuse Death Review Committee and local committees may share information made confidential and exempt by this section:

(a) With each other;

(b) With a governmental agency in furtherance of its duties; or

(c) With any person or entity authorized by the Department of Health to use such relevant information for bona fide research or statistical purposes. A person or entity who is authorized to obtain such relevant information for research or statistical purposes must enter into a privacy and security agreement with the Department of Health and comply with all laws and rules governing the use of such records and information for research or statistical purposes. Anything identifying the subjects of such relevant information must be treated as confidential by the person or entity and may not be released in any form.

(5) Any person who knowingly or willfully makes public or discloses to any unauthorized person any information made confidential and exempt under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

**History.**—s. 1, ch. 2005-190; s. 95, ch. 2008-4; s. 1, ch. 2010-40; s. 1, ch. 2015-77.



**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SPB 7002  
**FINAL ACTION:** Submitted and Reported Favorably as Committee Bill  
**MEETING DATE:** Tuesday, November 5, 2019  
**TIME:** 2:00—4:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
7	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**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.)

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

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**BILL:** CS/SB 124

**INTRODUCER:** Children, Families, and Elder Affairs Committee and Senator Bean

**SUBJECT:** Custody of Minor Children by Extended Family

**DATE:** November 6, 2019      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 124 grants courts more authority and flexibility in establishing and terminating orders granting “temporary” or “concurrent” custody of a child to an extended family member. As under current law, custody of a child by his or her relative for an indefinite period is considered “temporary” if it excludes the parents, and as “concurrent” if shared with the parents.

The bill requires a relative or fictive kin to include his or her petition for concurrent custody “[a]ny other request related to the protection of the welfare of the child, including provisions for transitioning custody or a plan for visitation.” And in an order granting concurrent custody, the bill authorizes a court to include conditions agreed to by the parties.

Later, when a parent makes a motion to terminate concurrent custody, the court may decline the parent’s request to terminate the order if the parent has failed to meet the conditions and does not demonstrate that the failure does not endanger the welfare of the child.

Regarding an order for *temporary* custody, if it is based on the unfitness or absence of the parents, the court may establish conditions that the parents must meet before the court deems them fit and thus able to regain custody of their child.

Additionally, the bill requires courts to establish any conditions for the transition of the child to the parents’ custody which are in the child’s best interest.

The bill is not expected to have a fiscal impact and has an effective date of July 1, 2020.

## II. Present Situation:

### The Concept of Temporary or Concurrent Custody of a Child

Under ch. 751, F.S., a child's extended family member may obtain a court order granting him or her custody of the child for an indefinite period of time. This custody may be exclusive of, or concurrent with, the parent's custody. Custody that is exclusive of the parent's custody is referred to in the statutes as "temporary," and custody that is shared by the relative and the parent is "concurrent." Nonetheless, both are indefinite and tend to be temporary.

This system differs from "dependency," provided in ch. 39, F.S., in that it pertains to *non-dependent* children.

### Petition for Temporary or Concurrent Custody

To obtain a court order granting temporary or custody of a child, an extended family member of the child must file a petition for temporary or concurrent custody.<sup>1</sup> In either type of petition, the petitioner must state several things to the court, to the best of his or her knowledge, including the places where the child has lived during the past 5 years, information about other custody proceedings involving the child, the petitioner's relationship to the child, and that it is in the child's best interest for petitioner to have custody.<sup>2</sup>

In a petition for concurrent custody, the petitioner must also state:

- The time periods during the last 12 months that the child resided with the petitioner;
- The type of document, if any, provided by the parent or parents to enable the petitioner to act on behalf of the child;
- The services or actions that the petitioner is unable to obtain or undertake without an order of custody; and
- Whether each parent has consented in writing to the entry of an order of concurrent custody.<sup>3</sup>

In a petition for temporary custody, the petitioner must also state that the parents consent or the petitioner must state "the specific acts or omissions of the parents which demonstrate that the parents have abused, abandoned, or neglected the child" as defined in the dependency statutes.<sup>4</sup>

### Hearing on the Petition for Temporary or Concurrent Custody

The court will then hold a hearing on the petition. At the hearing, the court must hear the evidence concerning the child's need for care by the petitioner, as well as the objection and other testimony of either parent, if present.<sup>5</sup> The court must grant the petition if it is in the best

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<sup>1</sup> See s. 751.03, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 751.03(8), F.S.

<sup>4</sup> Section 751.03(9), F.S.

<sup>5</sup> Section 751.05(1), F.S.

interests of the child and the parents do not object.<sup>6</sup> However, if at least one parent objects the court must proceed in different ways depending on the type of petition.

If at least one parent objects to a petition for concurrent custody, the court must deny the petition and give the petitioner the option of converting the petition to one for temporary custody.<sup>7</sup> If the petitioner exercises this option, the converted petition will be heard at a later date.<sup>8</sup>

If at least one of the child's parents objects to a petition for temporary custody, the court must grant the petition only if it finds, based on clear and convincing evidence, that the parents are unfit to provide for the care and control of the child.<sup>9</sup> "In determining that a parent is unfit, the court must find that the parent has abused, abandoned, or neglected the child," as defined in the dependency statutes.<sup>10</sup>

### **Order Granting Temporary or Concurrent Custody**

#### ***Order Granting Temporary Custody***

In an order granting temporary custody, the statutes authorize a court to grant visitation rights to a child's parent or parents, if it is in the best interest of the child.<sup>11</sup> The statutes do not expressly authorize the court to state what parents who have been found unfit must do later to prove their fitness, and thus regain the custody of their child.

#### ***Order Granting Concurrent Custody***

The order granting concurrent custody may not eliminate or diminish the custodial rights of the child's parent or parents.<sup>12</sup> In fact, the order must expressly state that the grant of custody does not affect the ability of the child's parent or parents to obtain physical custody of the child at any time.<sup>13, 14</sup>

### **Terminating Temporary or Concurrent Custody**

#### ***Terminating Temporary Custody***

After the entry of the order granting temporary custody, either parent may petition the court to modify or terminate the order.<sup>15</sup> The court must grant the order upon a finding that the petitioning parent is fit, or upon consent of the relative that took custody of the child.<sup>16</sup>

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<sup>6</sup> Section 751.05(2), F.S.

<sup>7</sup> Section 751.05(3)(a), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 751.05(3)(b), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 751.05(2), F.S.

<sup>12</sup> Section 751.05(4)(a), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> An order granting temporary or concurrent custody may require a parent to pay child support to the relative if the parent was served with process, the petition requests the court to child support, and there is evidence of the parent's ability to pay. However, the court may order the redirection of all or part of an existing child support payment to be paid to the relative who is being granted temporary or concurrent custody. Section 751.05(5), F.S.

<sup>15</sup> Section 751.05(6), F.S.

<sup>16</sup> Section 751.05(6), F.S.

If a court terminates temporary custody, the child might immediately return to his or her parent's custody, and nothing in statute precludes a parent from restricting contact between the child and the relative, regardless of how long the temporary custody lasted.

### *Terminating Concurrent Custody*

The petitioner or either parent may make a motion to terminate concurrent custody at any time.<sup>17</sup> The court must terminate concurrent custody on a parent's request.<sup>18</sup>

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 751.01, F.S., to add protecting the welfare of children by providing for transitions of custody that are in the best interest of the child to the purpose of Chapter 751, Florida Statutes.

**Section 2** amends s. 751.011, F.S., to add fictive kin to the definition of extended family member which will give parents more options for temporary or concurrent custody. "Fictive kin" includes individuals who are unrelated to a child by birth, marriage, or adoption who have an emotionally significant relationship, which possesses the characteristics of a family relationship, to a child.

**Section 3** amends s. 751.02, F.S., to allow families to file a petition for temporary or concurrent custody if the extended family member has physical custody or had custody for 10 days in any 30 day period with the last 12 months instead of requiring both.

**Section 4** amends s. 751.03, F.S., to require that a petition for temporary or concurrent custody must include provisions related to the best interest of the child requested by the parties including, but not limited to, a plan for the transition of custody.

**Section 5** amends s. 751.05, F.S., to authorize the court to approve provisions requested in a petition for either concurrent custody that are requested by a party. When terminating an order for temporary custody, the court may require parties to comply with provisions in the order that are related to the best interest of the child.

The bill grants courts more authority and flexibility in establishing and terminating orders granting temporary or concurrent custody of a child to an extended family member. If an order for temporary custody is based on the unfitness or absence of the parents, the court may establish conditions that the parents must meet before the court deems them fit, and thus able to retake custody of their child.

Additionally, the bill requires courts to establish any conditions for the transition of the child to the parents' custody.

**Section 6** provides an effective date of July 1, 2020.

---

<sup>17</sup> Section 751.05(7), F.S.

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



**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:**

The ability of an extended family member to obtain custody of a child in proceedings under ch. 751, F.S., are contingent on a parent's consent or lack of objection or a finding that a parent is unfit. If the bill can be construed to allow an extended family member to retain visitation rights or custody during a transitional period over the objection of a fit parent, the bill may implicate the parent's privacy rights.

In court opinions addressing the right of a nonparent or grandparent to have custody of or visitation with a child, courts have held that a nonparent may have custody of or visitation with a child in very limited circumstances:

Florida's constitutional right to privacy recognizes the zone of autonomy around a nuclear family into which a judge, legislator, or official, no matter how well intentioned, simply cannot go. This zone protects "the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *D.M.T. v. T.M.H.*, 129 So.3d 320, 336 (Fla. 2013) (citing *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972)). The only exception occurs if one of the members of the family is at risk of significant harm. In this regard, the Florida Supreme Court has held that "[n]either the legislature nor the courts may properly intervene in parental decision making absent significant harm to the child threatened by or resulting from those decisions." *Von Eiff*, 720 So.2d at 514. Under these principles, it is violation of a parent's right to privacy for the legislature to confer on non-parents, even biological relatives such as grandparents, the right to visit minor children against the parents will. *See Beagle v. Beagle*, 678 So.2d 1271, 1277 (Fla. 1996) (holding that the State cannot impose grandparent

visitation upon a minor child “without first demonstrating a harm to the child”).<sup>19</sup>

Moreover, the courts have held that the removal of a beneficial relationship with a grandparent or other person who acted like a parent is not the type of harm necessary to grant custody to or visitation with a nonparent.<sup>20</sup>

Because child custody awards under ch. 751, F.S., often involve the consent of or lack of objection to custody by a parent at the outset of the proceedings, the provisions of the bill may be distinguishable from the court opinions in which a parent objected to child custody at the outset of legal proceedings. Whether these differences are sufficient to survive a challenge based on the privacy rights of a fit parent is not clear.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>19</sup> *De Los Milagros Castellat v. Pereira*, 225 So. 3d 368, 370-371 (Fla. 3d DCA 2017).

<sup>20</sup> *Id.* at 372. The *Pereira* court explained that the removal of a beneficial relationship does not constitute sufficient harm to interfere with a parent’s authority over a child as follows:

As our Supreme Court has held, “[t]here may be many beneficial relationships for a child, but it is not for the government to decide with whom the child builds these relationships. This concept implicates the very core of our constitutional freedoms and embodies the essence of Florida’s constitutional right to privacy.” *Von Eiff*, 720 So.2d at 516. The child’s life may well be enhanced by the additional financial, social, spiritual, and emotional support the former partner might provide. But whether the benefits of such support, from a former partner who is neither the biological or legal parent, outweigh possible detriments lies in the hands of the birth mother: the State of Florida cannot wrest that choice from her.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 751.01, 751.011, 751.02, 751.03, and 751.05.

**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 on November 5, 2019:**

- Expands the definition of the term “extended family member” to include “fictive kin” as defined in Chapter 39, Florida Statutes.
- Revises the standard for transitions of custody from considering the child’s developmental stage and psychological needs to best interests which is the standard for other determinations in Chapter 751, Florida Statutes.
- Clarifies that any conditions related to the best interests of the child to be included in an order will be requested by the parties in the petition.

**B. Amendments:**

None.



692654

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/05/2019	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (4) is added to section 751.01,  
Florida Statutes, to read:

751.01 Purpose of act.—The purposes of this chapter are to:

(4) Protect the welfare of minor children by allowing  
transitions of custody consistent with their best interest.

Section 2. Section 751.011, Florida Statutes, is amended to



692654

11 read:

12 751.011 Definitions.—As used in this chapter, the term:

13 (1) "Concurrent custody" means that an eligible extended  
14 family member is awarded custodial rights to care for a child  
15 concurrently with the child's parent or parents.

16 (2) "Extended family member" means a person who is:

17 (a) A relative of a minor child within the third degree by  
18 blood or marriage to the parent; ~~or~~

19 (b) The stepparent of a minor child if the stepparent is  
20 currently married to the parent of the child and is not a party  
21 in a pending dissolution, separate maintenance, domestic  
22 violence, or other civil or criminal proceeding in any court of  
23 competent jurisdiction involving one or both of the child's  
24 parents as an adverse party; or

25 (c) An individual who qualifies as "fictive kin" as defined  
26 in s. 39.01.

27 Section 3. Subsection (2) of section 751.02, Florida  
28 Statutes, is amended to read

29 751.02 Temporary or concurrent custody proceedings;  
30 jurisdiction.—

31 (2) In addition to the requirements of subsection (1), an  
32 individual seeking concurrent custody must:

33 (a) Currently have physical custody of the child or ~~and~~  
34 have had physical custody of the child for at least 10 days in  
35 any 30-day period within the last 12 months; and

36 (b) Not have signed, written documentation from a parent  
37 which is sufficient to enable the custodian to do all of the  
38 things necessary to care for the child which are available to  
39 custodians who have an order issued under s. 751.05.



692654

40 Section 4. Subsection (13) of section 751.03, Florida  
41 Statutes, is amended, and subsection (14) is added to that  
42 section, to read:

43 751.03 Petition for temporary or concurrent custody;  
44 contents.—Each petition for temporary or concurrent custody of a  
45 minor child must be verified by the petitioner, who must be an  
46 extended family member, and must contain statements, to the best  
47 of the petitioner's knowledge and belief, providing:

48 (13) ~~A statement of~~ The period of time for which the  
49 petitioner is requesting temporary custody, including a  
50 statement of the reasons supporting that request.

51 (14) Any other provisions that are related to the best  
52 interest of the child which have been requested by the parties,  
53 including, but not limited to, a plan for transitioning custody.

54 Section 5. Subsections (4), (6), and (7) of section 751.05,  
55 Florida Statutes, are amended to read:

56 751.05 Order granting temporary or concurrent custody.—

57 (4) The order granting:

58 (a) Concurrent custody of the minor child may not eliminate  
59 or diminish the custodial rights of the child's parent or  
60 parents. The order must expressly state that the grant of  
61 custody does not affect the ability of the child's parent or  
62 parents to obtain physical custody of the child at any time,  
63 except that the court may approve provisions requested in the  
64 petition which are related to the best interest of the child.

65 (b) Temporary custody of the minor child to the petitioner  
66 may include provisions requested in the petition which are  
67 related to the best interest of the child and may also grant  
68 visitation rights to the child's parent or parents, if it is in



692654

69 the best interest of the child.

70 (6) At any time, either or both of the child's parents may  
71 petition the court to modify or terminate the order granting  
72 temporary custody. The court shall terminate the order upon a  
73 finding that the parent is a fit parent, or by consent of the  
74 parties, except that the court may require the parties to comply  
75 with provisions approved in the order which are related to the  
76 best interest of the child. The court may modify an order  
77 granting temporary custody if the parties consent or if  
78 modification is in the best interest of the child.

79 (7) At any time, the petitioner or either or both of the  
80 child's parents may move the court to terminate the order  
81 granting concurrent custody.

82 (a) The court shall terminate the order upon a finding that  
83 either or both of the child's parents object to the order,  
84 except that the court may require the parties to comply with  
85 provisions approved in the order which are related to the best  
86 interest of the child.

87 (b) The fact that an order for concurrent custody has been  
88 terminated does not preclude any person who is otherwise  
89 eligible to petition for temporary custody from filing such  
90 petition.

91 Section 6. This act shall take effect July 1, 2020.

92  
93 ===== T I T L E A M E N D M E N T =====

94 And the title is amended as follows:

95 Delete everything before the enacting clause  
96 and insert:

97 A bill to be entitled



692654

98 An act relating to custody of minor children by  
99 extended family; amending s. 751.01, F.S.; revising  
100 the purposes of ch. 751, F.S.; amending s. 751.011,  
101 F.S.; revising the definition of the term "extended  
102 family member"; amending s. 751.02, F.S.; revising the  
103 requirements for individuals seeking concurrent  
104 custody; amending s. 751.03, F.S.; allowing any other  
105 provisions related to the best interest of the child  
106 to be considered in a petition for temporary or  
107 concurrent custody; amending s. 751.05, F.S.;  
108 authorizing courts to include provisions requested in  
109 petitions for temporary or concurrent custody which  
110 relate to the best interest of the child; authorizing  
111 courts to require parties to comply with provisions  
112 approved in the order which relate to the best  
113 interest of the child; providing an effective date.



By Senator Bean

4-00064-20

2020124\_\_

1                   A bill to be entitled  
2           An act relating to custody of minor children by  
3           extended family; amending s. 751.01, F.S.; revising  
4           the purposes of ch. 751, F.S.; amending s. 751.03,  
5           F.S.; providing that a petition for concurrent custody  
6           may include certain requests; amending s. 751.05,  
7           F.S.; providing requirements for orders granting  
8           concurrent or temporary custody; requiring the court  
9           to establish any conditions for the transition of  
10          custody of the child to the parent which are in the  
11          child's best interest, under certain circumstances;  
12          requiring the court to consider specified factors;  
13          authorizing the court to require parties to comply  
14          with conditions agreed to by the parties in the order  
15          granting concurrent custody or to demonstrate that  
16          failure to comply does not endanger the welfare of the  
17          child; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21           Section 1. Subsection (4) is added to section 751.01,  
22 Florida Statutes, to read:

23           751.01 Purpose of act.—The purposes of this chapter are to:  
24           (4) Protect the welfare of minor children by providing for  
25           transitions of custody that consider each child's developmental  
26           stage and psychological needs.

27           Section 2. Subsection (8) of section 751.03, Florida  
28 Statutes, is amended to read:

29           751.03 Petition for temporary or concurrent custody;

4-00064-20

2020124\_\_

30 contents.—Each petition for temporary or concurrent custody of a  
31 minor child must be verified by the petitioner, who must be an  
32 extended family member, and must contain statements, to the best  
33 of the petitioner's knowledge and belief, providing:

34 (8) If concurrent custody is being requested:

35 (a) The ~~time~~ periods during the last 12 months that the  
36 child resided with the petitioner;

37 (b) The type of document, if any, provided by the parent or  
38 parents to enable the petitioner to act on behalf of the child;

39 (c) The services or actions that the petitioner is unable  
40 to obtain or undertake without an order of custody; ~~and~~

41 (d) Whether each parent has consented in writing to the  
42 entry of an order of concurrent custody; and

43 (e) Any other request related to the protection of the  
44 welfare of the child, including provisions for transitioning  
45 custody or a plan for visitation.

46  
47 A copy of the written consent and any documents provided by the  
48 parent to assist the petitioner in obtaining services must be  
49 attached to the petition.

50 Section 3. Subsections (4), (6), and (7) of section 751.05,  
51 Florida Statutes, are amended to read:

52 751.05 Order granting temporary or concurrent custody.—

53 (4) The order granting:

54 (a) Concurrent custody of the minor child may not eliminate  
55 or diminish the custodial rights of the child's parent or  
56 parents, except that the court may approve and enforce any  
57 conditions agreed to by the parties as part of the court order.

58 The order must expressly state that the grant of custody does

4-00064-20

2020124\_\_

59 not affect the ability of the child's parent or parents to  
60 obtain physical custody of the child at any time, unless the  
61 parent or parents agreed to such a condition and it was included  
62 in the order.

63 (b) Temporary custody of the minor child to the petitioner  
64 may establish conditions to demonstrate that either parent's or  
65 both parents' fitness be satisfied before the child may be  
66 returned to the physical custody of the parent or parents and  
67 may also grant visitation rights to the child's parent or  
68 parents, if it is in the best interest of the child.

69 (6) At any time, either or both of the child's parents may  
70 petition the court to modify or terminate the order granting  
71 temporary custody.

72 (a) The court shall terminate the order upon a finding that  
73 the parent is a fit parent, or by consent of the parties. If the  
74 child has been in the temporary custody of an extended family  
75 member for 6 months or longer, the court must establish any  
76 conditions for the transition of the child to the parent's or  
77 parents' custody which are in the best interest of the child,  
78 considering the length of time the child lived with the extended  
79 family member, the child's developmental stage and psychological  
80 needs, the need for a gradual transition from one setting to  
81 another, and visitation with the extended family member.

82 (b) The court may modify an order granting temporary  
83 custody if the parties consent or if modification is in the best  
84 interest of the child.

85 (7) At any time, the petitioner or either or both of the  
86 child's parents may move the court to terminate the order  
87 granting concurrent custody.

4-00064-20

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88           (a) The court shall terminate the order upon a finding that  
89 either or both of the child's parents object to the order,  
90 except that if the order granting concurrent custody contains  
91 conditions agreed to by the parties, the court may require the  
92 parties to comply with such conditions or demonstrate that the  
93 failure to comply does not endanger the welfare of the child  
94 before allowing either or both parents to regain physical  
95 custody.

96           (b) The fact that an order for concurrent custody has been  
97 terminated does not preclude any person who is otherwise  
98 eligible to petition for temporary custody from filing such  
99 petition.

100           Section 4. This act shall take effect July 1, 2020.

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/5/19

Meeting Date

124

Bill Number (if applicable)

Topic Custody of Minor Children by Extended Family

Amendment Barcode (if applicable)

Name Alan Abramowitz

Job Title Executive Director

Address 600 Calhoun Ave.

Phone 850.241.3232

Street

Tallahassee

Fl

32399

Email alan.abramowitz@gal.fl.gov

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Statewide Guardian ad Litem Program

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 124  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, November 5, 2019  
**TIME:** 2:00—4:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS	11/05/2019 1 Amendment 692654 Bean		Yea	Nay	Yea	Nay
Yea	Nay		Yea	Nay				
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
7	0							
Yea	Nay	<b>TOTALS</b>	RCS	-				
			Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**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.)

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

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BILL: SB 400

INTRODUCER: Senator Gibson

SUBJECT: Elder Abuse Fatality Review Teams

DATE: November 1, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	<b>Favorable</b>
2.	_____	_____	JU	_____
3.	_____	_____	AP	_____

---

**I. Summary:**

SB 400 authorizes elder abuse fatality review teams, composed of volunteer members, in each of the 20 judicial circuits. The teams would review closed cases of fatal incidents of elder abuse and make policy and other recommendations to help prevent future incidents of elder abuse-related fatalities. The review teams are housed within the Department of Elder Affairs (DOEA) for administrative purposes only. The DOEA must submit a report, annually by November 1, that summarizes the findings and recommendations of the review teams to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

The bill is likely to have an insignificant fiscal impact.

The bill takes effect July 1, 2020.

**II. Present Situation:**

The Adult Protective Services Act, chapter 415, F.S., charges the Department of Children and Families (DCF), to investigate reports of abuse or exploitation of a vulnerable adult or elderly person. The mandatory reporting requirement of persons who are required to investigate reports of abuse, neglect, or exploitation also extends to deaths due to alleged abuse or neglect.<sup>1</sup>

**Florida Abuse Hotline and Investigations**

The Florida Abuse Hotline, administered by the DCF, screens allegations of adult abuse and neglect to determine if the allegations meet the criteria for an abuse report. If the allegations meet the criteria, a protective investigation is initiated to confirm whether the evidence

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<sup>1</sup> Section 415.1034, F.S.

substantiates that abuse has occurred, whether the situation presents an immediate or long-term risk to the victim, and whether the victim needs additional services for protection.<sup>2</sup>

Section 415.1034, F.S., requires any person who knows or has reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited to report to the central abuse hotline. Additionally, if DCF investigates elder abuse, neglect, or exploitation and has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation, they must immediately report the suspicion to the appropriate medical examiner, the appropriate criminal justice agency.<sup>3</sup>

The DCF is required, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, to begin within 24 hours a protective investigation of the matter.<sup>4</sup> For each report it receives, the DCF must perform an onsite investigation to determine, among other things, if the person meets the definition of a vulnerable adult and, if so, if the person is in need of services; whether there is an indication that the vulnerable adult was abused, neglected, or exploited; and if protective, treatment, and ameliorative services are necessary to safeguard and ensure the vulnerable adult's well-being.<sup>5</sup>

### **Adult Protection Teams**

Section 415.1102, F.S., authorizes the DCF to develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of its regions. A "multidisciplinary adult protection team" is defined as a team of two or more persons trained in the prevention, identification, and treatment of abuse of elderly persons.<sup>6</sup> The multidisciplinary teams may be composed of, but are not limited to, psychiatrists, psychologists, or other trained counseling personnel; law enforcement officers; medical personal with experience or training to provide health services; social workers who have experience or training in the prevention of abuse of the elderly or dependent persons; and public and professional guardians.<sup>7</sup> The multidisciplinary team is convened to supplement the protective services activities of the Adult Protective Services program of the DCF.<sup>8</sup>

### **Records Access**

Section 415.107(3), F.S., enumerates persons and entities that may have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S. The identity of any person reporting abuse, neglect, or exploitation of a vulnerable person shall not be released to these persons and entities.

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<sup>2</sup> See s. 415.103, F.S. and Florida Department of Children and Families; Protecting Vulnerable Adults, *available at*: <https://www.myflfamilies.com/service-programs/adult-protective-services/protecting-vulnerable-adults.shtml> (last visited October 29, 2019).

<sup>3</sup> Section 415.1034(2), F.S.

<sup>4</sup> Section 415.104(1), F.S.

<sup>5</sup> Section 415.104(3), F.S.

<sup>6</sup> Section 415.1102(1), F.S.

<sup>7</sup> Section 415.1102(2), F.S.

<sup>8</sup> Section 415.1102(3), F.S.



### **III. Effect of Proposed Changes:**

#### **Elder Abuse Fatality Review Teams**

##### *Creation*

The bill creates s. 415.1103, F.S., to authorize the establishment of an elder abuse fatality review team, made up of volunteers, in each of the 20 judicial circuits. The teams are authorized to review fatal incidents of abuse, neglect, or violence against the elderly. The review teams may be initiated by the local state attorney and are housed within the Department of Elder Affairs for administrative purposes only. At the initial meeting the members must choose two co-chairs and must establish a schedule for future meetings. The review team must meet at least once during each fiscal year.

##### *Composition*

Each review team is composed of volunteers from numerous state and local agencies as well as community partners.<sup>9</sup> Each volunteer serves without compensation for a two-year term and the co-chairs will determine the team's staggered terms. Members may not be reimbursed for per diem or travel expenses. Any extraneous administrative costs incurred by the review team must be borne by the team members themselves or the entities that they represent.

##### *Operations*

Each team will determine how it operates and the process to select cases. The cases, however, must be limited to closed cases in which an elderly person's death is found to have been caused by or related to abuse or neglect in order to avoid interference with an ongoing criminal investigation or prosecution. All information that would identify the person must be redacted in the documents that the team reviews.

##### *Responsibilities*

The elder abuse fatality team must:

- Review deaths of elderly people in its judicial circuit that were found to have been caused by, or related to, abuse or neglect;
- Consider events leading up to the fatal incident, available resources, current law and policies, and the actions taken by systems and individuals related to the fatal incident;
- Identify potential gaps and deficiencies in the delivery of services by agencies which may be related to the deaths;
- Develop communitywide approaches to address causes and contributing factors related to deaths reviewed by the team; and

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<sup>9</sup> The bill provides for membership to include, but not be limited to, the following or their representatives: law enforcement agencies; the state attorney; the medical examiner; a county court judge; adult protective services; area agency on aging; the State Long-Term Care Ombudsman Program; the Agency for Health Care Administration; the Office of the Attorney General; the Office of State Courts Administrator; the clerk of the court; a victim services program; an elder law attorney; emergency services personnel; a certified domestic violence center; an advocacy organization for victims of sexual violence; a funeral home director; a forensic pathologist; a geriatrician; a geriatric nurse; a geriatric psychiatrist or other individual licensed to offer behavioral health services; a hospital discharge planner; a public guardian; and other persons with relevant expertise who are recommended by the review team.

- Develop recommendations and possible changes in law and policies to support the care of the elderly and prevent elder abuse deaths.

### ***Prohibited Contact***

Team members are prohibited from directly contacting someone in the deceased person's family as part of the review unless the team member is authorized to do so in the course of his or her employment duties. However, nothing in the bill prohibits a family member from voluntarily providing information or records to the review team.

### ***Reporting Requirements***

Each team is required to submit its findings and recommendations to the DOEA annually by September 1. The report may include descriptive statistics, current policies that contribute to the incidence of elder abuse and deaths with recommendation for improvements, and any other recommendations to prevent deaths from elder abuse or neglect.

Additionally, by November 1 of each year, the DOEA must prepare a summary report of the information provided by the review teams, and submit the report to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

### ***Protection from Liability for Team Members***

Unless a team member acts in bad faith with wanton and willful disregard of human rights, safety, or property, he or she is not liable financially or subject to a cause of action for damages due to the performance of duties as a review team member with regard to any discussions, deliberations, or recommendations of the team or the member.

The bill takes effect July 1, 2020.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

### **B. Public Records/Open Meetings Issues:**

The information received by the elder abuse fatality review teams would be from closed cases and therefore previously redacted; all information received by the teams is public record subject to copying and inspection.

### **C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The elder abuse fatality review teams are volunteers that serve without compensation or reimbursement. The fiscal impact of the bill appears to be insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates section 415.1103 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.

By Senator Gibson

6-00142-20

2020400\_\_

1                   A bill to be entitled  
2       An act relating to elder abuse fatality review teams;  
3       creating s. 415.1103, F.S.; authorizing the  
4       establishment of elder abuse fatality review teams in  
5       each judicial circuit, to be housed, for  
6       administrative purposes only, in the Department of  
7       Elderly Affairs; providing conditions for review team  
8       membership, establishment, and organization;  
9       specifying requirements for a review team's operations  
10      and meeting schedules; requiring that the  
11      administrative costs of operating a review team be  
12      paid by team members or the entities they represent;  
13      authorizing elder abuse fatality review teams in  
14      existence on a certain date to continue to exist;  
15      requiring such existing teams to comply with specified  
16      requirements; specifying review team duties; requiring  
17      each review team to annually submit to the department  
18      by a certain date a summary report containing  
19      specified information; requiring the department to  
20      annually prepare a summary report based on the review  
21      teams' information and submit such report to the  
22      Governor, the Legislature, and the Department of  
23      Children and Families; providing immunity from  
24      monetary liability for review team members under  
25      certain conditions; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29       Section 1. Section 415.1103, Florida Statutes, is created

6-00142-20

2020400\_\_

30 to read:

31 415.1103 Elder abuse fatality review teams.-

32 (1) (a) An elder abuse fatality review team may be  
33 established in each judicial circuit to review deaths of elderly  
34 persons found to have been caused by, or related to, abuse or  
35 neglect. The review teams shall be housed, for administrative  
36 purposes only, in the Department of Elderly Affairs.

37 (b) An elder abuse fatality review team may include, but is  
38 not limited to, representatives from any of the following  
39 entities in the review team's judicial circuit:

40 1. Law enforcement agencies.

41 2. The state attorney.

42 3. The medical examiner.

43 4. A county court judge.

44 5. Adult protective services.

45 6. The area agency on aging.

46 7. The State Long-Term Care Ombudsman Program.

47 8. The Agency for Health Care Administration.

48 9. The Office of the Attorney General.

49 10. The Office of the State Courts Administrator.

50 11. The clerk of the court.

51 12. A victim services program.

52 13. An elder law attorney.

53 14. Emergency services personnel.

54 15. A certified domestic violence center.

55 16. An advocacy organization for victims of sexual  
56 violence.

57 17. A funeral home director.

58 18. A forensic pathologist.

6-00142-20

2020400\_\_

59       19. A geriatrician.

60       20. A geriatric nurse.

61       21. A geriatric psychiatrist or other individual licensed  
62 to offer behavioral health services.

63       22. A hospital discharge planner.

64       23. A public guardian.

65       24. Any other persons who have knowledge regarding fatal  
66 incidents of elder abuse, domestic violence, or sexual violence,  
67 including knowledge of research, policy, law, and other matters  
68 connected with such incidents involving elders, or who are  
69 recommended for inclusion by the review team.

70       (c) A state attorney, or his or her designee, may initiate  
71 the establishment of a review team in his or her judicial  
72 circuit and may call the first organizational meeting of the  
73 team. At the initial meeting, members of a review team shall  
74 choose two members to serve as co-chairs and shall establish a  
75 schedule for future meetings.

76       (d) Participation in a review team is voluntary. Members of  
77 a review team shall serve without compensation and may not be  
78 reimbursed for per diem or travel expenses.

79       (e) Members shall serve for terms of 2 years, to be  
80 staggered as determined by the co-chairs. Chairs may be  
81 reelected by a majority vote of a review team for not more than  
82 two consecutive terms.

83       (f) Each review team shall determine its local operations,  
84 including, but not limited to, the process for case selection.  
85 Reviews must be limited to closed cases in which an elderly  
86 person's death is found to have been caused by, or related to,  
87 abuse or neglect. All identifying information concerning the

6-00142-20

2020400

88 person must be redacted in documents received for review. Each  
89 review team shall meet at least once each fiscal year.

90 (g) Administrative costs of operating the review team must  
91 be borne by the team members or entities that they represent.

92 (2) An elder abuse fatality review team in existence on  
93 July 1, 2019, may continue to exist and must comply with the  
94 requirements of this section.

95 (3) An elder abuse fatality review team shall do all of the  
96 following:

97 (a) Review deaths of elderly persons in its judicial  
98 circuit which are found to have been caused by, or related to,  
99 abuse or neglect.

100 (b) Take into consideration the events leading up to a  
101 fatal incident, available community resources, current law and  
102 policies, and the actions taken by systems or individuals  
103 related to the fatal incident.

104 (c) Identify potential gaps, deficiencies, or problems in  
105 the delivery of services to elderly persons by public and  
106 private agencies which may be related to deaths reviewed by the  
107 team.

108 (d) Whenever possible, develop communitywide approaches to  
109 address the causes of, and contributing factors to, deaths  
110 reviewed by the team.

111 (e) Develop recommendations and potential changes in law,  
112 rules, and policies to support the care of elderly persons and  
113 to prevent elder abuse deaths.

114 (4) (a) A review team may share with other review teams in  
115 this state any relevant information that pertains to the review  
116 of the death of an elderly person.

6-00142-20

2020400\_\_

117 (b) A review team member may not contact, interview, or  
118 obtain information by request directly from a member of the  
119 deceased elder's family as part of the review unless a team  
120 member is authorized to do so in the course of his or her  
121 employment duties. A member of the deceased elder's family may  
122 voluntarily provide information or any record to a review team  
123 but must be informed that such information or any record is  
124 subject to public disclosure unless a public records exemption  
125 applies.

126 (5) (a) Annually by September 1, each elder abuse fatality  
127 review team shall submit a summary report to the Department of  
128 Elderly Affairs which includes, but is not limited to:

129 1. Descriptive statistics regarding cases reviewed by the  
130 team, including demographic information on victims and the  
131 causes and nature of their deaths;

132 2. Current policies, procedures, rules, or statutes the  
133 review team has identified as contributing to the incidence of  
134 elder abuse and elder deaths, and recommendations for system  
135 improvements and needed resources, training, or information  
136 dissemination to address such identified issues; and

137 3. Any other recommendations to prevent deaths from elder  
138 abuse or neglect, based on an analysis of the data and  
139 information presented in the report.

140 (b) Annually by November 1, the Department of Elderly  
141 Affairs shall prepare a summary report of the review team  
142 information submitted under paragraph (a). The department shall  
143 submit its summary report to the Governor, the President of the  
144 Senate, the Speaker of the House of Representatives, and the  
145 Department of Children and Families.



6-00142-20

2020400\_\_

146       (6) There is no monetary liability on the part of, and a  
147 cause of action for damages may not arise against, any member of  
148 an elder abuse fatality review team due to the performance of  
149 his or her duties as a review team member in regard to any  
150 discussions by, or deliberations or recommendations of, the team  
151 or the member unless such member acted in bad faith, with wanton  
152 and willful disregard of human rights, safety, or property.

153       Section 2. This act shall take effect July 1, 2020.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 0400

Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic Elder Abuse Fatality

Amendment Barcode (if applicable) \_\_\_\_\_

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Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**