

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Storms, Chair

Senator Hill, Vice Chair

MEETING DATE: Monday, March 28, 2011

TIME: 3:15 —5:15 p.m.

PLACE: James E. "Jim" King, Jr., Committee Room, 401 Senate Office Building

MEMBERS: Senator Storms, Chair; Senator Hill, Vice Chair; Senators Detert, Hays, and Rich

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
A proposed committee substitute for the following bill (SB 1902) is expected to be considered:			
1	SB 1902 Rich (Compare CS/H 1241)	Independent Living; Requires the court to exercise jurisdiction until a child is 21 years of age if the child elects to receive Foundations for Success services. Directs the Department of Children and Family Services (DCFS) to administer a system of independent living transition services to enable older children in out-of-home care to make the transition to self-sufficiency as adults. Requires the DCFS to provide or arrange services for the Pathways to Success, Foundations for Success, and Jumpstart to Success programs, etc.	
		CF 03/22/2011 Temporarily Postponed CF 03/28/2011 BC	
2	SB 404 Wise (Identical H 151, H 739)	Transition-to-adulthood Services; Provides legislative intent concerning transition-to-adulthood services for youth in the custody of the Department of Juvenile Justice (DJJ). Provides for eligibility for services for youth served by the DJJ who are legally in the custody of the Department of Children and Family Services (DCFS). Provides that an adjudication of delinquency does not disqualify a youth in foster care from certain services from the DCFS. Provides powers and duties of the DJJ for transition services. Provides for assessments, etc.	
		CF 03/28/2011 CJ BC	

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Children, Families, and Elder Affairs

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3	SB 878 Garcia (Identical H 345)	Child Welfare; Cites this act as the "Lambourg Keep Families United Act." Requires photographs and reports of child visitations, subject to availability of equipment. Provides that an unmarried biological father is not considered a relative for purposes of the Relative Caregiver Program. Authorizes a court to direct the placement of a parent in a substance abuse facility in which his or her child may also reside. Limits the period for diligent search and inquiry to find a living relative of the child in certain circumstances, etc. CF 03/28/2011 JU BC	
4	SB 1158 Garcia (Identical H 843)	Teaching Agency for Home and Community-based Care; Authorizes the Agency for Health Care Administration to designate a home health agency as a teaching agency for home and community-based care and to charge a fee for such designation. Establishes criteria for qualification. Authorizes a teaching agency to be affiliated with an academic research university in the state that meets certain criteria. Authorizes a teaching agency to be affiliated with an academic health center, etc. CF 03/28/2011 HR BC	
5	CS/SB 1194 Higher Education / Oelrich (Compare H 881, H 4155, S 970, S 1278)	Postsecondary Education; Deletes provisions relating to the use of test scores for assessment of college-level communication and computation skills. Requires the establishment of the Articulation Coordinating Committee and provides its responsibilities. Deletes provisions that exclude students with intellectual disabilities from eligibility for substitute requirements for admission to or graduation from a public postsecondary educational institution. Abrogates the repeal of provisions which created the 21st Century World Class Scholars Program, etc. HE 03/14/2011 Fav/CS CF 03/28/2011 BC	

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6	SB 1348 Bogdanoff (Identical H 1055)	Community Residential Homes; Amends provisions relating to site selection of community residential homes. Revises the definition of the term "community residential home." Defines the term "sober house transitional living home." Requires supervision of the residents of such a home. Requires that a sober house transitional living home comply with standards of occupancy set by the local government. Provides restrictions on the provision of onsite substance abuse treatment services. Limits applicability. CF 03/28/2011 CA BC	
7	SB 1372 Storms (Compare H 1083)	Persons with Developmental Disabilities/Medication; Requires a registered nurse or physician to assess and validate a direct service provider's competency in all routes of medication administration at an onsite setting with an actual client. Provides an exception. HR 03/22/2011 Fav/1 Amendment CF 03/28/2011 BC	
8	SB 1622 Flores (Similar H 1111)	Family Support; Designates the courts and other entities as the tribunals of the state and designates the Department of Revenue as the support enforcement agency of the state. Clarifies that the Uniform Interstate Family Support Act is not the exclusive method to establish or enforce a support order in this state. Provides procedures for determining which child support order is recognized as the controlling support order, etc. JU 03/22/2011 Favorable CF 03/28/2011 BC	
9	SB 2062 Children, Families, and Elder Affairs	Persons with Developmental Disabilities; Prohibits monitoring requirements that mandate pornographic materials be available in residential facilities that serve clients of the Agency for Persons with Disabilities. Requires the court to order a person involuntarily admitted to residential services to be released to the agency for appropriate residential services. Forbids the court from ordering that such person be released directly to a residential service provider. Authorizing the agency to transfer a person from one residential setting to another, etc. CF 03/28/2011 JU BC	

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10	SB 2064 Children, Families, and Elder Affairs	Mental Health and Substance Abuse Treatment; Redefines the term "court" to include county courts in certain circumstances. Requires the Department of Children and Family Services to provide a discharged defendant with up to a 7-day supply of psychotropic medication when he or she is returning to jail from a state treatment facility. Authorizes a county court to order the conditional release of a defendant for the provision of outpatient care and treatment. Creates the Forensic Hospital Diversion Pilot Program, etc. CF 03/28/2011 JU BC	



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Proposed Committee Substitute by the Committee on Children,
Families, and Elder Affairs

1 A bill to be entitled
2 An act relating to independent living; amending s.
3 39.013, F.S.; requiring the court to retain
4 jurisdiction over a child until the child is 21 years
5 of age if the child elects to receive Foundations
6 First Program services; providing for an annual
7 judicial review; amending s. 39.6012, F.S.; requiring
8 assurance in a child's case plan that efforts were
9 made to avoid a change in the child's school;
10 requiring that the case plan contain procedures for an
11 older child to directly access and manage a personal
12 allowance; creating s. 39.6015, F.S.; providing
13 purpose and legislative intent with respect to the
14 provision of services for older children who are in
15 licensed care; requiring the documentation of
16 assurances that school stability is considered when a
17 child in care is moved; providing for the same
18 assurances for children with disabilities; defining
19 the term "school of origin"; requiring that the
20 Department of Children and Family Services or the
21 community-based provider provide reimbursement for the
22 costs of transportation provided for a child in care;
23 requiring changes in a child's school to be minimally
24 disruptive; specifying criteria to be considered by
25 the department and community-based provider during the
26 transition of a child to another school; requiring
27 children in care to attend school; requiring scheduled



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appointments to consider the child's school attendance; providing penalties for caregivers who refuse or fail to ensure that the child attends school regularly; specifying who may serve as an education advocate; requiring documentation that an education advocate or surrogate parent has been designated or appointed for a child in care; requiring a child in middle school to complete an electronic personal academic and career plan; requiring caregivers to attend school meetings; specifying requirements for individual education transition plan meetings for children with disabilities; requiring that a child be provided with information relating to the Road-to-Independence Program; requiring that the caregiver or education advocate attend parent-teacher conferences; requiring that a caregiver be provided with access to school resources in order to enable a child to achieve educational success; requiring the delivery of a curriculum model relating to self-advocacy; requiring documentation of a child's progress, the services needed, and the party responsible for providing services; specifying choices for a child with respect to diplomas and certificates for high school graduation or completion; providing that a child with a disability may stay in school until 22 years of age under certain circumstances; requiring caregivers to remain involved in the academic life of child in high school; requiring documentation of a child's progress, the services needed, and the party who is responsible



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for providing services; providing for a child to be exposed to job-preparatory instruction, enrichment activities, and volunteer and service opportunities, including activities and services offered by the Agency for Workforce Innovation; requiring that children in care be afforded opportunities to participate in the usual activities of school, community, and family life; requiring caregivers to encourage and support a child's participation in extracurricular activities; requiring that transportation be provided for a child; providing for the development of a transition plan; specifying the contents of a transition plan; requiring that the plan be reviewed by the court; requiring that a child be provided with specified documentation; requiring that the transition plan be coordinated with the case plan and a transition plan prepared pursuant to the Individuals with Disabilities Education Act for a child with disabilities; requiring the creation of a notice that specifies the options that are available to the child; requiring that community-based care lead agencies and contracted providers report specified data to the department and Legislature; amending s. 39.701, F.S.; conforming terminology; specifying the required considerations during judicial review of a child under the jurisdiction of the court; specifying additional documents that must be provided to a child and that must be verified at the judicial review; requiring judicial review of a transition plan;



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amending s. 409.1451, F.S., relating to the Road-to-Independence Program; creating the Foundations First Program for young adults who want to remain in care after reaching 18 years of age; providing eligibility, termination, and reentry requirements for the program; requiring a court hearing before termination; providing for the development of a transition plan; specifying the contents of the transition plan; requiring that a young adult be provided with specified documentation; requiring that the transition plan be coordinated with the case plan and a transition plan prepared pursuant to the Individuals with Disabilities Education Act for a young adult with disabilities; requiring the creation of a notice that specifies the options that are available to the young adult; requiring annual judicial reviews; creating the College Bound Program for young adults who have completed high school and have been admitted to an eligible postsecondary institution; providing eligibility requirements; providing for a stipend; requiring satisfactory academic progress for continuation of the stipend; providing for reinstatement of the stipend; providing for portability of services for a child or young adult who moves out of the county or out of state; specifying data required to be reported to the department and Legislature; conforming terminology relating to the Independent Living Services Advisory Council; providing rulemaking authority to the Department of



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Children and Family Services; amending s. 409.903, F.S.; conforming a cross-reference; requiring the department to amend the case plan and judicial social service review formats; providing for young adults receiving transition services to continue to receive existing services until their eligibility for that benefit program expires; requiring the department to develop a request for proposal for the creation of an education advocacy system; requiring the department to contract with a national nonprofit organization to administer the Road-to-Independence Program; providing an effective date.

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

Section 1. Subsection (2) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(2) The circuit court has exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or



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144 physical custody of only one parent, caregiver, or some other
145 person, or was in the physical or legal custody of no person
146 when the event or condition occurred that brought the child to
147 the attention of the court. When the court obtains jurisdiction
148 of any child who has been found to be dependent, the court shall
149 retain jurisdiction, unless relinquished by its order, until the
150 child reaches 18 years of age. However, if a young adult ~~youth~~
151 petitions the court at any time before his or her 19th birthday
152 requesting the court's continued jurisdiction, the juvenile
153 court may retain jurisdiction under this chapter for a period
154 not to exceed 1 year following the young adult's ~~youth's~~ 18th
155 birthday for the purpose of determining whether appropriate
156 ~~aftercare support, Road to Independence Program, transitional~~
157 ~~support, mental health, and developmental disability~~ services
158 that were required to be provided to the young adult before
159 reaching 18 years of age, to the extent otherwise authorized by
160 law, have been provided ~~to the formerly dependent child who was~~
161 ~~in the legal custody of the department immediately before his or~~
162 ~~her 18th birthday~~. If a young adult chooses to participate in
163 the Foundations First Program, the court shall retain
164 jurisdiction until the young adult leaves the program as
165 provided for in s. 409.1451(4). The court shall review the
166 status of the young adult at least every 12 months or more
167 frequently if the court deems it necessary. If a petition for
168 special immigrant juvenile status and an application for
169 adjustment of status have been filed on behalf of a foster child
170 and the petition and application have not been granted by the
171 time the child reaches 18 years of age, the court may retain
172 jurisdiction over the dependency case solely for the purpose of



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allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

Section 2. Subsections (2) and (3) of section 39.6012, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

39.6012 Case plan tasks; services.—

(2) The case plan must include all available information that is relevant to the child's care including, at a minimum:

(a) A description of the identified needs of the child while in care.

(b) A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child's needs. To the extent available and accessible, the following health, mental health, and education information and records of the child must be attached to the case plan and updated throughout the judicial review process:

1. The names and addresses of the child's health, mental health, and educational providers;
2. The child's grade level performance;
3. The child's school record;
4. Assurances that the child's placement takes into account



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proximity to the school in which the child is enrolled at the time of placement and that efforts were made to allow the child to remain in that school if it is in the best interest of the child;

5. A record of the child's immunizations;

6. The child's known medical history, including any known problems;

7. The child's medications, if any; and

8. Any other relevant health, mental health, and education information concerning the child.

(3) In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:

(a) A description of the type of placement in which the child is to be living.

(b) A description of the parent's visitation rights and obligations and the plan for sibling visitation if the child has siblings and is separated from them.

(c) When appropriate, for a child who is in middle school or high school ~~13 years of age or older~~, a written description of the programs and services that will help the child prepare for the transition from ~~foster~~ care to independent living.

(d) A discussion of the safety and the appropriateness of the child's placement, which placement is intended to be safe, and the least restrictive and the most family-like setting available consistent with the best interest and special needs of the child and in as close proximity as possible to the child's home.

(4) The case plan must contain procedures for an older child to directly access and manage the personal allowance he or



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231 she receives from the department in order to learn
232 responsibility and participate, to the extent feasible, in age-
233 appropriate life skills activities.

234 Section 3. Section 39.6015, Florida Statutes, is created to
235 read:

236 39.6015 Services for older children in care.-

237 (1) PURPOSE AND INTENT.-The Legislature recognizes that
238 education and the other positive experiences of a child are key
239 to a successful future as an adult and that it is particularly
240 important for a child in care to be provided with opportunities
241 to succeed. The Legislature intends that individuals and
242 communities become involved in the education of a child in care,
243 address issues that will improve the educational outcomes for
244 the child, and find ways to ensure that the child values and
245 receives a high-quality education. Many professionals in the
246 local community understand these issues, and it is the intent of
247 the Legislature that biological parents, caregivers, educators,
248 advocates, the department and its community-based care
249 providers, guardians ad litem, and judges, in fulfilling their
250 responsibilities to the child, work together to ensure that an
251 older child in care has access to the same academic resources,
252 services, and extracurricular and enrichment activities that are
253 available to all children. Engaging an older child in a broad
254 range of the usual activities of family, school, and community
255 life during adolescence will help to empower the child in his or
256 her transition into adulthood and in living independently. The
257 Legislature intends for services to be delivered in an age-
258 appropriate and developmentally appropriate manner, along with
259 modifications or accommodations as may be necessary to include



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every child, specifically including a child with a disability.
It is also the intent of the Legislature that while services to
prepare an older child for life on his or her own are important,
these services will not diminish efforts to achieve permanency
goals of reunification, adoption, or permanent guardianship.

(2) EDUCATION PROVISIONS.—Perhaps more than any other
population, an older child in care is in need of a quality
education. The child depends on the school to provide positive
role models, to provide a network of relationships and
friendships that will help the child gain social and personal
skills, and to provide the educational opportunities and other
activities that are needed for a successful transition into
adulthood.

(a) Definitions.—As used in this section, the term:

1. "Caregiver" has the same meaning as provided in s.
39.01(10) and also includes a staff member of the group home or
facility in which the child resides.

2. "School of origin" means the school that the child
attended before coming into care or the school in which the
child was last enrolled. If the child is relocated outside the
area of the school of origin, the department and its community-
based providers shall provide the necessary support to the
caregiver so that the child can continue enrollment in the
school of origin if it is in the best interest of the child.

(b) School stability.—The mobility of a child in care can
disrupt the educational experience. Whenever a child enters
care, or is moved from one home to another, the proximity of the
new home to the child's school of origin shall be considered.
The case plan must include tasks or a plan for ensuring the



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289 child's educational stability while in care. As part of this
290 plan, the community-based care provider shall document
291 assurances that:

292 1. The appropriateness of the current educational setting
293 and the proximity to the school in which the child is enrolled
294 at the time of coming into care have been taken into
295 consideration.

296 2. The community-based care provider has coordinated with
297 the appropriate local school district to determine if the child
298 can remain in the school in which he or she is enrolled.

299 3. The child in care has been asked about his or her
300 educational preferences and needs, including his or her view on
301 whether to change schools when the living situation changes.

302 4. A child with a disability is allowed to continue in an
303 appropriate educational setting, regardless of changes to the
304 location of the home, and transportation is addressed and
305 provided in accordance with the child's individualized education
306 program. A child with a disability shall receive the protections
307 provided in federal and state law, including timelines for
308 evaluations, implementation of an individualized education plan
309 or an individual family service plan, and placement in the least
310 restrictive environment, even when the child changes school
311 districts.

312 5. The department and its community-based providers shall
313 provide special reimbursement for expenses associated with
314 transporting a child to his or her school of origin if the
315 school district does not provide transportation or the
316 individualized education plan does not include transportation as
317 a service. Transportation arrangements shall follow a route that



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is as direct and expedient for the child as is reasonably possible.

(c) School transitions.—A change in schools, if necessary, shall be as least disruptive as possible, and the support necessary for a successful transition shall be provided by the department, the community-based provider, and the caregiver. The department and the community-based providers shall work with school districts to develop and implement procedures to ensure that a child in care:

1. Is enrolled immediately in a new school and can begin classes promptly.

2. Does not experience a delay in enrollment and delivery of appropriate services due to school or record requirements as required by s. 1003.22.

3. Has education records that are comprehensive and accurate and that promptly follow the child to a new school.

4. Is allowed to participate in all academic and extracurricular programs, including athletics, when arriving at a new school in the middle of a school term, even if normal timelines have passed or programs are full. A district school board or school athletic association, including the Florida High School Athletic Association or successor, may not prevent, or create barriers to, the ability of a child in care to participate in age-appropriate extracurricular, enrichment, or social activities.

5. Receives credit or partial credit for coursework completed at the prior school.

6. Has the ability to receive a high school diploma even when the child has attended multiple schools that have varying



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graduation requirements.

(d) School attendance.—A child in care shall attend school as required by s. 1003.26.

1. The community-based care provider and caregiver shall eliminate any barriers to attendance such as required school uniforms or school supplies.

2. Appointments and court appearances for a child in care shall be scheduled to minimize the impact on the child's education and to ensure that the child is not penalized for school time or work missed because of court hearings or activities related to the child welfare case.

3. A caregiver who refuses or fails to ensure that a child who is in his or her care attends school regularly is subject to the same procedures and penalties as a parent under s. 1003.27.

(e) Education advocacy.—

1. A child in care shall have an adult caregiver who is knowledgeable about schools and children in care and who serves as an education advocate to reinforce the value of the child's investment in education, to ensure that the child receives a high-quality education, and to help the child plan for middle school, high school, and postschool training, employment, or college. The advocate may be a caregiver, care manager, guardian ad litem, educator, or individual hired and trained for the specific purpose of serving as an education advocate.

2. A child in care with disabilities who is eligible for the appointment of a surrogate parent, as required in s. 39.0016, shall be assigned a surrogate in a timely manner, but no later than 30 days after a determination that a surrogate is needed.



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376 3. The community-based provider shall document in the
377 child's case plan that an education advocate has been identified
378 for each child in care or that a surrogate parent has been
379 appointed for each child in care with a disability.

380 (f) Academic requirements and support; middle school
381 students.—A child must complete the required courses that
382 include mathematics, English, social studies, and science in
383 order to be promoted from a state school composed of middle
384 grades 6, 7, and 8.

385 1. In addition to other academic requirements, a child must
386 complete one course in career and education planning in 7th or
387 8th grade. The course, as required by s. 1003.4156, must include
388 career exploration using Florida CHOICES Explorer or Florida
389 CHOICES Planner and must include educational planning using the
390 online student advising system known as Florida Academic
391 Counseling and Tracking for Students at the Internet website
392 FACTS.org.

393 a. Each child shall complete an electronic personalized
394 academic and career plan that must be signed by the child, the
395 child's teacher, guidance counselor, or academic advisor, and
396 the child's parent, caregiver, or other designated education
397 advocate. Any designated advocate must have the knowledge and
398 training to serve in that capacity.

399 b. The required personalized academic and career plan must
400 inform students of high school graduation requirements, high
401 school assessment and college entrance test requirements,
402 Florida Bright Futures Scholarship Program requirements, state
403 university and Florida College System institution admission
404 requirements, and programs through which a high school student



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405 may earn college credit, including Advanced Placement,
406 International Baccalaureate, Advanced International Certificate
407 of Education, dual enrollment, career academy opportunities, and
408 courses that lead to national industry certification.

409 c. A caregiver shall attend the parent meeting held by the
410 school to inform parents about the career and education planning
411 course curriculum and the activities associated with the
412 curriculum.

413 2. For a child with a disability, the decision whether to
414 work toward a standard diploma or a special diploma shall be
415 addressed at the meeting on the individual education transition
416 plan conducted during the child's 8th grade or the year the
417 child turns 14 years of age, whichever occurs first. The child
418 shall be invited to participate in this and each subsequent
419 transition plan meeting. At this meeting, the individual
420 education transition plan team, including the child, the
421 caregiver, and other designated education advocate, shall
422 determine whether a standard or special diploma best prepares
423 the child for his or her education and career goals after high
424 school.

425 a. The team shall plan the appropriate course of study,
426 which may include basic education courses, career education
427 courses, and exceptional student education courses.

428 b. The team shall identify any special accommodations,
429 modifications, and related services needed to help the child
430 participate fully in the educational program.

431 c. All decisions shall be documented on the individual
432 education transition plan, and this information shall be used to
433 guide the child's educational program as he or she enters high



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school.

3. A caregiver or the community-based care provider shall provide the child with all information related to the Road-to-Independence Program as provided in s. 409.1451.

4. A caregiver or another designated education advocate shall attend parent-teacher conferences and monitor each child's academic progress.

5. Each district school board, as required by s. 1002.23, shall develop and implement a well-planned, inclusive, and comprehensive program to assist parents and families in effectively participating in their child's education. A school district shall have available resources and services for parents and their children, such as family literacy services; mentoring, tutorial, and other academic reinforcement programs; college planning, academic advisement, and student counseling services; and after-school programs. A caregiver shall access these resources as necessary to enable the child in his or her care to achieve educational success.

6. A child in care, particularly a child with a disability, shall be involved and engaged in all aspects of his or her education and educational planning and must be empowered to be an advocate for his or her education needs. Community-based care providers shall enter into partnerships with school districts to deliver curriculum on self-determination or self-advocacy to engage and empower the child to be his or her own advocate, along with support from the caregiver, community-based care provider, guardian ad litem, teacher, school guidance counselor, and other designated education advocate.

7. The community-based care provider shall document in the



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case plan evidence of the child's progress toward, and achievement of, academic, life, social, and vocational skills. The case plan shall be amended to fully and accurately reflect the child's academic and career plan, identify the services and tasks needed to support that plan, and identify the party responsible for accomplishing the tasks or providing the needed services.

(g) Academic requirements and support; high school students.—Graduation from high school is essential for a child to be able to succeed and live independently as an adult. In Florida, 70 percent of children in care reach 18 years of age without having obtained a high school diploma. It is the responsibility of the department, its community-based providers, and caregivers to ensure that a child in care is able to take full advantage of every resource and opportunity in order to be able to graduate from high school and be adequately prepared to pursue postsecondary education at a college or university or to acquire the education and skills necessary to enter the workplace. In preparation for accomplishing education and career goals after high school, the child must select the appropriate course of study which best meets his or her needs.

1. An older child who plans to attend a college or university after graduation must take certain courses to meet state university admission requirements. The course requirements for state university admission are the same for two Bright Futures Scholarship awards, the Florida Academic Scholars award, and the Florida Medallion Scholars award. By following this course of study, which is required for state university admission and recommended if the child intends to pursue an



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associate in arts degree at a Florida College System institution and transfer to a college or university to complete a bachelor's degree, the child will meet the course requirements for high school graduation, state university admission, and two Bright Futures Scholarship awards.

2. An older child who plans on a career technical program in high school to gain skills for work or continue after graduation at a Florida College System institution, technical center, or registered apprenticeship program should choose a course of study which meets the course requirements for high school graduation, the third Bright Futures Scholarship award, and the Florida Gold Seal Vocational Scholars award. This course of study is recommended if the child intends to pursue a technical certificate or license, an associate degree, or a bachelor's degree, or wishes to gain specific career training.

3. An older child with a disability may choose to work toward a standard diploma, a special diploma, or a certificate of completion. The child shall be assisted in choosing a diploma option by school and district staff through the development of the individual education plan. The diploma choice shall be reviewed each year at the child's individual education plan meeting.

a. An older child or young adult with a disability who has not earned a standard diploma or who has been awarded a special diploma, certificate of completion, or special certificate of completion before reaching 22 years of age may stay in school until he or she reaches 22 years of age.

b. The school district shall continue to offer services until the young adult reaches 22 years of age or until he or she



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521 earns a standard diploma, whichever occurs first, as required by
522 the Individuals with Disabilities Education Act.

523 4. This paragraph does not preclude an older child from
524 seeking the International Baccalaureate Diploma or the Advanced
525 International Certificate of Education Diploma.

526 5. Educational guidance and planning for high school shall
527 be based upon the decisions made during middle school.
528 Caregivers shall remain actively involved in the child's
529 academic life by attending parent-teacher conferences and by
530 taking advantage of available resources to enable the child to
531 achieve academic success.

532 6. The community-based care provider shall document in the
533 case plan evidence of the child's progress toward, and
534 achievement of, academic, life, social, and vocational skills.
535 The case plan shall be amended to completely reflect the child's
536 academic and career plan, identify the services and tasks needed
537 to support that plan, and identify the party responsible for
538 accomplishing the tasks or providing the needed services. At a
539 minimum, a case staffing must be held annually before the child
540 reaches 16 years of age and every 6 months thereafter to ensure
541 that the child's case plan is up to date.

542 7. Participation in workforce readiness activities is
543 essential for a child in care at the high school level to
544 prepare himself or herself to be a self-supporting and
545 productive adult. The caregiver and the community-based care
546 provider shall ensure that each child:

547 a. Who is interested in pursuing a career after high school
548 graduation is exposed to job-preparatory instruction in the
549 competencies that prepare students for effective entry into an



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550 occupation, including diversified cooperative education, work
551 experience, and job-entry programs that coordinate directed
552 study and on-the-job training.

553 b. Is provided with the opportunity to participate in
554 enrichment activities that increase the child's understanding of
555 the workplace, to explore careers, and to develop goal-setting,
556 decisionmaking, and time-management skills.

557 c. Is provided with volunteer and service learning
558 opportunities in order to develop workplace and planning skills,
559 self esteem, and personal leadership skills.

560 d. Is provided with an opportunity to participate in
561 activities and services provided by the Agency for Workforce
562 Innovation and its regional workforce boards which prepare all
563 young adults, including those with a disability, for the
564 workforce.

565 (3) EXTRACURRICULAR ACTIVITIES.—An older child in care
566 shall be accorded to the fullest extent possible the opportunity
567 to participate in the activities of community, school, and
568 family life.

569 (a) A caregiver shall encourage and support participation
570 in age-appropriate extracurricular and social activities for an
571 older child, including a child with a disability.

572 (b) A caregiver shall provide transportation for such
573 activities, and community-based care providers shall reimburse
574 the caregiver for the expenses associated with such activities,
575 including mileage reimbursement.

576 (c) The department and its community-based providers may
577 not place an older child in a home if the caregiver does not
578 encourage or facilitate participation in and provide



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579 transportation to the extracurricular activities of the child's
580 choice, unless other arrangements can be made by the community-
581 based care provider to enable the child's participation in such
582 activities.

583 (d) A caregiver's license or licensure status is not
584 affected by the age-appropriate actions of a child engaging in
585 activities while in his or her care.

586 (4) DEVELOPMENT OF THE TRANSITION PLAN.—If a child is
587 planning to leave care upon reaching 18 years of age, during the
588 180-day period before the child reaches 18 years of age, the
589 department and community-based care provider, in collaboration
590 with the caregiver, any other designated education advocate, and
591 any other individual whom the child would like to have included,
592 shall assist and support the older child in developing a
593 transition plan. The transition plan must take into account all
594 of the education and other skills achieved by the child in
595 middle and high school, must include specific options for the
596 child on housing, health insurance, education, local
597 opportunities for mentors and continuing support services, and
598 workforce support and employment services, and must be reviewed
599 by the court during the last review hearing before the child
600 reaches 18 years of age. In developing the plan, the department
601 and community-based provider shall:

602 (a) Provide the child with the documentation required in s.
603 39.701(7);

604 (b) Coordinate with local public and private entities in
605 designing the transition plan as appropriate;

606 (c) Coordinate the transition plan with the independent
607 living provisions in the case plan and the Individuals with



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Disabilities Education Act transition plan for a child with a disability; and

(d) Create a clear and developmentally appropriate notice specifying the options available for a young adult who chooses to remain in care for a longer period. The notice must include information about what services the child is eligible for and how such services may be obtained.

(5) ACCOUNTABILITY.—

(a) The community-based care lead agencies and its contracted providers shall report to the department the following information:

1. The total number of children in care who are enrolled in middle school, high school, adult high school, and GED programs and, in a breakdown by age, how many had their living arrangements change one time and how many were moved two or more times. For the children who were moved, how many had to change schools and how many of those changes were due to a lack of transportation.

2. For those children for whom transportation was provided, how many children were provided transportation, how the transportation was provided, how it was paid for, and the amount of the total expenditure by the lead agency.

3. The same information required in subparagraphs 1. and 2., specific to children in care with a disability.

4. In a breakdown by age, for those children who changed schools at least once, how many children experienced problems in the transition, what kinds of problems were encountered, and what steps the lead agency and the caregiver took to remedy those problems.



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637 5. In a breakdown by age, out of the total number of
638 children in care, the number of children who were absent from
639 school more than 10 days in a semester and the steps taken by
640 the lead agency and the caregiver to reduce absences.

641 6. Evidence that the lead agency has established a working
642 relationship with each school district in which a child in care
643 attends school.

644 7. In a breakdown by age, out of the total number of
645 children in care, the number who have documentation in the case
646 plan that either an education advocate or a surrogate parent has
647 been designated or appointed.

648 8. In a breakdown by age, out of the total number of
649 children in care, the number of children who have documentation
650 in the case plan that they have an education advocate who
651 regularly participates in parent-teacher meetings and other
652 school-related activities.

653 9. For those children in care who have finished 8th grade,
654 the number of children who have documentation in the case plan
655 that they have completed the academic and career plan required
656 by s. 1003.4156 and that the child and the caregiver have signed
657 the plan.

658 10. For those children in care who have a disability and
659 have finished 8th grade, the number of children who have
660 documentation in the case plan that they have had an individual
661 education transition plan meeting.

662 11. In a breakdown by age, the total number of children in
663 care who are in middle school or high school. For each age, the
664 number of children who are reading at or above grade level, the
665 number of children who have successfully completed the FCAT and



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end-of-course assessments, the number of children who have dropped out of school, the number of children who have enrolled in any dual enrollment or advanced placement courses, and the number of children completing the required number of courses, assessments, and hours needed to be promoted to the next grade level.

12. With a breakdown by age, the total number of children in care who are in middle school or high school. For each age, the number of children who have documentation in the case plan that they are involved in at least one extracurricular activity, whether it is a school-based or community-based activity, whether they are involved in at least one service or volunteer activity, and who provides the transportation.

13. The total number of children in care who are 17 years of age and who are obtaining services from the lead agency or its contracted providers and how many of that total number have indicated that they plan to remain in care after turning 18 years of age, and for those children who plan to leave care, how many children have a transition plan.

14. A breakdown of documented expenses for children in middle and high school.

(b) Each community-based care lead agency shall provide its report to the department by September 30 of each year. The department shall compile the reports from each community-based care lead agency and provide them to the Legislature by December 31 of each year, with the first report due to the Legislature on December 31, 2012.

Section 4. Subsections (7), (8), and (9) of section 39.701, Florida Statutes, are amended to read:



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39.701 Judicial review.—

(7)(a) In addition to paragraphs (1)(a) and (2)(a), the court shall hold a judicial review hearing within 90 days after a child's ~~youth's~~ 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the child ~~youth~~ has been removed pursuant to s. 743.045. The court shall continue to hold timely judicial review hearings thereafter. In addition, the court may review the status of the child more frequently during the year prior to the child's ~~youth's~~ 18th birthday if necessary. At each review held under this subsection, in addition to any information or report provided to the court, the caregiver ~~foster parent~~, legal custodian, guardian ad litem, and the child shall be given the opportunity to address the court with any information relevant to the child's best interests, particularly as it relates to the requirements of s. 39.6015 and the Road-to-Independence Program under s. 409.1451 independent living transition services. In addition to any information or report provided to the court, the department shall include in its judicial review social study report written verification that the child has been provided with:

1. ~~Has been provided with~~ A current Medicaid card and ~~has been provided~~ all necessary information concerning the Medicaid program sufficient to prepare the child ~~youth~~ to apply for coverage upon reaching age 18, if such application would be appropriate.

2. ~~Has been provided with~~ A certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card issued under s.



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322.051.

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

~~4. Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills.~~

~~4.5.~~ Has been provided with All relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, information on how forms necessary to participate apply, and assistance in gaining admission to the program ~~completing the forms~~. The child shall also be informed that, if he or she is eligible for the Road-to-Independence Program, he or she may reside with the licensed ~~foster~~ family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed ~~foster~~ home or with a group care provider arranged by the department.

~~5.6.~~ An opportunity to ~~Has an~~ open a bank account, or obtain ~~has~~ identification necessary to open an account, and has been provided with essential banking and budgeting skills.

~~6.7.~~ ~~Has been provided with~~ Information on public assistance and how to apply.

~~7.8.~~ ~~Has been provided~~ A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and in what educational program or school he or she will be enrolled ~~in~~.



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753 ~~8.9. Information related to the ability Has been provided~~
754 ~~with notice of the child youth's right to remain in care until~~
755 ~~he or she reaches 21 years of age petition for the court's~~
756 ~~continuing jurisdiction for 1 year after the youth's 18th~~
757 ~~birthday as specified in s. 39.013(2) and with information on~~
758 ~~how to participate in the Road-to-Independence Program obtain~~
759 ~~access to the court.~~

760 9. A letter providing the dates that the child was under
761 the jurisdiction of the court.

762 10. A letter stating that the child was in care, in
763 compliance with financial aid documentation requirements.

764 11. His or her entire educational records.

765 12. His or her entire health and mental health records.

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

767 ~~14.10. Encouragement Has been encouraged~~ to attend all
768 judicial review hearings occurring after his or her 17th
769 birthday.

770 (b) At the first judicial review hearing held subsequent to
771 the child's 17th birthday, in addition to the requirements of
772 subsection (8), the department shall provide the court with an
773 updated case plan that includes specific information related to
774 the provisions of s. 39.6015, independent living services that
775 ~~have been provided~~ since the child entered middle school child's
776 ~~13th birthday~~, or since the date the child came into ~~foster~~
777 care, whichever came later.

778 (c) At the last judicial review hearing held before the
779 child's 18th birthday, in addition of the requirements of
780 subsection (8), the department shall provide to the court for
781 review the transition plan for a child who is planning to leave



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care after reaching his or her 18th birthday.

(d) ~~(e)~~ At the time of a judicial review hearing held pursuant to this subsection, if, in the opinion of the court, the department has not complied with its obligations as specified in the written case plan or in the provision of ~~independent living~~ services as required by s. 39.6015, s. 409.1451, and this subsection, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give the department 30 days within which to comply and, on failure to comply with this or any subsequent order, the department may be held in contempt.

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

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

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

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

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



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5. A statement that either:

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

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

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

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

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

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

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

10. If the child has entered middle school ~~reached 13 years of age~~ but is not yet 18 years of age, the specific information contained in the case plan related to the provisions of s. 39.6015 ~~results of the preindependent living, life skills, or independent living assessment;~~ the specific services needed; and the status of the delivery of the identified services.



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

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

(b) A copy of the social service agency's written report and the written report of the guardian ad litem must be served on all parties whose whereabouts are known; to the caregivers ~~foster parents~~ or legal custodians; and to the citizen review panel, at least 72 hours before the judicial review hearing or citizen review panel hearing. The requirement for providing parents with a copy of the written report does not apply to those parents who have voluntarily surrendered their child for adoption or who have had their parental rights to the child terminated.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards alternative permanency goals or placements, including, but not limited to, guardianship, long-term custody, long-term licensed custody, or independent living, must be submitted to the court. The report must be submitted to the court at least 72 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the caregiver ~~foster parent~~ or legal custodian, or any preadoptive parent, shall be given the



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opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(9) The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the caregiver ~~foster parent~~ or legal custodian, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

(a) If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad



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litem in a case in which a guardian ad litem has been appointed.

(d) Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

(e) The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

(f) The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

(g) The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(h) Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care provider that:

1. The placement of the child takes into account the appropriateness of the current educational setting and the



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proximity to the school in which the child is enrolled at the time of placement.

2. The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

(i) A projected date likely for the child's return home or other permanent placement.

(j) When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

(k) For a child who has entered middle school ~~reached 13 years of age~~ but is not yet 18 years of age, the progress the child has made in achieving the goals outlined in s. 39.6015 ~~adequacy of the child's preparation for adulthood and independent living.~~

Section 5. Section 409.1451, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.1451, F.S., for present text).

409.1451 The Road-to-Independence Program.—The Legislature recognizes that most children and young adults are resilient and, with adequate support, can expect to be successful as independent adults. Not unlike all young adults, some young adults who have lived in care need additional resources and support for a period of time after reaching 18 years of age. The Legislature intends for these young adults to receive the



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956 education, training, and health care services necessary for them
957 to become self-sufficient through the Road-to-Independence
958 Program. A young adult who participates in the Road-to-
959 Independence Program may choose to remain in care until 21 years
960 of age and receive help achieving his or her postsecondary goals
961 by participating in the Foundations First Program, or he or she
962 may choose to receive financial assistance to attend college
963 through the College Bound Program.

964 (1) THE FOUNDATIONS FIRST PROGRAM.—The Foundations First
965 Program is designed for young adults who have reached 18 years
966 of age but are not yet 21 years of age, and who need to finish
967 high school or who have a high school diploma, or its
968 equivalent, and want to achieve additional goals. These young
969 adults are ready to try postsecondary or vocational education,
970 try working part-time or full-time, or need help with issues
971 that might stand in their way of becoming employed. Young adults
972 who are unable to participate in any of these programs or
973 activities full time due to an impairment, including behavioral,
974 developmental, and cognitive disabilities, might also benefit
975 from remaining in out-of-home care longer.

976 (a) Eligibility; termination; and reentry.—

977 1. A young adult in care who spent at least 6 months in
978 care before reaching 18 years of age is eligible for the
979 Foundations First Program if he or she is:

980 a. Completing secondary education or a program leading to
981 an equivalent credential;

982 b. Enrolled in an institution that provides postsecondary
983 or vocational education;

984 c. Participating in a program or activity designed to



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promote, or eliminate barriers to, employment;

d. Employed for at least 80 hours per month; or

e. Unable to participate in these programs or activities full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such restriction to participation must be supported by information in the young adult's case file or school or medical records of a physical, intellectual, or psychiatric condition that impairs the young adult's ability to perform one or more life activities.

2. The young adult in care must leave the Foundations First Program on the earliest of the date the young adult:

a. Knowingly and voluntarily withdraws his or her consent to participate;

b. Leaves care to live in a permanent home consistent with his or her permanency plan;

c. Reaches 21 years of age;

d. Becomes incarcerated in an adult or juvenile justice facility; or

e. In the case of a young adult with a disability, reaches 22 years of age.

3. Notwithstanding the provisions of this paragraph, the department may not close a case and the court may not terminate its jurisdiction until it finds, following a hearing held after notice to all parties, that the following criteria have been met:

a. Attendance of the young adult at the hearing; or

b. Findings by the court that:

(I) The young adult has been informed by the department of



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his or her right to attend the hearing and has provided written consent to waive this right;

(II) The young adult has been informed of the potential negative effects of terminating care early, the option to reenter care before reaching 21 years of age, the procedure to, and limitations on, reentering care, the availability of alternative services, and that the young adult has signed a document attesting that he or she has been so informed and understands these provisions; and

(III) The department and the community-based care provider have complied with the case plan and any individual education plan. At the time of this judicial hearing, if, in the opinion of the court, the department and community-based provider have not complied with their obligations as specified in the case plan and any individual education plan, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give the department and community-based provider 30 days within which to comply and, upon failure to comply with this or any subsequent order, the department and community-based provider may be held in contempt.

4. A young adult who left care at or after reaching his or her 18th birthday, but before reaching age 21, may be automatically readmitted to the program by applying to the community-based care provider. The community-based care provider shall readmit the young adult if he or she is engaged in the programs or activities described in this paragraph. Any additional readmissions require that the young adult petition the court to resume jurisdiction. The department and community-based provider shall update the case plan within 30 days after



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the young adult comes back into the Foundations First Program.

(b) Benefits and requirements.—

1. A stipend shall be available to a young adult who is considered a full-time student or its equivalent by the educational institution in which he or she is enrolled, unless that young adult has a recognized disability preventing full-time attendance. The amount of the award, whether it is being used by a young adult working toward completion of a high school diploma or its equivalent or working toward completion of a postsecondary education program, shall be determined based on an assessment of the funding needs of the young adult. This assessment must consider the young adult's living and educational costs based on the actual cost of attendance, and other grants, scholarships, waivers, earnings, or other income to be received by the young adult. An award shall be available only to the extent that other grants and scholarships are not sufficient to meet the living and educational needs of the young adult, but an award may not be less than \$25 in order to maintain Medicaid eligibility for the young adult as provided in s. 409.903.

2. The young adult must reside in a semi-supervised living arrangement. For the purposes of this requirement, a "semi-supervised living arrangement" includes foster homes, college dormitories, shared housing, semi-supervised apartments, supervised apartments, or another housing arrangement approved by the provider and acceptable to the young adult.

3. Payment of the stipend shall be made directly on the recipient's behalf in order to secure housing and utilities, with the balance being paid directly to the young adult.



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(c) Transition plan.—For all young adults during the 180-day period immediately before leaving care, before reaching 21 years of age, or after leaving care on or after reaching 21 years of age, the department and the community-based care provider, in collaboration with the caregiver, any other designated education advocate, or any other individual whom the young adult would like to include, shall assist and support the young adult in developing a transition plan. The transition plan must take into account all of the education and other achievements of the young adult, include specific options for the young adult for housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce support and employment services, and must be reviewed by the court during the last review hearing before the child leaves care. In developing the plan, the department and community-based provider shall:

1. Provide the young adult with the documentation required in s. 39.701(7);

2. Coordinate with local public and private entities in designing the transition plan as appropriate;

3. Coordinate the transition plan with the independent living provisions in the case plan and the Individuals with Disabilities Education Act transition plan for a young adult with disabilities; and

4. Create a clear and developmentally appropriate notice specifying the rights of a young adult who is leaving care. The notice must include information about what services the young adult may be eligible for and how such services may be obtained. The plan must clearly identify the young adult's goals and the



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work that will be required to achieve those goals.

(d) Periodic reviews for young adults.—

1. For any young adult who continues to remain in care on or after reaching 18 years of age, the department and community-based provider shall implement a case review system that requires:

a. A judicial review at least once a year;

b. The court to maintain oversight to ensure that the department is coordinating with the appropriate agencies, and, as otherwise permitted, maintains oversight of other agencies involved in implementing the young adult's case plan and individual education plan;

c. The department to prepare and present to the court a report, developed in collaboration with the young adult, addressing the young adult's progress in meeting the goals in the case plan and individual education plan, and shall propose modifications as necessary to further those goals;

d. The court to determine whether the department and any service provider under contract with the department is providing the appropriate services as identified in the case plan and any individual education plan. If the court decides that the young adult is entitled to additional services in order to achieve the goals enumerated in the case plan, under the department's policies, or under a contract with a service provider, the court may order the department to take action to ensure that the young adult receives the identified services and remediation for any failure to timely provide identified services; and

e. The young adult or any other party to the dependency case may request an additional hearing or review.



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2. In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult, in an age-appropriate manner, with the young adult regarding the proposed permanency, case plan, and individual education plan for the young adult.

(2) THE COLLEGE BOUND PROGRAM.—

(a) Purpose.—This program is designed for young adults who are 18 years of age but are not yet 23 years of age, have graduated from high school, have been accepted into college, and need a minimum of support from the state other than the financial resources to attend college.

(b) Eligibility; termination; and reentry.—

1. A young adult who has earned a standard high school diploma or its equivalent as described in s. 1003.43 or s. 1003.435, has earned a special diploma or special certificate of completion as described in s. 1003.438, or has been admitted for full-time enrollment in an eligible postsecondary educational institution as defined in s. 1009.533, and is 18 years of age but is not yet 23 years of age is eligible for the College Bound Program if he or she:

a. Was living in care on his or her 18th birthday or is currently living in care, or, after reaching 16 years of age, was adopted from care or placed with a court-approved dependency guardian and has spent a minimum of 6 months in care immediately preceding such placement or adoption; and

b. Spent at least 6 months in care before reaching his or her 18th birthday.

2. A young adult with a disability may attend school part time and be eligible for this program.



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1159 3. A stipend is available to a young adult who is
1160 considered a full-time student or its equivalent by the
1161 educational institution in which he or she is enrolled, unless
1162 that young adult has a recognized disability preventing full-
1163 time attendance. The amount of the award shall be determined
1164 based on an assessment of the funding needs of the young adult.
1165 This assessment must consider the young adult's living and
1166 educational costs based on the actual cost of attendance, and
1167 other grants, scholarships, waivers, earnings, or other income
1168 to be received by the young adult. An award is available only to
1169 the extent that other grants and scholarships are not sufficient
1170 to meet the living and educational needs of the young adult, but
1171 an award may not be less than \$25 in order to maintain Medicaid
1172 eligibility for the young adult as provided in s. 409.903.

1173 4. An eligible young adult may receive a stipend for the
1174 subsequent academic years if, for each subsequent academic year,
1175 the young adult meets the standards by which the approved
1176 institution measures a student's satisfactory academic progress
1177 toward completion of a program of study for the purposes of
1178 determining eligibility for federal financial aid under the
1179 Higher Education Act. Any young adult who is placed on academic
1180 probation may continue to receive a stipend for one additional
1181 semester if the approved institution allows the student to
1182 continue in school. If the student fails to make satisfactory
1183 academic progress in the semester or term subsequent to the term
1184 in which he received academic probation, the stipend assistance
1185 is discontinued for the period required for the young adult to
1186 be reinstated by the college or university. Upon reinstatement,
1187 a young adult who has not yet reached 23 years of age may



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1188 reapply for financial assistance.

1189 (3) EMERGENCY ASSISTANCE.—A young adult in the Foundations
1190 First Program or the College Bound Program may apply to the
1191 community-based care provider for financial assistance for an
1192 unexpected or extraordinary expense.

1193 (4) APPEAL PROCESS.—

1194 (a) The Department of Children and Family Services shall
1195 adopt a procedure by which a young adult may appeal an
1196 eligibility determination, the department's failure to provide
1197 Road-to-Independence Program services, or the termination of
1198 such services, if funds for such services or stipend are
1199 available.

1200 (b) The procedure must be readily accessible to young
1201 adults, must provide for timely decisions, and must provide for
1202 an appeal to the department. The decision of the department
1203 constitutes final agency action and is reviewable by the court
1204 as provided in s. 120.68.

1205 (5) PORTABILITY.—The services provided under this section
1206 are portable across county and state lines.

1207 (a) The services provided for in the original transition
1208 plan shall be provided by the county where the young adult
1209 resides but shall be funded by the county where the transition
1210 plan was initiated. The care managers of the county of residence
1211 and the county of origination must coordinate to ensure a smooth
1212 transition for the young adult.

1213 (b) If a child in care under 18 years of age is placed in
1214 another state, the sending state is responsible for care
1215 maintenance payments, case planning, including a written
1216 description of the programs and services that will help a child



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16 years of age or older prepare for the transition from care to independence, and a case review system as required by federal law. The sending state has placement and care responsibility for the child.

(c) If a young adult formerly in care moves to another state from the state in which he or she has left care due to age, the state shall certify that it will provide assistance and federally funded independent living services to the young adult who has left care because he or she is 18 years of age. The state in which the young adult resides is responsible for services if the state provides the services needed by the young adult.

(6) ACCOUNTABILITY.—

(a) The community-based care lead agencies and their contracted providers shall report the following information to the department:

1. Out of the total number of young adults who remain in care upon reaching 18 years of age, the number of young adults who do not have a high school diploma or its equivalent, a special diploma, or a certificate of completion. Out of those young adults without a diploma or its equivalent, a special diploma, or a certificate of completion, the number of young adults who are receiving assistance through tutoring and other types of support.

2. Out of the total number of young adults who decided to remain in care after reaching 18 years of age, a breakdown of academic and career goals and type of living arrangement.

3. The same information required in subparagraphs 1. and 2., specific to young adults in care with a disability.



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1246 4. Out of the total number of young adults remaining in
1247 care, the number of young adults who are enrolled in an
1248 educational or vocational program and a breakdown of the types
1249 of programs.

1250 5. Out of the total number of young adults remaining in
1251 care, the number of young adults who are working and a breakdown
1252 of the types of employment held.

1253 6. Out of the total number of young adults remaining in
1254 care, the number of young adults who have a disability and a
1255 breakdown of how many young adults are in school, are training
1256 for employment, are employed, or are unable to participate in
1257 any of these activities.

1258 7. Evidence that the lead agency has established a working
1259 relationship with the Agency for Workforce Innovation and its
1260 regional workforce boards, the Able Trust, and other entities
1261 that provide services related to gaining employment.

1262 8. Out of the total number of young adults in care upon
1263 reaching 18 years of age, the number of young adults who are in
1264 the Road-to-Independence Program and a breakdown by the schools
1265 or other programs they are attending.

1266 9. Out of the total number of young adults who are in
1267 postsecondary institutions, a breakdown of the types and amounts
1268 of financial support received from sources other than the Road-
1269 to-Independence Program.

1270 10. Out of the total number of young adults who are in
1271 postsecondary institutions, a breakdown of the types of living
1272 arrangements.

1273 (b) Each community-based care lead agency shall provide its
1274 report to the department by September 30 of each year. The



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department shall compile the reports from each community-based care lead agency and provide them to the Legislature by December 31 of each year, with the first report due to the Legislature on December 31, 2012.

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6015 and the Road-to-Independence Program. This advisory council shall function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

(a) Specifically, the advisory council shall assess the implementation and operation of the provisions of s. 39.6015 and the Road-to-Independence Program and advise the department on actions that would improve the ability of those Road-to-Independence Program services to meet the established goals. The advisory council shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council.

(b) The advisory council shall report to the secretary on the status of the implementation of the Road-To-Independence Program; efforts to publicize the availability of the Road-to-Independence Program; the success of the services; problems



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identified; recommendations for department or legislative action; and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2012. The department shall submit a report by December 31 of each year to the Governor and the Legislature which includes a summary of the factors reported on by the council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or provides the department's rationale for not implementing the recommendations.

(c) Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and district offices of the Department of Children and Family Services, community-based care lead agencies, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, recipients of services and funding through the Road-to-Independence Program, and advocates for children in care. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.

(d) The department shall provide administrative support to the Independent Living Services Advisory Council to accomplish its assigned tasks. The advisory council shall be afforded access to all appropriate data from the department, each



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community-based care lead agency, and other relevant agencies in order to accomplish the tasks set forth in this section. The data collected may not include any information that would identify a specific child or young adult.

(e) The advisory council report required under paragraph (b), shall include an analysis of the system of independent living transition services for young adults who reach 18 years of age while in care prior to completing high school or its equivalent and recommendations for department or legislative action. The council shall assess and report on the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.

(8) PERSONAL PROPERTY. -Property acquired on behalf of a young adult of this program shall become the personal property of the young adult and is not subject to the requirements of chapter 273 relating to state-owned tangible personal property. Such property continues to be subject to applicable federal laws.

(9) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN CARE.-The department shall enroll in the Florida Kidcare program, outside the open enrollment period, each young adult who is eligible as described in paragraph (1)(a) and who has not yet reached his or her 19th birthday.

(a) A young adult who was formerly in care at the time of his or her 18th birthday and who is 18 years of age but not yet 19 years of age, shall pay the premium for the Florida Kidcare program as required in s. 409.814.

(b) A young adult who has health insurance coverage from a



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third party through his or her employer or who is eligible for Medicaid is not eligible for enrollment under this subsection.

(10) RULEMAKING.—The department shall adopt rules to administer this section. The rules shall provide the procedures and requirements necessary to administer the Road-to-Independence Program. In developing the rules, the department shall consider that the program is for young adults who remain in care for an extended period of time or who are planning to attain post secondary education and accommodate a young adult's busy life and schedule. The rules shall make the program easy for a qualified young adult to access and facilitate and encourage his or her participation.

Section 6. Subsection (4) of section 409.903, Florida Statutes, is amended to read:

409.903 Mandatory payments for eligible persons.—The agency shall make payments for medical assistance and related services on behalf of the following persons who the department, or the Social Security Administration by contract with the Department of Children and Family Services, determines to be eligible, subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(4) A child who is eligible under Title IV-E of the Social Security Act for subsidized board payments, foster care, or adoption subsidies, and a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or



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emergency shelter care, or subsidized adoption. This category includes a young adult who is eligible to receive services under s. 409.1451~~(5)~~, until the young adult reaches 21 years of age, without regard to any income, resource, or categorical eligibility test that is otherwise required. This category also includes a person who as a child was eligible under Title IV-E of the Social Security Act for foster care or the state-provided foster care and who is a participant in the Road-to-Independence Program.

Section 7. The Department of Children and Family Services shall format the case plan and the judicial review social service report consistent with the provisions of ss. 39.6015 and 409.1451, Florida Statutes.

Section 8. Effective October 1, 2011, a child or young adult who is currently participating in the Road-to-Independence Program may continue in the program as it exists as of September 30, 2011. A child or young adult applying or reapplying for the Road-to-Independence program on or after October 1, 2011, may apply for program services only as provided in this act.

Section 9. The Department of Children and Family Services shall develop a request for proposal for the purpose of establishing and operating a system to provide educational advocates for a child in care who is in middle or high school. Competitive proposals shall be solicited by the department pursuant to chapter 287, Florida Statutes. Entities responding to the request for proposal must have child advocacy as their primary focus, be knowledgeable about the operation of district schools in the state, and have experience in working with paid staff and volunteers. The department may award more than one



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contract under this section.

Section 10. The Department of Children and Family Services shall contract with a national nonprofit organization that advocates for and provides services to older children in care and young adults formerly in care for the purpose of administering the Road-to-Independence Program. The organization must have experience and expertise in administering scholarship programs, providing mentoring and academic coaching to help young adults at risk of failing or dropping out of school, and assisting young adults locate internship opportunities. The organization must also be able to report enrollment, attendance, academic progress, and financial data for each young adult to the state at an agreed-upon interval.

Section 11. This act shall take effect October 1, 2011.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/25/2011	.	
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The Committee on Children, Families, and Elder Affairs (Rich)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 39.013, Florida
Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(2) The circuit court has exclusive original jurisdiction
of all proceedings under this chapter, of a child voluntarily
placed with a licensed child-caring agency, a licensed child-
placing agency, or the department, and of the adoption of
children whose parental rights have been terminated under this



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chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age. However, if a young adult chooses to participate in the Foundations First Program, the court shall retain jurisdiction until the young adult leaves the program as provided for in s. 409.1451(4). The court shall review the status of the young adult at least every 12 months or more frequently if the court deems it necessary ~~youth petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the youth's 18th birthday for the purpose of determining whether appropriate aftercare support, Road-to-Independence Program, transitional support, mental health, and developmental disability services, to the extent otherwise authorized by law, have been provided to the formerly dependent child who was in the legal custody of the department immediately before his or her 18th birthday. If a petition for special immigrant juvenile status and an application for adjustment of~~



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status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

Section 2. Subsections (2) and (3) of section 39.6012, Florida Statutes, are amended to read:

39.6012 Case plan tasks; services.—

(2) The case plan must include all available information that is relevant to the child's care including, at a minimum:

(a) A description of the identified needs of the child while in care.

(b) A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child's needs. To the extent available and accessible, the following health, mental health, and education information and records of the child must be attached to the case plan and updated throughout the judicial review process:

1. The names and addresses of the child's health, mental health, and educational providers;



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- 71 2. The child's grade level performance;
- 72 3. The child's school record;
- 73 4. Assurances that the child's placement takes into account
- 74 proximity to the school in which the child is enrolled at the
- 75 time of placement and that efforts were made to allow the child
- 76 to remain in that school if it is in the best interest of the
- 77 child;
- 78 5. A record of the child's immunizations;
- 79 6. The child's known medical history, including any known
- 80 problems;
- 81 7. The child's medications, if any; and
- 82 8. Any other relevant health, mental health, and education
- 83 information concerning the child.
- 84 (3) In addition to any other requirement, if the child is
- 85 in an out-of-home placement, the case plan must include:
- 86 (a) A description of the type of placement in which the
- 87 child is to be living.
- 88 (b) A description of the parent's visitation rights and
- 89 obligations and the plan for sibling visitation if the child has
- 90 siblings and is separated from them.
- 91 (c) When appropriate, for a child who is in middle school
- 92 or high school ~~13 years of age or older~~, a written description
- 93 of the programs and services that will help the child prepare
- 94 for the transition from ~~foster~~ care to independent living.
- 95 (d) A discussion of the safety and the appropriateness of
- 96 the child's placement, which placement is intended to be safe,
- 97 and the least restrictive and the most family-like setting
- 98 available consistent with the best interest and special needs of
- 99 the child and in as close proximity as possible to the child's



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home.

Section 3. Section 39.6015, Florida Statutes, is created to read:

39.6015 Services for older children in licensed care.—

(1) PURPOSE AND INTENT.—The Legislature recognizes that education and the other positive experiences of a child are key to a successful future as an adult and that it is particularly important for a child in care to be provided with opportunities to succeed. The Legislature intends that individuals and communities become involved in the education of a child in care, address issues that will improve the educational outcomes for the child, and find ways to ensure that the child values and receives a high-quality education. Many professionals in the local community understand these issues, and it is the intent of the Legislature that, in fulfilling their responsibilities to the child, biological parents, caregivers, educators, advocates, the department and its community-based care providers, guardians ad litem, and judges work together to ensure that an older child in care has access to the same academic resources, services, and extracurricular and enrichment activities that are available to all children. Engaging an older child in a broad range of the usual activities of family, school, and community life during adolescence will help to empower the child in his or her transition into adulthood and in living independently. The Legislature intends for services to be delivered in an age-appropriate and developmentally appropriate manner, along with modifications or accommodations as may be necessary to include every child, specifically including a child with a disability. It is also the intent of the Legislature that while services to



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prepare an older child for life on his or her own are important,
these services will not diminish efforts to achieve permanency
goals of reunification, adoption, or permanent guardianship.

(2) EDUCATION PROVISIONS.—Perhaps more than any other
population, an older child in care is in need of a quality
education. The child depends on the school to provide positive
role models, to provide a network of relationships and
friendships that will help the child gain social and personal
skills, and to provide the educational opportunities and other
activities that are needed for a successful transition into
adulthood.

(a) School stability.—The mobility of a child in care can
disrupt the educational experience. Whenever a child enters
care, or is moved from one home to another, the proximity of the
new home to the child's school of origin shall be considered. If
the child is relocated outside the area of the school of origin,
the department and its community-based providers shall provide
the necessary support to the caregiver so that the child can
continue enrollment in the school of origin if it is in the best
interest of the child. As used in this paragraph, the term
"school of origin" means the school that the child attended
before coming into care or the school in which the child was
last enrolled. The case plan shall include tasks or a plan for
ensuring the child's educational stability while in care. As
part of this plan, the community-based care provider shall
document assurances that:

1. When an child comes into care, the appropriateness of
the current educational setting and the proximity to the school
in which the child is enrolled at the time of coming into care



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158 have been taken into consideration.

159 2. The community-based care provider has coordinated with
160 appropriate local school districts to determine if the child can
161 remain in the school in which he or she is enrolled.

162 3. The child in care has been asked about his or her
163 educational preferences and needs, including his or her view on
164 whether to change schools when the living situation changes.

165 4. A child with a disability is allowed to continue in an
166 appropriate educational setting, regardless of changes to the
167 location of the home, and transportation is addressed and
168 provided in accordance with the child's individualized education
169 program. A children with a disability shall receive the
170 protections provided in federal and state law, including
171 timelines for evaluations, implementation of an individualized
172 education plan or an individual family service plan, and
173 placement in the least restrictive environment, even when the
174 child changes school districts.

175 5. If the school district does not provide transportation,
176 or the individualized education plan does not include
177 transportation as a service, the department and its community-
178 based providers shall provide special reimbursement for expenses
179 associated with transporting a child to his or her school of
180 origin. Transportation arrangements shall follow a route that is
181 as direct and expedient for the child as is reasonably possible.

182 (b) School transitions.—When a change in schools is
183 necessary, it shall be as least disruptive as possible and the
184 support necessary for a successful transition shall be provided
185 by the department, the community-based provider, and the
186 caregiver. The department and the community-based providers



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shall work with school districts to develop and implement procedures to will ensure that a child in care:

1. Is enrolled immediately in a new school and can begin classes promptly.

2. Does not experience a delay in enrollment and delivery of appropriate services due to school or record requirements as required by s. 1003.22.

3. Has education records that are comprehensive and accurate and promptly follow the child to a new school.

4. Is allowed to participate in all academic and extracurricular programs when arriving at a new school in the middle of a school term, even if normal timelines have passed or programs are full.

5. Receives credit and partial credit for coursework completed at the prior school.

6. Has the ability to receive a high school diploma even when the child has attended multiple schools that have varying graduation requirements.

(c) School attendance.—A child in care shall attend school as required by s. 1003.26.

1. The community-based care provider and caregiver shall eliminate any barriers to attendance such as required school uniforms or school supplies.

2. Appointments and court appearances for a child in care shall be scheduled to minimize the impact on the child's education and to ensure that the child is not penalized for school time or work missed because of court or child-welfare-case-related activities.

3. A caregiver who refuses or fails to ensure that a child



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who is in his or her care attends school regularly shall be subject to the same procedures and penalties as a parent under s. 1003.27.

(d) Education advocacy.—

1. A child in care should have an adult who is knowledgeable about schools and children in care and who serves as an education advocate to reinforce the value of the child's investment in education, to ensure that the child receives a high-quality education, and to help the child plan for middle school, high school, and postschool training, employment, or college. The advocate may be a caregiver, care manager, guardian ad litem, educator, or individual hired and trained for the specific purpose of serving as an educational advocate.

2. A child in care with disabilities who is eligible for the appointment of a surrogate parent, as required in s. 39.0016, shall be assigned a surrogate in a timely manner, but no later than 30 days after a determination that a surrogate is needed.

3. The community-based provider shall document in the child's case plan that an education advocate has been identified for each child in care or that a surrogate parent has been appointed for each child in care with a disability.

(e) Academic requirements and support; middle school students.—In order to be promoted from a state school composed of middle grades 6, 7, and 8, a child must complete the required courses that include mathematics, English, social studies, and science.

1. In addition to other academic requirements, a child must complete one course in career and education planning in 7th or



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8th grade. As required by s. 1003.4156, the course must include career exploration using Florida CHOICES Explorer or Florida CHOICES Planner and must include educational planning using the online student advising system known as Florida Academic Counseling and Tracking for Students at the Internet website FACTS.org.

a. Each child shall complete an electronic personal academic and career plan that must be signed by the child, the child's teacher, guidance counselor, or academic advisor, and the child's parent, caregiver, or other designated education advocate.

b. The required personalized academic and career plan must inform students of high school graduation requirements, high school assessment and college entrance test requirements, Florida Bright Futures Scholarship Program requirements, state university and Florida college admission requirements, and programs through which a high school student may earn college credit, including Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, career academy opportunities, and courses that lead to national industry certification.

c. A caregiver shall attend the parent meeting held by the school to inform parents about the career and education planning course curriculum and activities associated with it.

2. For a child with disabilities, the decision whether to work toward a standard diploma or a special diploma shall be addressed at the transition individual education plan meeting conducted during the child's 8th grade year or the year the child turns 14 years of age, whichever occurs first. The child



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shall be invited to participate in this and each subsequent transition individual education plan meeting. At this meeting, the transition individual education plan team, including the child, the caregiver, or other designated education advocate, shall determine whether a standard or special diploma best prepares the child for his or her education and career goals after high school.

a. The team shall plan the appropriate course of study, which may include basic education courses, career education courses, and exceptional student education courses.

b. The team shall identify any special accommodations and modifications needed to help the child participate fully in the educational program.

c. All decisions shall be documented on the transition individual education plan, and this information shall be used to guide the child's educational program as he or she enters high school.

3. A caregiver or the community-based care provider shall provide the child with all information related to the Road-to-Independence Program as provided in s. 409.1451.

4. A caregiver or another designated education advocate shall attend parent-teacher conferences and monitor each child's academic progress.

5. Each district school board, as required by s. 1002.23, shall develop and implement a well-planned, inclusive, and comprehensive program to assist parents and families in effectively participating in their child's education. A school district shall have available resources and services for parents and their children, such as family literacy services; mentoring,



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tutorial, and other academic reinforcement programs; college planning, academic advisement, and student counseling services; and after-school programs. A caregiver shall access these resources as necessary to enable the child in their care to achieve educational success.

6. A child in care, particularly a child with a disability, shall be involved and engaged in all aspects of his or her education and educational planning and must be empowered to be an advocate for his or her education needs. Community-based care providers shall enter into partnerships with school districts to deliver curriculum on self-determination or self-advocacy to engage and empower the child to be his or her own advocate, along with support from the caregiver, community-based care provider, guardian ad litem, teacher, school guidance counselor, or other designated education advocate.

7. The community-based care provider shall document in the case plan evidence of the child's progress toward, and achievement of, academic, life, social, and vocational skills. The case plan shall be amended to fully and accurately reflect the child's academic and career plan, identify the services and tasks needed to support that plan, and identify the party responsible for accomplishing the tasks or providing the needed services.

(f) Academic requirements and support; high school students.—Graduation from high school is essential for a child to be able to succeed and live independently as an adult. In Florida, 70 percent of children in care reach 18 years of age without having obtained a high school diploma. It is the responsibility of the department, its community-based providers,



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and caregivers to ensure that a child in care is able to take full advantage of every resource and opportunity in order to be able to graduate from high school and be adequately prepared to pursue postsecondary education at a college or university or to acquire the education and skills necessary to enter the workplace. In preparation for accomplishing education and career goals after high school, the child must select the appropriate course of study that best meets his or her needs.

1. An older child who plans to attend a college or university after graduation must take certain courses to meet state university admission requirements. The course requirements for state university admission are the same for two Bright Futures Scholarship awards, the Florida Academic Scholars, and Florida Medallion Scholars. By following this course of study, which is required for state university admission and recommended if the child intends to pursue an associate in arts degree at a state college and transfer to a college or university to complete a bachelor's degree, the child will meet the course requirements for high school graduation, state university admission, and two Bright Futures Scholarship awards.

2. Older children who plan to focus on a career technical program in high school in order to gain skills for work or continue after graduation at a state college, technical center, or registered apprenticeship program should choose a course of study that will meet the course requirements for high school graduation, the third Bright Futures Scholarship award, and the Gold Seal Vocational Scholars. This course of study is recommended if the child intends to pursue a technical certificate or license, associate's degree, or bachelor's



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degree, or wishes to gain specific career training.

3. Older children with disabilities may choose to work toward a standard diploma, a special diploma, or a certificate of completion. The child shall be assisted in choosing a diploma option by school and district staff through the development of the individual educational plan. The diploma choice shall be reviewed each year at the child's individual education plan meeting.

a. Older children or young adults with disabilities who have not earned a standard diploma or who have been awarded a special diploma, certificate of completion, or special certificate of completion before reaching 22 years of age may stay in school until they reach 22 years of age.

b. The school district shall continue to offer services until the young adult reaches 22 years of age or until he or she earns a standard diploma, whichever occurs first, as required by the Individuals with Disabilities Education Act.

4. The provisions of this paragraph do not preclude an older child from seeking the International Baccalaureate Diploma or the Advanced International Certificate of Education Diploma.

5. Educational guidance and planning for high school shall be based upon the decisions made during middle school. Caregivers shall remain actively involved in the child's academic life by attending parent-teacher conferences and taking advantage of available resources to enable the child to achieve academic success.

6. The community-based care provider shall document in the case plan evidence of the child's progress toward, and achievement of, academic, life, social, and vocational skills.



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The case plan shall be amended to completely reflect the child's academic and career plan, identify the services and tasks needed to support that plan, and identify the party responsible for accomplishing the tasks or providing the needed services.

7. At the high school level, participation in workforce readiness activities is essential to help a child in care prepare himself or herself to be a self-supporting and productive adult. The caregiver and the community-based care provider shall ensure that each child:

a. Who is interested in pursuing a career after high school graduation is exposed to job-preparatory instruction in the competencies that prepare students for effective entry into an occupation, including diversified cooperative education, work experience, and job-entry programs that coordinate directed study and on-the-job training.

b. Is provided with the opportunity to participate in enrichment activities that are designed to increase the child's understanding of the workplace, to explore careers, and to develop goal-setting, decisionmaking, and time-management skills.

c. Is provided with volunteer and service learning opportunities in order to begin developing workplace and planning skills, self esteem, and personal leadership skills.

d. Is provided with an opportunity to participate in activities and services provided by the Agency for Workforce innovation and its regional workforce boards which are designed to prepare all young adults, including those with disabilities, for the workforce.

(3) EXTRA CURRICULAR ACTIVITIES.—An older child in care



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shall be accorded to the fullest extent possible the opportunity to participate in the activities of community, school, and family life.

(a) A caregiver shall encourage and support participation in age-appropriate extracurricular and social activities for an older child, including a child with a disability.

(b) A caregiver shall be expected to provide transportation for such activities and community-based care providers shall provide special reimbursement for expenses for such activities, including mileage reimbursement.

(c) The department and its community-based providers may not place an older child in a home if the caregiver does not encourage and facilitate participation in and provide transportation to the extracurricular activities of the child's choice, unless other arrangements can be made by the community-based care provider to enable the child's participation in such activities.

(d) A caregiver is not responsible under administrative rules or laws pertaining to state licensure, and a caregiver's licensure status is not subject to jeopardy in any manner, for the actions of a child in their care who engages in age-appropriate activities.

(4) DEVELOPMENT OF THE TRANSITION PLAN.—If a child is planning to leave care upon reaching 18 years of age, during the 90-day period before the child reaches 18 years of age, the department and community-based care provider, in collaboration with the caregiver, any other designated education advocate, and any other individual whom the child would like to have included, shall assist and support the older child in developing a



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448 transition plan. The transition plan must take into account all
449 of the education and other skills achieved by the child in
450 middle and high school, include specific options for the child
451 on housing, health insurance, education, local opportunities for
452 mentors and continuing support services, and workforce support
453 and employment services, and must be reviewed by the court
454 during the last review hearing before the child reaches 18 years
455 of age. In developing the plan, the department and community-
456 based provider shall:

457 (a) Provide the child with the documentation required in s.
458 39.701(7);

459 (b) Coordinate with local public and private entities in
460 designing the transition plan as appropriate;

461 (c) Coordinate the transition plan with the independent
462 living provisions in the case plan and the Individuals with
463 Disabilities Education Act transition plan for a child with a
464 disability; and

465 (d) Create a clear and developmentally appropriate notice
466 specifying the options available for a young adult who chooses
467 to remain in care for a longer period. The notice must include
468 information about what services the child is eligible for and
469 how such services may be obtained.

470 (5) ACCOUNTABILITY.—

471 (a) The community-based care lead agencies and its
472 contracted providers shall report to the department the
473 following information:

474 1. The total number of children in care who are enrolled in
475 middle school or high school and, in a breakdown by age, how
476 many had their living arrangements change one time and how many



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477 were moved two or more times. For the children who were moved,
478 how many had to change schools and how many of those changes
479 were due to a lack of transportation.

480 2. For those children for whom transportation was provided,
481 how many children were provided transportation, how was it
482 provided, how was the transportation paid for, and the amount of
483 the total expenditure by the lead agency.

484 3. The same information required in subparagraphs 1. and
485 2., specific to children in care with a disability.

486 4. In a breakdown by age, for those children who change
487 schools at least once, how many children experienced problems in
488 the transition, what kinds of problems were encountered, and
489 what steps did the lead agency and the caregiver take to remedy
490 those problems.

491 5. In a breakdown by age, out of the total number of
492 children in care, the number of children who were absent from
493 school more than 10 days in a semester and the steps taken by
494 the lead agency and the caregiver to reduce absences.

495 6. Evidence that the lead agency has established a working
496 relationship with each school district in which a child in care
497 attends school.

498 7. In a breakdown by age, out of the total number of
499 children in care, the number who have documentation in the case
500 plan that either an education advocate or a surrogate parent has
501 been designated or appointed.

502 8. In a breakdown by age, out of the total number of
503 children in care, the number of children who have documentation
504 in the case plan that they have an education advocate who
505 regularly participates in parent-teacher meetings and other



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school-related activities.

9. For those children in care who have finished 8th grade, the number of children who have documentation in the case plan that they have completed the academic and career plan required by s. 1003.4156 and that the child and the caregiver have signed the plan.

10. For those children in care who have a disability and have finished 8th grade, the number of children who have documentation in the case plan that they have had a transition individual education plan meeting.

11. The total number of children in care who are in middle school or high school, with a breakdown by age. For each age, the number of children who are reading at or above grade level, the number of children who have successfully completed the FCAT and end-of-course assessments, the number of children who have dropped out of school, the number of children who have enrolled in any dual enrollment or advanced placement courses, and the number of children completing the required number of courses, assessments, and hours needed to be promoted to the next grade level.

12. The total number of children in care who are in middle school or high school, with a breakdown by age. For each age, the number of children who have documentation in the case plan that they are involved in at least one extracurricular activity, whether it is a school-based or community-based activity, whether they are involved in at least one service or volunteer activity, and who provides the transportation.

13. The total number of children in care who are 17 years of age and who are obtaining services from the lead agency or



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its contracted providers and how many of that total number have indicated that they plan to remain in care after turning 18 years of age, and for those children who plan to leave care, how many children have a transition plan.

14. A breakdown of documented expenses for children in middle and high school.

(b) Each community-based care lead agency shall provided its report to the department by September 31 of each year. The department shall compile the reports from each community-based care lead agency and provide them to the Legislature by December 31 of each year, with the first report due to the Legislature on December 31, 2011.

Section 4. Subsections (7), (8), and (9) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(7)(a) In addition to paragraphs (1)(a) and (2)(a), the court shall hold a judicial review hearing within 90 days after a child's ~~youth's~~ 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the child ~~youth~~ has been removed pursuant to s. 743.045. The court shall continue to hold timely judicial review hearings thereafter. In addition, the court may review the status of the child more frequently during the year prior to the child's ~~youth's~~ 18th birthday if necessary. At each review held under this subsection, in addition to any information or report provided to the court, the caregiver ~~foster parent~~, legal custodian, guardian ad litem, and the child shall be given the opportunity to address the court with any information relevant to the child's best interests, particularly



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as it relates to the requirements of s. 39.6015 and the Road-to-Independence Program under s. 409.1451 ~~independent living transition services~~. In addition to any information or report provided to the court, the department shall include in its judicial review social study report written verification that the child has been provided with:

1. ~~Has been provided with~~ A current Medicaid card and ~~has been provided~~ all necessary information concerning the Medicaid program sufficient to prepare the child youth to apply for coverage upon reaching age 18, if such application would be appropriate.

2. ~~Has been provided with~~ A certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card issued under s. 322.051.

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

4. ~~Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills.~~

4.5. ~~Has been provided with~~ All relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, information on how forms necessary to participate apply, and assistance in gaining admission to the program ~~completing the forms~~. The child shall also be informed that, if he or she is eligible for the Road-to-



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Independence Program, he or she may reside with the licensed ~~foster~~ family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed ~~foster~~ home or with a group care provider arranged by the department.

~~5.6. An opportunity to Has-an~~ open a bank account, or obtain ~~has~~ identification necessary to open an account, and has been provided with essential banking and budgeting skills.

~~6.7. Has been provided with~~ Information on public assistance and how to apply.

~~7.8. Has been provided~~ A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in.

~~8.9. Information related to the ability Has been provided with notice of the child youth's right to remain in care until he or she reaches 21 years of age petition for the court's continuing jurisdiction for 1 year after the youth's 18th birthday as specified in s. 39.013(2) and with information on how to participate in the Road-to-Independence Program obtain access to the court.~~

9. A letter providing the dates that the child was under the jurisdiction of the court.

10. A letter stating that the child was in care, in compliance with financial aid documentation requirements.

11. His or her entire educational records.

12. His or her entire health and mental health records.

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

~~14.10. Encouragement Has been encouraged~~ to attend all



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judicial review hearings occurring after his or her 17th birthday.

(b) At the first judicial review hearing held subsequent to the child's 17th birthday, in addition to the requirements of subsection (8), the department shall provide the court with an updated case plan that includes specific information related to the provisions of s. 39.6015, ~~independent living services that have been provided~~ since the child entered middle school ~~child's 13th birthday~~, or since the date the child came into ~~foster~~ care, whichever came later.

(c) At the last judicial review hearing held before the child's 18th birthday, in addition of the requirements of subsection (8), the department shall provide for the court to review the transition plan for a child who is planning to leave care after reaching his or her 18th birthday.

~~(d)(e)~~ At the time of a judicial review hearing held pursuant to this subsection, if, in the opinion of the court, the department has not complied with its obligations as specified in the written case plan or in the provision of ~~independent living~~ services as required by s. 39.6015, s. 409.1451, and this subsection, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give the department 30 days within which to comply and, on failure to comply with this or any subsequent order, the department may be held in contempt.

(8) (a) Before every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen



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review panel a written report that includes, but is not limited to:

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

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

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

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

5. A statement that either:

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

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

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

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

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



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visitation.

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

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

10. If the child has entered middle school ~~reached 13 years of age~~ but is not yet 18 years of age, the specific information contained in the case plan related to the provisions of s. 39.6015 ~~results of the preindependent living, life skills, or independent living assessment~~; the specific services needed; and the status of the delivery of the identified services.

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

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

(b) A copy of the social service agency's written report and the written report of the guardian ad litem must be served on all parties whose whereabouts are known; to the caregivers ~~foster parents~~ or legal custodians; and to the citizen review panel, at least 72 hours before the judicial review hearing or citizen review panel hearing. The requirement for providing parents with a copy of the written report does not apply to those parents who have voluntarily surrendered their child for adoption or who have had their parental rights to the child



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terminated.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards alternative permanency goals or placements, including, but not limited to, guardianship, long-term custody, long-term licensed custody, or independent living, must be submitted to the court. The report must be submitted to the court at least 72 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the caregiver ~~foster-parent~~ or legal custodian, or any preadoptive parent, shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(9) The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the caregiver ~~foster-parent~~ or legal custodian, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to



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be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

(a) If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

(e) The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

(f) The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

(g) The compliance or lack of compliance of the parent in



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meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(h) Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care provider that:

1. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

2. The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

(i) A projected date likely for the child's return home or other permanent placement.

(j) When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

(k) For a child who has entered middle school ~~reached 13 years of age~~ but is not yet 18 years of age, the progress the



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child has made in achieving the goals outlined in s. 39.6015
~~adequacy of the child's preparation for adulthood and~~
~~independent living.~~

Section 5. Section 409.1451, Florida Statutes, is amended
to read:

(Substantial rewording of section. See
s. 409.1451, F.S., for present text).

409.1451 The Road-to-Independence Program.—The Legislature
recognizes that most children and young adults are resilient
and, with adequate support, can expect to be successful as
independent adults. Not unlike all young adults, some young
adults who have lived in care need additional resources and
support for a period of time after reaching 18 years of age. The
Legislature intends for these young adults to receive the
education, training, and health care services necessary for them
to become self-sufficient through the Road-to-Independence
Program. Young adults who participate in the Road-to-
Independence Program may choose to remain in care until 21 years
of age and receive help achieving their postsecondary goals by
participating in the Foundations First Program, or they may
choose to receive financial assistance to attend college through
the College Bound Program.

(1) THE FOUNDATIONS FIRST PROGRAM.—The Foundations First
Program is designed for young adults who have reached 18 years
of age but are not yet 21 years of age, and who need to finish
high school or who have a high school diploma, or its
equivalent, and want to achieve additional goals. These young
adults are ready to try postsecondary or vocational education,
try working part-time or full-time, or need help with issues



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that might stand in their way of becoming employed. Young adults who are unable to participate in any of these programs or activities full time due to an impairment, including behavioral, developmental, and cognitive disabilities, might also benefit from remaining in out-of-home care longer.

(a) Eligibility; termination; and reentry.—

1. A young adult in licensed care who spent at least 6 months in care before reaching 18 years of age and who is a resident of this state, as defined in s. 1009.40, is eligible for the Foundations First Program if he or she is:

a. Completing secondary education or a program leading to an equivalent credential;

b. Enrolled in an institution that provides postsecondary or vocational education;

c. Participating in a program or activity designed to promote, or eliminate barriers to, employment;

d. Employed for at least 80 hours per month; or

e. Unable to participate in these programs or activities full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such restriction to participation must be supported by information in the young adult's case file or school or medical records of a physical, intellectual, or psychiatric condition that impairs the young adult's ability to perform one or more life activities.

2. The young adult in care must leave the Foundations First Program on the earliest of the date the young adult:

a. Knowingly and voluntarily withdraws his or her consent to participate;



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b. Leaves care to live in a permanent home consistent with his or her permanency plan;

c. Reaches 21 years of age;

d. Becomes incarcerated in an adult or juvenile justice facility; or

e. In the case of a young adult with a disability, reaches 22 years of age.

3. Notwithstanding the provisions of this paragraph, the department may not close a case and the court may not terminate its jurisdiction until it finds, following a hearing held after notice to all parties, that the following criteria have been met:

a. Attendance of the young adult at the hearing; or

b. Findings by the court that:

(I) The young adult has been informed by the department of his or her right to attend the hearing and has provided written consent to waive this right;

(II) The young adult has been informed of the potential negative effects of terminating care early, the option to reenter care before reaching 21 years of age, the procedure to, and limitations on, reentering care, the availability of alternative services, and that the young adult has signed a document attesting that he or she has been so informed and understands these provisions; and

(III) The department and the community-based care provider have complied with the case plan and any individual education plan. At the time of this judicial hearing, if, in the opinion of the court, the department and community-based provider have not complied with their obligations as specified in the case



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883 plan and any individual education plan, the court shall issue a
884 show cause order. If cause is shown for failure to comply, the
885 court shall give the department and community-based provider 30
886 days within which to comply and, on failure to comply with this
887 or any subsequent order, the department and community-based
888 provider may be held in contempt.

889 4. A young adult who left care at or after reaching his or
890 her 18th birthday, but before reaching age 21, may petition the
891 court to resume jurisdiction and for the department to reopen
892 its case. The court shall resume jurisdiction and the department
893 shall reopen the case if the young adult is engaged in the
894 programs or activities described in this paragraph. If the young
895 adult comes back into the Foundations First Program, the
896 department and community-based provider shall update the case
897 plan within 30 days after reentry.

898 (b) *The transition plan.*—For all young adults during the
899 90-day period immediately before leaving care before reaching 21
900 years of age or after leaving care on or after reaching 21 years
901 of age, the department and the community-based care provider, in
902 collaboration with the caregiver, any other designated education
903 advocate, and any other individual whom the young adult would
904 like to have included, shall assist and support the young adult
905 in developing a transition plan. The transition plan must take
906 into account all of the education and other achievements of the
907 young adult, include specific options for the young adult on
908 housing, health insurance, education, local opportunities for
909 mentors and continuing support services, and workforce support
910 and employment services, and must be reviewed by the court
911 during the last review hearing before the child leaves care. In



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developing the plan, the department and community-based provider shall:

1. Provide the young adult with the documentation required in s. 39.701(7);

2. Coordinate with local public and private entities in designing the transition plan as appropriate;

3. Coordinate the transition plan with the independent living provisions in the case plan and the Individuals with Disabilities Education Act transition plan for a young adult with disabilities; and

4. Create a clear and developmentally appropriate notice specifying the rights of a young adult who is leaving care. The notice must include information about what services the young adult may be eligible for and how such services may be obtained. The plan must clearly identify the young adult's goals and the work that will be required to achieve those goals.

(c) Periodic reviews for young adults.-

1. For any young adult who continues to remain in care on or after reaching 18 years of age, the department and community-based provider shall implement a case review system that requires:

a. A judicial review at least once a year;

b. That the court maintain oversight to ensure that the department is coordinating with the appropriate agencies, and, as otherwise permitted, maintains oversight of other agencies involved in implementing the young adult's case plan and individual education plan;

c. That the department prepare and present to the court a report, developed in collaboration with the young adult,



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addressing the young adult's progress in meeting the goals in the case plan and individual education plan, and shall propose modifications as necessary to further those goals;

d. That the court determine whether the department and any service provider under contract with the department is providing the appropriate services as provided in the case plan and any individual education plan. If the court believes that the young adult is entitled to additional services in order to achieve the goals enumerated in the case plan, under the department's policies, or under a contract with a service provider, the court may order the department to take action to ensure that the young adult receives the identified services; and

e. That the young adult or any other party to the dependency case may request an additional hearing or review.

2. In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult, in an age-appropriate manner, with the young adult regarding the proposed permanency, case plan, and individual education plan for the young adult.

(2) THE COLLEGE BOUND PROGRAM.—

(a) *Purpose.*—This program is designed for young adults who have reached 18 years of age but are not yet 23 years of age, have graduated from high school, have been accepted into college, and need a minimum of support from the state other than the financial resources to attend college.

(b) *Eligibility; termination; and reentry.*—

1. A young adult who has earned a standard high school diploma or its equivalent as described in s. 1003.43 or s. 1003.435, has earned a special diploma or special certificate of



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completion as described in s. 1003.438, or has been admitted for full-time enrollment in an eligible postsecondary educational institution as defined in s. 1009.533, and has reached 18 years of age but is not yet 23 years of age is eligible for the College Bound Program if he or she:

a. Was a dependent child, as provided under chapter 39, and was living in licensed care at the time of his or her 18th birthday or is currently living in licensed care, or, after reaching 16 years of age, was adopted from care or placed with a court-approved dependency guardian and has spent a minimum of 6 months in care immediately preceding such placement or adoption;

b. Spent at least 6 months in care before reaching his or her 18th birthday; and

c. Is a resident of this state as defined in s. 1009.40.

2. A young adult with a disability may attend school part time and be eligible for this program.

3. An eligible young adult may receive a stipend for the subsequent academic years if, for each subsequent academic year, the young adult meets the standards by which the approved institution measures a student's satisfactory academic progress toward completion of a program of study for the purposes of determining eligibility for federal financial aid under the Higher Education Act. Any young adult who is placed on academic probation may continue to receive a stipend for one additional semester if the approved institution allows the student to continue in school. If the student fails to make satisfactory academic progress in the semester or term subsequent to the term in which he received academic probation, stipend assistance shall be discontinued for the period required for the young



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adult to be reinstated by the college or university. Upon
reinstatement, a young adult who has not yet reached 23 years of
age may reapply for financial assistance.

(3) PORTABILITY.—The provision of services pursuant to this
section must be portable across county and state lines.

(a) The services provided for in the original transition
plan shall be provided by the county where the young adult
resides but shall be funded by the county where the transition
plan was initiated. The care managers of the county of residence
and the county of origination must coordinate to ensure a smooth
transition for the young adult.

(b) If a child in care under 18 years of age is placed in
another state, the sending state is responsible for care
maintenance payments, case planning, including a written
description of the programs and services that will help a child
16 years of age or older prepare for the transition from care to
independence, and a case review system as required by federal
law. The sending state has placement and care responsibility for
the child.

(c) If a young adult formerly in care moves to another
state from the state in which he or she has left care due to
age, the state shall certify that it will provide assistance and
federally funded independent living services to the young adult
who has left care because he or she has attained 18 years of
age. The state in which the young adult resides is responsible
for services if the state provides the services needed by the
young adult.

(4) ACCOUNTABILITY.—

(a) The community-based care lead agencies and their



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contracted providers shall report the following information to the department:

1. Out of the total number of young adults who decided to remain in care upon reaching 18 years of age, the number of young adults who do not have a high school diploma or its equivalent, a special diploma, or a certificate of completion. Out of those young adults without a diploma or its equivalent, a special diploma, or a certificate of completion, the number of young adults who are receiving assistance through tutoring and other types of support.

2. Out of the total number of young adults who decided to remain in care upon reaching 18 years of age, a breakdown of academic and career goals and type of living arrangement.

3. The same information required in subparagraphs 1. and 2., specific to young adults in care with a disability.

4. Out of the total number of young adults remaining in care, the number of young adults who are enrolled in an educational or vocational program and a breakdown of the types of programs.

5. Out of the total number of young adults remaining in care, the number of young adults who are working and a breakdown of the types of employment held.

6. Out of the total number of young adults remaining in care, the number of young adults who have a disability and a breakdown of how many young adults are in school, are training for employment, are employed, or are unable to participate in any of these activities.

7. Evidence that the lead agency has established a working relationship with the Agency for Workforce Innovation and its



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1057 regional workforce boards, the Able Trust, and other entities
1058 that provide services related to gaining employment.

1059 8. Out of the total number of young adults in care upon
1060 reaching 18 years of age, the number of young adults who are in
1061 the Road-to-Independence Program and a breakdown by the schools
1062 or other programs they are attending.

1063 9. Out of the total number of young adults who are in
1064 postsecondary institutions, a breakdown of the types and amounts
1065 of financial support received from sources other than the Road-
1066 to-Independence Program.

1067 10. Out of the total number of young adults who are in
1068 postsecondary institutions, a breakdown of the types of living
1069 arrangements.

1070 (b) Each community-based care lead agency shall provide its
1071 report to the department by September 31 of each year. The
1072 department shall compile the reports from each community-based
1073 care lead agency and provide them to the Legislature by December
1074 31 of each year, with the first report due to the Legislature on
1075 December 31, 2011.

1076 (5) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The
1077 secretary shall establish the Independent Living Services
1078 Advisory Council for the purpose of reviewing and making
1079 recommendations concerning the implementation and operation of
1080 the provisions of s. 39.6015 and the Road-to-Independence
1081 Program. This advisory council shall continue to function as
1082 specified in this subsection until the Legislature determines
1083 that the advisory council can no longer provide a valuable
1084 contribution to the department's efforts to achieve the goals of
1085 the services designed to enable a young adult to live



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independently.

(a) Specifically, the advisory council shall assess the implementation and operation of the provisions of s. 39.6015 and the Road-to-Independence Program and advise the department on actions that would improve the ability of those Road-to-Independence Program services to meet the established goals. The advisory council shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council.

(b) The advisory council shall report to the secretary on the status of the implementation of the Road-To-Independence Program; efforts to publicize the availability of the Road-to-Independence Program; the success of the services; problems identified; recommendations for department or legislative action; and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2002. The department shall submit a report by December 31 of each year to the Governor and the Legislature which includes a summary of the factors reported on by the council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or provides the department's rationale for not implementing the recommendations.

(c) Members of the advisory council shall be appointed by



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the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and district offices of the Department of Children and Family Services, community-based care lead agencies, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, recipients of services and funding through the Road-to-Independence Program, and advocates for children in care. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.

(d) The department shall provide administrative support to the Independent Living Services Advisory Council to accomplish its assigned tasks. The advisory council shall be afforded access to all appropriate data from the department, each community-based care lead agency, and other relevant agencies in order to accomplish the tasks set forth in this section. The data collected may not include any information that would identify a specific child or young adult.

(e) The advisory council report required under paragraph (b) to be submitted to the substantive committees of the Senate and the House of Representatives by December 31, 2008, shall include an analysis of the system of independent living transition services for young adults who attain 18 years of age while in care prior to completing high school or its equivalent and recommendations for department or legislative action. The council shall assess and report on the most effective method of assisting these young adults to complete high school or its



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equivalent by examining the practices of other states.

(6) PERSONAL PROPERTY.—Property acquired on behalf of clients of this program shall become the personal property of the clients and is not subject to the requirements of chapter 273 relating to state-owned tangible personal property. Such property continues to be subject to applicable federal laws.

(7) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN CARE.—The department shall enroll in the Florida Kidcare program, outside the open enrollment period, each young adult who is eligible as described in paragraph (1)(a) and who has not yet reached his or her 19th birthday.

(a) A young adult who was formerly in care at the time of his or her 18th birthday and who is 18 years of age but not yet 19, shall pay the premium for the Florida Kidcare program as required in s. 409.814.

(b) A young adult who has health insurance coverage from a third party through his or her employer or who is eligible for Medicaid is not eligible for enrollment under this subsection.

(8) RULEMAKING.—The department shall adopt by rule procedures to administer this section. The rules shall describe the procedure and requirements necessary to administer the Road-to-Independence Program. The rules shall reflect that the program is for young adults who have chosen to remain in care for an extended period of time or who are planning to attain post secondary education and should be designed to accommodate a young adult's busy life and schedule. The rules shall make the program easy to access for a qualified young adult and facilitate and encourage his or her participation.

Section 6. The Department of Children and Family Services



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shall amend the format of the case plan and the judicial review social service report to reflect the provisions of s. 39.6015, Florida Statutes, and the changes to s. 409.1451, Florida Statutes.

Section 7. Effective October 1, 2011, a child or young adult who is currently participating in the Road-to-Independence Program may continue in the program as it exists as of September 30, 2011. A child or young adult applying for the Road-to-Independence program on or after October 1, 2011, may apply for program services only as provided in this act.

Section 8. The Department of Children and Family Services shall develop a request for proposal for the purpose of establishing and operating a system to provide educational advocates for a child in care who is in middle and high school. Competitive proposals shall be solicited by the department pursuant to chapter 287, Florida Statutes. Entities responding to the request for proposal must have child advocacy as their primary focus, have an established statewide infrastructure, and have experience in working with paid staff and volunteers.

Section 9. The Department of Children and Family Services shall contract with a national nonprofit organization that advocates for and provides services to older children in care and young adults formerly in care for the purpose of administering the Road-to-Independence Program. The organization must have experience and expertise in administering scholarship programs, providing mentoring and academic coaching to help young adults at risk of failing or dropping out of school, and assisting young adults locate internship opportunities. The organization must also be able to report enrollment, attendance,



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academic progress, and financial data for each young adult to
the state at an agreed-upon interval.

Section 10. This act shall take effect July 1, 2011.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to independent living; amending s.
39.013, F.S.; requiring the court to retain
jurisdiction over a child until the child is 21 years
of age if the child elects to receive Foundations
First Program services; providing for an annual
judicial review; amending s. 39.6012, F.S.; requiring
assurance in a child's case plan that efforts were
made to avoid a change in the child's school; creating
s. 39.6015, F.S.; providing purpose and legislative
intent with respect to the provision of services for
older children who are in licensed care; requiring the
documentation of assurances that school stability is
considered when a child in care is moved; providing
for the same assurances for children with
disabilities; defining the term "school or origin";
requiring that the Department of Children and Family
Services or the community-based provider provide
reimbursement for the costs of transportation provided
for a child in care; requiring changes in a child's
school to be minimally disruptive; specifying criteria



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to be considered by the department and community-based provider during the transition of a child to another school; requiring children in care to attend school; requiring scheduled appointments to consider the child's school attendance; providing penalties for caregivers who refuse or fail to ensure that the child attends school regularly; specifying who may serve as an education advocate; requiring documentation that an education advocate or surrogate parent has been designated or appointed for a child in care; requiring a child in middle school to complete an electronic personal academic and career plan; requiring caregivers to attend school meetings; specifying requirements for transition individual education plan meetings for children with disabilities; requiring that a child be provided with information relating to the Road-to-Independence Program; requiring that the caregiver or education advocate attend parent-teacher conferences; requiring that a caregiver be provided with access to school resources in order to enable a child to achieve educational success; requiring the delivery of a curriculum model relating to self-advocacy; requiring documentation of a child's progress, the services needed, and the party responsible for providing services; specifying choices for a child with respect to diplomas and certificates for high school graduation or completion; providing that a child with a disability may stay in school until 22 years of age under certain circumstances;



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1260 requiring caregivers to remain involved in the
1261 academic life of child in high school; requiring
1262 documentation of a child's progress, the services
1263 needed, and the party who is responsible for providing
1264 services; providing for a child to be exposed to job-
1265 preparatory instruction, enrichment activities, and
1266 volunteer and service opportunities, including
1267 activities and services offered by the Agency for
1268 Workforce Innovation; requiring that children in care
1269 be afforded opportunities to participate in the usual
1270 activities of school, community, and family life;
1271 requiring caregivers to encourage and support a
1272 child's participation in extracurricular activities;
1273 requiring that transportation be provided for a child;
1274 providing for the development of a transition plan;
1275 specifying the contents of a transition plan;
1276 requiring that the plan be reviewed by the court;
1277 requiring that a child be provided with specified
1278 documentation; requiring that the transition plan be
1279 coordinated with the case plan and a transition plan
1280 prepared pursuant to the Individuals with Disabilities
1281 Education Act for a child with disabilities; requiring
1282 the creation of a notice that specifies the options
1283 that are available to the child; requiring that
1284 community-based care lead agencies and contracted
1285 providers report specified data to the department and
1286 Legislature; amending s. 39.701, F.S.; conforming
1287 terminology; specifying the required considerations
1288 during judicial review of a child under the



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1289 jurisdiction of the court; specifying additional
1290 documents that must be provided to a child and that
1291 must be verified at the judicial review; requiring
1292 judicial review of a transition plan; conforming
1293 references; amending s. 409.1451, F.S., relating to
1294 the Road-to-Independence Program; creating the
1295 Foundations First Program for young adults who want to
1296 remain in care after reaching 18 years of age;
1297 providing eligibility, termination, and reentry
1298 requirements for the program; requiring a court
1299 hearing before termination; providing for the
1300 development of a transition plan; specifying the
1301 contents of the transition plan; requiring that a
1302 young adult be provided with specified documentation;
1303 requiring that the transition plan be coordinated with
1304 the case plan and a transition plan prepared pursuant
1305 to the Individuals with Disabilities Education Act for
1306 a young adult with disabilities; requiring the
1307 creation of a notice that specifies the options that
1308 are available to the young adult; requiring annual
1309 judicial reviews; creating the College Bound Program
1310 for young adults who have completed high school and
1311 have been admitted to an eligible postsecondary
1312 institution; providing eligibility requirements;
1313 providing for a stipend; requiring satisfactory
1314 academic progress for continuation of the stipend;
1315 providing for reinstatement of the stipend; providing
1316 for portability of services for a child or young adult
1317 who moves out of the county or out of state;



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1318 specifying data required to be reported to the
1319 department and Legislature; conforming terminology
1320 relating to the Independent Living Services Advisory
1321 Council; providing rulemaking authority to the
1322 Department of Children and Family Services; requiring
1323 the department to amend the case plan and judicial
1324 social service review formats; providing for young
1325 adults receiving transition services to continue to
1326 receive existing services until their eligibility for
1327 that benefit program expires; requiring the department
1328 to develop a request for proposal for the creation of
1329 an education advocacy system; requiring the department
1330 to contract with a national nonprofit organization to
1331 administer the Road-to-Independence Program; providing
1332 an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1902

INTRODUCER: Senator Rich

SUBJECT: Independent Living

DATE: March 18, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill makes significant changes to the Department of Children and Family Services independent living transition services program for children and young adults.

The bill removes the provision allowing a young adult to petition the court for continued jurisdiction for a period of time, not to exceed one year, after the young adult reached 18 years of age and provides that a young adult who is approved for Foundations for Success services will continue under court jurisdiction until he or she reaches 21 years of age or is terminated from the program. Court jurisdiction is extended for the purpose of reviewing the young adult's transition and permanency plans and the status of the services being provided.

The bill makes changes to, and restructures, the provisions relating to the delivery of services to children in care between the ages of 13 and 17 years and young adults who were formerly in care between the ages of 18 and 22 years. The bill creates the Pathways to Success, Foundations for Success, and Jumpstart to Success Programs.

The bill creates definitions for the terms "child," "Foundations for Success," "Jumpstart to Success," "needs assessment," "Pathways to Success," "qualifying residential facility," and "young adult."

The bill substantially amends, ss. 39.013 and 409.903, and creates ss. 39.605, 39.911 and 39.922, of the Florida Statutes.

II. Present Situation:

Independent Living Services

Background

Each year thousands of children leave state foster care systems because they reach the age of 18 and are no longer eligible for out-of-home care. Since the early 1980's, research and anecdotal evidence have indicated that many of these young adults experience numerous difficulties in their attempts to achieve self-sufficiency. When compared to young adults with no exposure to the child welfare system, former foster youth are less likely to earn a high school diploma or GED and subsequently, have lower rates of college attendance.¹ They suffer more from mental health problems; have a higher rate of involvement with the criminal justice system; are more likely to have a difficult time achieving financial independence, thus increasing their reliance on public assistance; and experience high rates of housing instability and homelessness.²

Federal Law

John H. Chafee Foster Care Independence Program

The federal government responded to the needs of foster care youth who age out by enacting the Foster Care Independence Act of 1999 (known as the CFCIP or the Chafee Act).³ The Chafee Act provides states with flexible funding that enables programs to be designed and conducted to:

- Identify and assist youths who are likely to remain in foster care until 18 years of age;
- Provide education, training, and services necessary to obtain employment for those youths;
- Prepare those youths to enter postsecondary training and education institutions; and
- Provide support through mentors and the promotion of interactions with dedicated adults.⁴

Age restrictions were also eliminated, allowing states to offer independent living services to youth earlier than age 16.⁵ The Chafee Act grants wide discretion to the states, allowing them to set their own criteria for foster care children to receive services.⁶ However, states must use objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients.⁷

¹ Courtney, M.A. and Huring, D.H. (2005). The Transition to Adulthood for Youth "Aging Out" of the Foster Care System. In Osgood, D.W., Foster, E.M., Flanagan, C. & Ruth G.R. (Eds.), *On Your Own Without a Net: The Transition to Adulthood for Vulnerable Populations*. (pp. 33-34). Chicago, Illinois: The University of Chicago Press

² *Id.* (pp.36-40).

³ Public Law No. 106-169, 113 Stat. 1822 (1999). Federal funds for independent living initiatives were first made available under the Consolidated Omnibus Budget Reconciliation Act of 1985.

⁴ 42 U.S.C. § 677(2002).

⁵ 42 U.S.C. § 677(b)(2)(C) (2002).

⁶ 42 U.S.C. § 677(b)(2).

⁷ 42 U.S.C. § 677(b)(2)(E).

Education and Training Vouchers

The Educational and Training Vouchers Program (ETV) for children aging out of foster care was added to the CFCIP in 2002. ETV provides resources specifically to meet the education and training needs of youth aging out of foster care. Funding is provided for post secondary educational and training vouchers for children and young adults likely to experience difficulty as they transition to adulthood after reaching 18 years of age. The program makes available vouchers of up to \$5,000 per year per young adult.⁸

Florida Law

With the enactment of federal legislation and increased available funding, the 2002 Florida Legislature established a new framework for the state's independent living transition services to be provided to older youth in foster care and young adults who were formerly in foster care.⁹ Those service categories include:¹⁰

CATEGORIES OF SERVICES	SERVICES INCLUDED	ELIGIBILITY
PRE-INDEPENDENT LIVING SERVICES	Life skills training, educational field trips and conferences.	13 and 14 year olds in foster care.
LIFE SKILLS SERVICES	Training to develop banking and budgeting skills, parenting skills, and time management and organizational skills, educational support, employment training, and counseling.	15,16, and 17 year olds in foster care.
SUBSIDIZED INDEPENDENT LIVING SERVICES	Living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175, F.S.	16 and 17 year olds demonstrating independent living skills.
AFTERCARE SUPPORT SERVICES	Mentoring and tutoring, mental health services and substance abuse counseling, life skills classes, including credit management and preventive health activities, parenting classes, job and career skills training, counselor consultations, temporary financial assistance, and financial literacy skills training.	18 – 22 year olds
ROAD-TO-INDEPENDENCE PROGRAM	Stipend based on a needs assessment.	18 – 22 year olds who have or have to finished high school and want further education.
TRANSITIONAL SUPPORT SERVICES	Funding and services, which may include financial, housing, counseling, employment, education, mental health, and disability services.	18 – 22 year olds.

⁸ U.S. Department of Health and Human Services, Administration for Children and Families, *The John H. Chafee Foster Care Independence Program*. Available at: http://www.acf.hhs.gov/programs/cb/programs_fund/state_tribal/jh_chafee.htm (Last visited March 18, 2011).

⁹ The department provided independent living services to older youth in foster care prior to the creation of s. 409.1451, F.S., with provisions for those services appearing in a number of sections of Florida Statutes, including s. 409.145, F.S., relating to care of children (2001), and 409.165, F.S., relating to alternative care of children (2001).

¹⁰ s. 409.1451, F.S.

Fostering Connections to Success and Increasing Adoptions Act

The Fostering Connections to Success and Increasing Adoptions Act¹¹ enacted in 2008, was designed to improve outcomes for children in foster care by promoting permanent families for them through relative guardianship and adoption and improving education and health care. Specifically, the Act:

- Promotes permanent families for children in care with relatives by providing notice to relatives when a child enters care, providing subsidized guardianship payments for relatives, and waiving certain licensing standards for relatives;
- Promotes permanent families for child with adoptive families by increasing opportunities for more children with special needs to receive federally-supported adoption assistance; and
- Improves outcomes for children in care by:
 - Allowing children who turn 18 in foster care without permanent families to remain in care, at state option, to age 19, 20, or 21 with continued federal support to increase their opportunities for success as they transition to adulthood;
 - Helping children in care achieve their educational goals by requiring that states ensure that they attend school and, when placed in care, they remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school; and
 - Helping improve health care for children in care by requiring the state child welfare agency to work with the state Medicaid agency to create a plan to better coordinate health care for these children in order to ensure appropriate screenings and assessments and follow-up treatment and to assure sharing of critical information with appropriate providers and oversight of prescription medications.¹²

Outcomes in Florida

While attention to the needs of children in care and young adults formerly in care has increased significantly over the past decade, the services intended to help prepare them to live independently upon aging out of the system appear to remain limited and fragmented.¹³ Concerns continue to be raised as to whether those services are adequate to prepare foster youth to live independently as adults, whether all eligible youth are being served, and whether the

¹¹ Public Law 110-351.

¹² Center for Law and Social Policy. *Fostering Connections To Success And Increasing Adoptions Act*. Available at: <http://www.clasp.org/admin/site/publications/files/FINAL-FCSAIAAct1-pager.pdf>. (Last visited March 17, 2011).

¹³ *Report of Independent Living Services for Florida's Foster Youth* (2008). Independent Living Services Advisory Council. (p. 6). Available at <http://www.dcf.state.fl.us/indliving/docs/AdvisoryCouncil/2008%20ILSAC%20Report.pdf>. (Last visited March 15, 2011); *Improved Fiscal and Quality Oversight Is Needed for the Independent Living Program*, Office of Program Policy Analysis and Government Accountability, Report No. 07-11. February 2007; and *The Independent Living Transitional Services Critical Checklist* (2008). A joint project by the Independent Living Services Advisory Council, the Community-Based Care lead agencies, and the Department of Children and Family Services. Available at: http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf. (Last visited March 15, 2011).

direction and oversight of community-based care lead agencies and providers are sufficient to ensure that the goals of the program are being met.¹⁴

In a recent audit of the DCF independent living transition services program conducted by the Auditor General, preliminary and tentative audit findings revealed the following:

- The department and community-based care (CBC) lead agencies did not require that actual living and educational expenses be utilized as a basis for determining the amounts of the Road-to-Independence (RTI) awards made to high school students. Additionally, for post-secondary students, the department and CBCs were unable to provide documentation supporting the appropriateness of the amounts of the RTI awards;
- DCF rules and guidelines did not specifically address the type of documentation that would be sufficient to demonstrate appropriate progress by students in GED programs;
- The department and CBCs made payments for Aftercare Support Services to young adults in the same month during which the young adult received both RTI and Transitional Support Services payments. These payments in total were sometimes significant in amount, and in some cases, made to meet the same identified need. In addition, the department and CBCs did not always ensure that only eligible young adults received Aftercare and Transitional Support Services and that the payments for those services were documented by applications and properly coded;
- Federal funds totaling \$641,913 from the CFCIP and ETV Programs were paid to ineligible young adults. In addition, administrative and support services costs were not properly allocated to State General Revenue and Chafee Program funds. CBCs also did not properly code payments for young adult services to the correct funding source;
- ETV Program, RTI, and Subsidized Independent Living (SIL) payments were made to young adults and adolescents in excess of established spending caps;
- Specific to adolescents in SIL, the Department and CBCs were unable to provide documentation to support the required number of services worker visitations. In addition, the Department and applicable CBCs were unable to provide documentation showing that staffings, assessments, and judicial reviews had been completed;
- The department and CBCs did not properly conduct or provide supporting documentation showing that staffings, assessments, and case plans for adolescents ages 13 to 17 had been completed;
- DCF did not require CBCs to fully utilize the functionality of the Florida Safe Families Network specific to the independent living (IL) program; and
- Department monitoring efforts were not sufficient to ensure IL program compliance.¹⁵

III. Effect of Proposed Changes:

The bill amends s. 39.013, F.S., to remove the provision allowing a young adult to petition the court for continued jurisdiction for a period of time not to exceed one year after the young adult reached 18 years of age and provides that a young adult who is approved for Foundations for Success services may continue under court jurisdiction until he or she reaches 21 years of age or

¹⁴ *Id.*

¹⁵ Preliminary And Tentative Audit Findings. Department Of Children And Family Services. Independent Living Transition Services Program. Office of the Auditor General. March 3, 2011.

is terminated from the program.¹⁶ Court jurisdiction is extended for the purpose of reviewing the young adult's transition and permanency plans and the status of the services being provided. The court may not review the amount of the stipend provided to the young adult.

The bill creates s. 39.605, F.S., which restructures the current system for providing independent transition services to children under 18 years of age, including the following:

- Combining the categories of “preindependent living services” that provides services to children are 13 and 14 years of age, and “life skills services” that provides services to children who are 15-17 years of age, into one broader category that includes children who are 13-17 years of age.
- Creating provisions relating to “quality parenting services” to provide caregivers the training, support, and services needed to teach children in out-of-home care the necessary life skills and to assist the children to build a transition to independent, self-sufficient adulthood;
- Requiring the development of a transition plan during the 90-day period before the child turns 18 years of age. The transition plan must be included as part of the judicial review;
- Renaming the “subsidized independent living services” program as the “early entry into the Foundations for Success” program; and
- Providing rulemaking authority to the department to administer the section.

The bill creates s. 39.911, F.S., that provides definitions for the following terms:

- “Child” which means an individual younger than 21 years of age for purposes of participation in the Foundations for Success program;
- “Foundations for Success” which means a program of services for children who reach 18 years of age and opt to remain in out-of-home care for an extended period of time. These services include case work, support services, housing, and an annual judicial review;
- “Jumpstart to Success” which means a temporary support system that serves young adults between the ages of 18 and 20 who decide not to participate in the Foundations for Success program or do not meet the eligibility requirements for other services. Services under this program include limited cash assistance, access to an independent living counselor, and other supportive services;
- “Needs assessment” which means an assessment of the child's or young adult's need for cash assistance through any one of the independent living services programs;
- “Pathways to Success” which means an education program for eligible young adults between the ages of 18 and 22 who are fulltime students at a postsecondary institutions approved by the department;
- “Qualifying residential facility” which means a juvenile residential commitment or secure detention facility or an adult correctional facility; and
- “Young adult” which means an individual who is at least 21 years of age but not more than 23 years of age.

¹⁶ The ability for states to receive federal funding to extend foster care beyond 18 years of age is an option under the Fostering Connections Act.

The bill creates s. 39.912, F.S., that specifies the provisions of the Pathways to Success, Foundations for Success, and Jumpstart to Success programs.¹⁷

Pathways to Success

This program appears to replace the Road-to-Independence Program and is intended to help eligible students who are former foster children receive the educational and vocational training needed to achieve independence. A young adult who has earned a standard high school diploma or its equivalent and who is attending a postsecondary or vocational school approved by the department full-time is eligible for the program. Young adults with a disability may be eligible to attend part-time. A stipend is provided based on a needs assessment which includes consideration of other grants, scholarships, waivers and earnings of the young adult. The young adult must meet certain specified progress requirements for continued eligibility.

Foundations for Success

This program is for eligible young adults who decide to voluntarily remain in out-of-home care up to their 21st birthday. The program provides:

- Two levels of services; one providing greater supervision and financial direction:
 - Basic services are provided to a young adult who has not completed high school;
 - More advanced services are provided to a young adult who decides to remain in the program after completing high school;
- Cash assistance paid directly to the child, with the amount to be determined by a needs assessment;
- Eligibility requirements which require the young adult to be engaged in the following activities to equal a full-time or 40-hour week:
 - Working to complete secondary education or a program leading to an equivalent credential, including high school or preparation for a general equivalency diploma exam;
 - Full-time enrollment in a university, college, or vocational or trade school that provides postsecondary or vocational education;
 - Part-time enrollment in an institution that provides postsecondary or vocational education or a program designed to promote or remove barriers to employment and part-time employment at one or more places of employment; or
 - Participation in a full-time program or activity designated to promote or remove barriers to employment;
- For an annual judicial review;
- For renewal of services and cash assistance and termination for cause.

Jumpstart to Success

This program is for young adults who have not yet reached 21 years of age, and benefits are limited to a total of 12 cumulative months between the ages of 18 and 21. The age and number

¹⁷ This section and these programs restructure and replace the provisions of s. 409.1451, F.S., related to the Road-to-Independence Program.

of months for benefits may be extended in extenuating circumstances. Entry into the program requires development of a transition plan.

The bill provides for an appeals process for a child or young adult who is the subject of an adverse eligibility determination for services or termination of services made by the department. The bill requires the department to develop outcome and other performance measures for the independent living program. The bill provides for a transition period for young adults currently receiving services under s. 409.1451, F.S.

The bill makes no substantive changes to provisions related to the Independent Living Services Advisory Council, property acquired on behalf of clients in the program, or enrollment in Kidcare.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department has reported that the provisions of the bill will be revenue neutral.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There are a number of inconsistencies in the bill including, but not limited to:

- On lines 412-443, the bill creates a new paragraph titled, “Quality parenting services.” Only one subparagraph contains provisions related to training for caregivers, while the other two subparagraphs are related to the department conducting assessments;
- The newly created definitions for the terms “Foundations for Success,” “Jumpstart to Success,” and “Pathways to Success,” contain substantive law which should not be included in a definition. The definition of the term, “needs assessment” contains rulemaking authority for the department which should not appear in a definition. Also, while there is a definition for the term, “qualifying residential facility”, the term is not used in the bill;
- On lines 682-684, the bill provides rulemaking authority to the department to define what constitutes full-time enrollment. It is unclear why the department would be making that determination;
- On lines 731-759, the bill refers to two levels of services in the Foundations for Success program, but the bill does not provide any information about what services are included in each level;
- On lines 830-832, the bill refers to “an eligible child may voluntarily opt into the Jumpstart program,” but the bill does not specify the criteria that would make a child eligible.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By:

BILL: PCS for SB 1902

INTRODUCER: Committee on Children, Families, and Elder Affairs and Senator Rich

SUBJECT: Independent Living

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The proposed committee substitute (PCS) provides protections for children in care who are in middle and high school to enable them to receive a quality education and participate in extracurricular and enrichment activities. The PCS includes provisions relating to school stability, transfers, transportation, attendance, and identification of an education advocate. The PCS specifies requirements for the Department of Children and Family Services (DCF or department), its community-based care (CBC) providers, and caregivers relating to the education of children in care, including those with disabilities, and requires the development of a transition plan.

The proposed committee substitute restructures the Road-to-Independence Program; providing for the creation of the Foundations First Program for young adults who wish to remain in care after their 18th birthday, and the College Bound Program for young adults who have graduated from high school and been accepted into a college or university. The PCS provides for emergency funding and for an appeals process.

The PSC enables young adults receiving transition services to continue in existing services until their eligibility for that benefit program expires; requires accountability from the CBC lead agencies; requires the department to develop a request for proposal for the creation of an education advocacy system; and requires the department to contract with a national nonprofit organization to administer the Road-to-Independence Program.

The PCS substantially amends, ss. 39.013, 39.6012, 39.701, 409.1451, 409.903 and creates s. 39.6015 of the Florida Statutes.

II. Present Situation:

Independent Living Services

Background

Each year thousands of children leave state dependency care systems because they reach the age of 18 and are no longer eligible for care. Since the early 1980's, research and anecdotal evidence have indicated that many of these young adults experience numerous difficulties in their attempts to achieve self-sufficiency. When compared to young adults with no exposure to the child welfare system, young adults who were formerly in care are less likely to earn a high school diploma or GED and subsequently, have lower rates of college attendance.¹ They suffer more from mental health problems; have a higher rate of involvement with the criminal justice system; are more likely to have a difficult time achieving financial independence, thus increasing their reliance on public assistance; and experience high rates of housing instability and homelessness.²

Federal Law

John H. Chafee Foster Care Independence Program

The federal government responded to the needs of children who age out of care by enacting the Foster Care Independence Act of 1999 (known as the CFCIP or the Chafee Act).³ The Chafee Act provides states with flexible funding that enables programs to be designed and conducted to:

- Identify and assist children who are likely to remain in foster care until 18 years of age;
- Provide education, training, and services necessary to obtain employment for those children;
- Prepare those children to enter postsecondary training and education institutions; and
- Provide support through mentors and the promotion of interactions with dedicated adults.⁴

Age restrictions were also eliminated, allowing states to offer independent living services to children earlier than age 16.⁵ The Chafee Act grants wide discretion to the states, allowing them to set their own criteria for children in care to receive services.⁶ However, states must use objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients.⁷

¹ Courtney, M.A. and Huring, D.H. (2005). The Transition to Adulthood for Youth "Aging Out" of the Foster Care System. In Osgood, D.W., Foster, E.M., Flanagan, C. & Ruth G.R. (Eds.), *On Your Own Without a Net: The Transition to Adulthood for Vulnerable Populations*. (pp. 33-34). Chicago, Illinois: The University of Chicago Press

² *Id.* (pp.36-40).

³ Public Law No. 106-169, 113 Stat. 1822 (1999). Federal funds for independent living initiatives were first made available under the Consolidated Omnibus Budget Reconciliation Act of 1985.

⁴ 42 U.S.C. § 677(2002).

⁵ 42 U.S.C. § 677(b)(2)(C) (2002).

⁶ 42 U.S.C. § 677(b)(2).

⁷ 42 U.S.C. § 677(b)(2)(E).

Education and Training Vouchers

The Educational and Training Vouchers Program (ETV) for children aging out of care was added to the CFCIP in 2002. ETV provides resources specifically to meet the education and training needs of youth aging out of care. Funding is provided for post secondary educational and training vouchers for children and young adults likely to experience difficulty as they transition to adulthood after reaching 18 years of age. The program makes available vouchers of up to \$5,000 per year per young adult.⁸

Florida Law

With the enactment of federal legislation and increased available funding, the 2002 Florida Legislature established a new framework for the state's independent living transition services to be provided to older children in care and young adults who were formerly in care.⁹ Those service categories include:¹⁰

PROGRAM COMPONENTS AND TYPES OF SERVICES	SERVICES PROVIDED	AGE GROUP SERVED
PRE-INDEPENDENT LIVING	Life skills training, educational field trips and conferences.	13 to 15
LIFE SKILLS	Independent living skills training, including training to develop banking and budgeting skills, interviewing skills, parenting skills, and time management or organizational skills, educational support, employment training, and counseling.	15 to 18
SUBSIDIZED INDEPENDENT LIVING (SIL)	Financial assistance for living arrangements that allow the child to live independently of the daily care and supervision of an adult.	16 to 18
AFTERCARE SUPPORT	Housing, electric, water, gas, sewer service, food, mentoring, tutoring, mental health services, substance abuse counseling, life skills classes, parenting classes, job and career skills training, counselor consultations, temporary financial assistance, and financial literacy skills training.	18 to 23
ROAD-TO-INDEPENDENCE PROGRAM	Financial assistance for education.	18 to 23
TRANSITIONAL SUPPORT	Financial, housing, counseling, employment, education, mental health, disability, and other services.	18 to 23

⁸ U.S. Department of Health and Human Services, Administration for Children and Families, *The John H. Chafee Foster Care Independence Program*. Available at: http://www.acf.hhs.gov/programs/cb/programs_fund/state_tribal/jh_chafee.htm (Last visited March 18, 2011).

⁹ The department provided independent living services to older youth in foster care prior to the creation of s. 409.1451, F.S., with provisions for those services appearing in a number of sections of Florida Statutes, including s. 409.145, F.S., relating to care of children (2001), and 409.165, F.S., relating to alternative care of children (2001).

¹⁰ s. 409.1451, F.S.

Fostering Connections to Success and Increasing Adoptions Act

The Fostering Connections to Success and Increasing Adoptions Act¹¹ enacted in 2008, was designed to improve outcomes for children in care by promoting permanent families for them through relative guardianship and adoption and improving education and health care.

Specifically, the Act:

- Promotes permanent families for children in care with relatives by providing notice to relatives when a child enters care, providing subsidized guardianship payments for relatives, and waiving certain licensing standards for relatives;
- Promotes permanent families for children with adoptive families by increasing opportunities for more children with special needs to receive federally-supported adoption assistance; and
- Improves outcomes for children in care by:
 - Allowing children who turn 18 in care without permanent families to remain in care, at state option, to age 19, 20, or 21 with continued federal support to increase their opportunities for success as they transition to adulthood;
 - Helping children in care achieve their educational goals by requiring that states ensure that they attend school and, when placed in care, they remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school; and
 - Helping improve health care for children in care by requiring the state child welfare agency to work with the state Medicaid agency to create a plan to better coordinate health care for these children in order to ensure appropriate screenings and assessments and follow-up treatment and to assure sharing of critical information with appropriate providers and oversight of prescription medications.¹²

Education and Children in Care

Children in care lag behind their peers in school. Research over the past three decades has shown that, compared to the general school population, the half-million children in care in the United States:

- Have poorer attendance rates,
- Are less likely to perform at grade level,
- Are more likely to have behavior and discipline problems,
- Are more likely to be assigned to special education classes, and

¹¹ Public Law 110-351.

¹² Center for Law and Social Policy. *Fostering Connections To Success And Increasing Adoptions Act*. Available at: <http://www.clasp.org/admin/site/publications/files/FINAL-FCSAIAAct1-pager.pdf>. (Last visited March 17, 2011).

- Are less likely to attend college.¹³

A 2001 study found that children in care often repeat a grade and are twice as likely as the rest of the school population to drop out before graduation. And among all students who drop out of school, fewer children in care eventually earn their GED than dropouts who were not in care.¹⁴ Children in care are faced with numerous obstacles to achieving educational success including:

- Lack of continuity in education;
- Requirements of the child welfare system;
- Lack of emphasis on education;
- Low expectations;
- An absence of an advocate; and
- The gap between the systems.¹⁵

Interagency agreements

The department was required in 2004 to enter into an agreement with the Department of Education (DOE) relating to the education and related care of children who are in care or in shelter.¹⁶ The agreement was required to be designed to:

- Provide educational access to children in care for the purpose of facilitating the delivery of services or programs to those children;
- Avoid duplication of services or programs and provide for combining resources to maximize the availability or delivery of services or programs; and
- Require the DOE to access the department's Florida Safe Families Network (FSFN) to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA).

The department was also required to enter into agreements with district school boards or other local educational entities regarding education and related services for children in care who are of school age and children in care who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

- Requirements that the department enroll children in care in school, with the goal of avoiding disruption of education; provide the school with contact information for children in care; establish a protocol for the department to share information about a child in care with the school district, that requires the district school boards or other local educational entities to access the department's FSFN to obtain information about children

¹³ Marni Finkelstein, Mark Wamsley, and Doreen Miranda, *What Keeps Children in Foster Care From Succeeding in School? Views of Early Adolescents and the Adults in Their Lives*. Vera Institute of Justice, June 2002.

¹⁴ How You Can Create a Positive Educational Experience for the Foster Child. Vera Institute of Justice. Available at: http://www.ytfg.org/documents/241_452.pdf. (Last visited March 18, 2011).

¹⁵ *Id.*

¹⁶ s. 39.0016, F.S.

- in care; and notify the school district of the department's case planning for a child in care, both at the time of plan development and plan review.
- Requirements that the school district school board provide the department with a listing of the services and information available from the district school board to facilitate educational access for a child in care; identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child in care; determine whether transportation is available for a child in care when such transportation will avoid a change in school assignment due to a change in residential placement; and provide individualized student intervention or an individual educational plan when a determination has been that intervention services are required.
 - Requirement that the department and the district school board cooperate in accessing the services and supports needed for a child in care who has or is suspected of having a disability in order to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances and coordination of services for a child in care who has or is suspected of having a disability.¹⁷

Outcomes in Florida

While attention to the needs of children in care and young adults formerly in care has increased significantly over the past decade, the services intended to help prepare them to live independently upon aging out of the system appear to remain limited and fragmented.¹⁸

Concerns continue to be raised as to whether those services are adequate to prepare children in care to live independently as adults, whether all eligible children and young adults are being served, and whether the direction and oversight of community-based care lead agencies and providers are sufficient to ensure that the goals of the program are being met.¹⁹

In a recent audit of the DCF independent living transition services program conducted by the Auditor General, preliminary and tentative audit findings revealed the following:

- The department and community-based care (CBC) lead agencies did not require that actual living and educational expenses be utilized as a basis for determining the amounts of the Road-to-Independence (RTI) awards made to high school students. Additionally,

¹⁷ *Id.* These services may include screening referrals, sharing of evaluations between the school district and the department where appropriate, provision of education and related services appropriate for the needs and abilities of a child in care, appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act for educational purposes for a child in care who qualifies, and for each child in care 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.

¹⁸ *Report of Independent Living Services for Florida's Foster Youth* (2008). Independent Living Services Advisory Council. (p. 6). Available at <http://www.dcf.state.fl.us/indliving/docs/AdvisoryCouncil/2008%20ILSAC%20Report.pdf>. (Last visited March 15, 2011); *Improved Fiscal and Quality Oversight Is Needed for the Independent Living Program*, Office of Program Policy Analysis and Government Accountability, Report No. 07-11. February 2007; and *The Independent Living Transitional Services Critical Checklist* (2008). A joint project by the Independent Living Services Advisory Council, the Community-Based Care lead agencies, and the Department of Children and Family Services. Available at: http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf. (Last visited March 15, 2011).

¹⁹ *Id.*

- for post-secondary students, the department and CBCs were unable to provide documentation supporting the appropriateness of the amounts of the RTI awards;
- DCF rules and guidelines did not specifically address the type of documentation that would be sufficient to demonstrate appropriate progress by students in GED programs;
 - The department and CBCs made payments for Aftercare Support Services to young adults in the same month during which the young adult received both RTI and Transitional Support Services payments. These payments in total were sometimes significant in amount, and in some cases, made to meet the same identified need. In addition, the department and CBCs did not always ensure that only eligible young adults received Aftercare and Transitional Support Services and that the payments for those services were documented by applications and properly coded;
 - Federal funds totaling \$641,913 from the CFCIP and ETV Programs were paid to ineligible young adults. In addition, administrative and support services costs were not properly allocated to State General Revenue and Chafee Program funds. CBCs also did not properly code payments for young adult services to the correct funding source;
 - ETV Program, RTI, and Subsidized Independent Living (SIL) payments were made to young adults and adolescents in excess of established spending caps;
 - Specific to adolescents in SIL, the Department and CBCs were unable to provide documentation to support the required number of services worker visitations. In addition, the Department and applicable CBCs were unable to provide documentation showing that staffings, assessments, and judicial reviews had been completed;
 - The department and CBCs did not properly conduct or provide supporting documentation showing that staffings, assessments, and case plans for adolescents ages 13 to 17 had been completed;
 - DCF did not require CBCs to fully utilize the functionality of FSFN specific to the independent living (IL) program; and
 - Department monitoring efforts were not sufficient to ensure IL program compliance.²⁰

An operational audit of the independent living transition services program performed by the Auditor General in 2005 reported almost identical findings.²¹

III. Effect of Proposed Changes:

The PCS creates provisions designed to enable children in care who are 13 to 17 years of age to graduate from high school and live successfully as independent adults. Specifically, the proposed committee substitute provides for the following:

²⁰ Office of the Auditor General. *Preliminary And Tentative Audit Findings. Department Of Children And Family Services. Independent Living Transition Services Program.* March 3, 2011.

²¹ Office of the Auditor General. *Operational Audit. Department Of Children And Family Services. Independent Living Transition Services Program.* Report No. 2005-119. February, 2005.

Children in middle school and high school

- **School stability** – provides that if a child’s living arrangement changes, the child must be allowed to remain in the school of origin if it’s in his or her best interests; requires that transportation be provided if necessary to maintain school placement;
- **School transitions** – provides that if a child must change schools, the transition must be as least disruptive if possible; provides safeguards for children who must change schools;
- **Attendance** – requires children in care to attend school like any other child; requires that appointments be scheduled to allow the child to miss as little time in school as possible; provides same penalties for caregivers as for parents who fail or refuse to have a child in care attend school; and
- **Education advocacy** – stresses the importance of an education advocate for every child in care; requires the CBC to document in the case plan that an education advocate has been designated or that a surrogate parent has been appointed in the case of a child with a disability.

Children in middle school

- Provides that in addition, to the courses required to be promoted from middle school, attention should be focused on the course in career and education planning that is already required of every child in 7th or 8th grade. The class requires that :
 - Each child complete an electronic personal academic and career plan;
 - The plan inform students of high school graduation requirements, high school assessment and college entrance test requirements, Florida Bright Futures Scholarship Program requirements, state university and Florida college admission requirements, and programs through which a high school student can earn college credit, including Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, career academy opportunities, and courses that lead to national industry certification;
 - Caregivers are required to attend school meeting to inform parents about the class and its requirements;
 - A diploma decision is to be made for students with disabilities and the child, caregiver and other designated education advocate must be included in all IEP meetings;
 - All children be provided information on Road-to-Independence Program;
 - Caregivers access school resources available to enable children in care to achieve academic success; and
 - CBCs partner with school districts to deliver a curriculum designed to enable children in care to advocate for themselves.

Children in high school

- Details diploma choices available to high school students;
- Reiterates that children with disabilities may remain in school until age 22, under certain circumstances;
- Requires that academic planning and guidance in high school shall build on decisions and accomplishments made in middle school;

- Requires the CBCs to document academic progress in the case plan on a regular basis;
- Requires exposure to workforce readiness activities, particularly for students who plan to work after high school; and
- Requires every child to be provided with opportunities to participate in enrichment activities, volunteer and service learning opportunities, and services provided by AWI.

Road-to-Independence Program

The proposed committee bill restructures the RTI program to include the following:

- Creates the FOUNDATIONS FIRST PROGRAM for young adults who have decided to remain in care for a period of time after reaching the age of 18. Young adults must be:
 - Completing high school or its equivalent;
 - Enrolled in post-secondary or vocational education;
 - Employed at least 80 hours per month;
 - Participating in a program designed to promote employment; or
 - Unable to participate in the above due to a disability.
- Provides criteria for eligibility, termination from, and re-entry to the program;
- Provides for a needs assessment;
- Requires a young adult may not be terminated without a judicial review;
- Provides the court may issue a show cause order to the department or CBC for failure to meet their obligations under the case plan;
- Provides for the development of a transition plan within the 90 day period before the young adult leaves care;
- Specifies documentation that must be provided to the young adult before leaving care; and
- Provides for periodic judicial reviews while the young adult is in care;
- Creates the COLLEGE BOUND PROGRAM for young adults who have graduated from high school and have been accepted into a college or university and need financial resources in order to attend:
- Provides criteria for eligibility, termination, and re-entry;
- Provides for a needs assessment; and
- Provides for portability of services if a young adult moves to another county or another state.

In addition the proposed committee bill:

- Requires that all children in care be encouraged to participate in extracurricular and social activities and that transportation be provided;
- Requires the development of a transition plan during the 180 day period before a child leaves care (if not remaining in extended care);
- Provides requirements for the transition plan and requires that the child be provided with specified documentation;

- Requires that a child be informed of the option of remaining in care for an extended period of time;
- Provides for an appeals process;
- Provides for funding for emergency situations;
- Amends provisions relating to judicial review to incorporate changes made by the amendment;
- Specifies data that CBCs are required to submit to the department annually; the department must then submit that data to the legislature;
- Provides for a transition period to allow young adults in the current RTI program to continue until their eligibility has ended – young adults entering after the effective date of the bill will be governed by the new requirements;
- Requires the department to develop an RFP for the purpose of establishing and operating an educational advocacy system; and
- Requires the department to contract with a national nonprofit organization to administer the RTI program.

The PCS makes no substantive changes to provisions related to the Independent Living Services Advisory Council, property acquired on behalf of clients in the program, or enrollment in Kidcare.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact to the private sector is unknown.

C. Government Sector Impact:

The fiscal impact to government is unknown. The department has not yet provided an analysis of the proposed committee substitute.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.



207906

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Between lines 159 and 160
insert:

Section 4. Effective July 1, 2011, any child in foster
care, 15 years of age to 18 years of age, and any child who was
in foster care at 18 years of age and is not yet 21 years of
age, is eligible for all foster care services until 21 years of
age.

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

And the title is amended as follows:



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Delete line 24
and insert:

involuntary court-sanctioned residential commitment;
extending eligibility for foster care services from 18
years of age to 21 years of age;



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Between lines 159 and 160
insert:

Section 4. Present subsection (10) of section 409.1451,
Florida Statutes, is renumbered as subsection (11), and a new
subsection (10) is added to that section, to read:

409.1451 Independent living transition services.—

(10) ADOPTION COUSLING.—If a young adult who is living in
licensed foster care or in subsidized independent living at the
time of his or her 18th birthday is pregnant or is the mother or



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father of a child, the young adult shall be counseled and
advised on the viable option of adoption.

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

And the title is amended as follows:

Delete line 24
and insert:

involuntary court-sanctioned residential commitment;
amending s. 409.1451, F.S.; requiring that a young
adult who is living in licensed foster care or
subsidized independent living at the time of his or
her 18th birthday and who is pregnant or is the mother
or father of a child be counseled and advised on the
viable option of adoption;

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 404

INTRODUCER: Senator Wise

SUBJECT: Transition-to-Adulthood Services

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Pre-meeting
2.			CJ	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill makes changes to ch. 985, F.S., relating to juvenile justice, to provide transition-to-adulthood services to older youth who are in the custody of, or under the supervision of, the Department of Juvenile Justice (DJJ).

The bill requires that transition-to-adulthood services for a youth be part of an overall plan leading to the total independence of the child from DJJ's supervision, and the bill specifies the requirements of the overall plan.

The bill also provides that youth who are adjudicated delinquent and are in the legal custody of the Department of Children and Family Services (DCF) may, if eligible, receive DCF's independent living transition services pursuant to s. 409.1451, F.S. Adjudication of delinquency may not be considered, by itself, as disqualifying criteria for eligibility in DCF's Independent Living Program. This is consistent with current DCF policy.¹

The bill also permits a court to retain jurisdiction for a year beyond the child's 19th birthday if he or she is participating in the transition-to-adulthood program.

This bill substantially amends sections 985.03 and 985.0301, Florida Statutes. This bill creates section 985.461, Florida Statutes.

¹ Dep't of Children and Families, *Staff Analysis and Economic Impact SB 404* (Jan. 25, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

II. Present Situation:

Florida Juvenile Justice System²

Historically, Florida provided services to children who are delinquent under a “rehabilitative” model of justice. When all “proceedings relating to children” were under the auspices of the Department of Health and Rehabilitative Services (HRS),³ HRS’s approach to children involved in dependency proceedings or delinquency proceedings was the same, which was to provide social services to the child and his or her family. Provisions relating to both dependent and delinquent children were contained in ch. 39, F.S.

The first of a number of efforts to shift the state’s juvenile justice system away from a social services model occurred in 1994. The Legislature created the Department of Juvenile Justice and provided for the transfer of powers, duties, property, records, personnel, and unexpended balances of related appropriations and other funds from HRS’s Juvenile Justice Program Office to the new department.⁴ The Department of Juvenile Justice (DJJ or department) was assigned responsibility for children who were delinquent and children and families who were in need of services (CINS/FINS).⁵ Statutory provisions relating to children being served in the juvenile justice system remained in ch. 39, F.S., and most of the new department’s employees were former HRS employees.

In 1997, while few changes were made to substantive law, provisions relating to children who were delinquent and CINS/FINS were removed from ch. 39, F.S. Provisions relating to CINS/FINS were placed in newly created ch. 984, F.S., and provisions relating to children who are delinquent were placed in newly created ch. 985, F.S.⁶

In 2000, comprehensive legislation, known as the “Tough Love Law,” provided statutory authority for DJJ to change its organizational structure. This legislation signified the most dramatic policy shift away from the social services model and toward a criminal justice approach.⁷ However, even under the “Tough Love” plan, DJJ maintains that:

[T]he juvenile justice system continued to be operationally and philosophically distinct from the adult criminal justice system. Florida continues to segregate juveniles from their adult counterparts, although there has been an expansion of

² Information contained in this section of the Present Situation of this bill analysis is from the Department of Juvenile Justice’s website. Florida Dep’t of Juvenile Justice, *History of the Juvenile Justice System in Florida*, <http://www.djj.state.fl.us/AboutDJJ/history.html> (last visited Mar. 21, 2011).

³ The Department of Health and Rehabilitative Services (HRS) was renamed the Department of Children and Family Services (DCF) in 1996. Chapter 96-403, s. 2, Laws of Fla.

⁴ Chapter 94-209, s. 1, Laws of Fla.

⁵ The term “child in need of services” means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also be found by the court to be habitually truant from school, to have persistently run away from home, or to have persistently disobeyed the reasonable demands of his or her parents and to be beyond their control. Section 984.03(9), F.S.

⁶ Chapter 97-238, Laws of Fla.

⁷ Five bills passed in the 2000 session comprise the Tough Love Law: ch. 2000-137, ch. 2000-136, ch. 2000-135, ch. 2000-134, and ch. 2000-119, Laws of Fla. See Senate Bills 69, 1192/80, 1196, 1548, 2464 (2000).

the circumstances under which a juvenile can be prosecuted as an adult. Youth continue to be managed under a strategy of redirection and rehabilitation, rather than punishment. Although the State strengthened its hold on juvenile delinquents under the “Tough Love” plan, the system maintained focus on “treatment” designed to effect positive behavioral change.⁸

The department is currently required to provide independent living services as a program component of both the early delinquency intervention and the serious or habitual juvenile offender programs.⁹

The department is also tasked with providing conditional-release services to youth exiting juvenile justice residential programs. Conditional release is the care, treatment, help, and supervision provided to juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.¹⁰ The program is intended to help prepare youth for a successful transition from DJJ commitment back to the community. Each youth committed to a DJJ residential program is to be assessed to determine the need for conditional-release services upon release from the program.¹¹ The department may also supervise the juvenile when released into the community from a residential program and provide such counseling and other services as may be necessary for families and assisting families’ preparations for the return of the child.¹²

Independent Living Transition Services for Dependent Children¹³

Each year thousands of dependent children leave state foster care systems because they reach the age of 18 and are no longer eligible for out-of-home care. Since the early 1980’s, research and anecdotal evidence have indicated that many of these young adults experience numerous difficulties in their attempts to achieve self-sufficiency. When compared to young adults with no exposure to the child welfare system, former foster youth are less likely to earn a high school diploma or GED and, subsequently, have lower rates of college attendance.¹⁴ They suffer more from mental health problems; have a higher rate of involvement with the criminal justice system; are more likely to have a difficult time achieving financial independence, thus increasing their reliance on public assistance; and experience high rates of housing instability and homelessness.¹⁵

⁸ Florida Dep’t of Juvenile Justice, *supra* note 2.

⁹ See ss. 985.47 and 985.61, F.S.

¹⁰ Section 985.46(1)(a), F.S.

¹¹ Section 985.46(2)(c), F.S.

¹² Section 985.46(3), F.S.

¹³ Information contained in this section of the Present Situation of this bill analysis is from an interim report by the Committee on Children, Families, and Elder Affairs. See Comm. Children, Families, and Elder Affairs, The Florida Senate, *Review of the Provisions of Independent Living Services to Minors* (Interim Report 2010-105) (Nov. 2009), available at http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-105cf.pdf (last visited Mar. 21, 2011).

¹⁴ Wilhelmina A. Leigh et al., *Aging out of the Foster Care System to Adulthood: Findings, Challenges, and Recommendations*, JOINT CTR. FOR POLITICAL AND ECONOMIC STUDIES, HEALTH POLICY INSTITUTE, 3-4 (Dec. 2007) (on file with the Senate Committee on Children, Families, and Elder Affairs) (citing Mark Courtney, *Youth Aging Out of Foster Care*, NETWORK ON TRANSITIONS TO ADULTHOOD, Policy Brief Issue 19 (April 2005), available at <http://www.transad.pop.upenn.edu/downloads/courtney--foster%20care.pdf> (last visited Mar. 21, 2011)).

¹⁵ *Id.*

The federal government responded to the needs of foster care youth who age out by enacting the Foster Care Independence Act of 1999 (known as the CFCIP or the Chafee Act).¹⁶ The Chafee Act provides states with flexible funding that enables programs to be designed and conducted to:

- Identify and assist youths who are likely to remain in foster care until 18 years of age;
- Provide education, training, and services necessary to obtain employment for those youths;
- Prepare those youths to enter postsecondary training and education institutions; and
- Provide support through mentors and the promotion of interactions with dedicated adults.¹⁷

Age restrictions were also eliminated, allowing states to offer independent living services to youth earlier than age 16.¹⁸ The Chafee Act grants wide discretion to the states, allowing them to set their own criteria regarding which foster care youths receive services.¹⁹ However, states must use objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients.²⁰

With the enactment of federal legislation and increased available funding, the 2002 Florida Legislature established a new framework for the state's independent living transition services to be provided to older youth in foster care.²¹ Specifically provided for was a continuum of independent living transition services to enable youth who are 13 to 17 years of age and in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Service categories established for minors in foster care include the following:²²

CATEGORIES OF SERVICES	SERVICES INCLUDED	ELIGIBILITY
Pre-independent living services	Life skills training, educational field trips and conferences.	13 and 14 year olds in foster care.
Life skills services	Training to develop banking and budgeting skills, parenting skills, and time management and organizational skills, educational support, employment training, and counseling.	15,16, and 17 year olds in foster care.
Subsidized independent living services	Living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175, F.S.	16 and 17 year olds who demonstrate IL skills.

¹⁶ Public Law No. 106-169, 113 Stat. 1822 (1999). Federal funds for independent living initiatives were first made available under the Consolidated Omnibus Budget Reconciliation Act of 1985.

¹⁷ 42 U.S.C. s. 677 (2002).

¹⁸ 42 U.S.C. s. 677(b)(2)(C) (2002).

¹⁹ 42 U.S.C. s. 677(b)(2).

²⁰ 42 U.S.C. s. 677(b)(2)(E).

²¹ The department provided independent living services to older youth in foster care prior to the creation of s. 409.1451, F.S., with provisions for those services appearing in a number of sections of Florida Statutes, including s. 409.145, F.S., relating to care of children (2001), and s. 409.165, F.S., relating to alternative care of children (2001).

²² Section 409.1451(4), F.S. The legislation also contained provisions for young adults who are 18 to 23 years of age who were formerly in foster care, including aftercare services, the Road-to-Independence Program, and transitional support services. See s. 409.1451(5), F.S.

For fiscal year 2009-2010, \$35.6 million was budgeted for the Independent Living Transition Services Program from a number of sources.²³ This represents a \$3.9 million increase in the budget from fiscal year 2008-2009, but is \$2.9 million less than was actually spent in fiscal year 2008-2009.²⁴ The actual expenditure of the program in 2010 was almost \$52 million.²⁵ The projected spending for 2011 is \$58.5 million.²⁶

If a dependent child is also adjudicated delinquent, DCF shares responsibility for that child with DJJ and while not specifically required by statute, DCF allows youth who are eligible for independent living transition services under s. 409.1451, F.S., and who have been adjudicated delinquent to receive those services.²⁷

Court Jurisdiction

Except under certain specified circumstances, the court shall retain jurisdiction of a child who has committed a delinquent act, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child that the court had prior to the child becoming an adult.²⁸ Current law provides that the court may retain jurisdiction beyond 19 years of age under certain other circumstances, including, but not limited to:

- Jurisdiction may be retained until 22 years of age for a youth placed in a juvenile prison or in a high-risk or maximum-risk residential commitment program to allow the child to participate in a juvenile conditional release program.
- Jurisdiction may be retained until 21 years of age for a youth committed to the DJJ for placement in an intensive residential treatment program for 10-year-old to 13-year-old offenders, in the residential commitment program in a juvenile prison, in a residential sex offender program, or in a program for serious or habitual juvenile offenders, solely for the purpose of the child completing the program.

III. Effect of Proposed Changes:

The bill creates s. 985.461, F.S., titled “Transition to adulthood,” which the bill defines to mean “services that are provided for youth in the custody of the department [Department of Juvenile Justice] or under the supervision of the department and that have the objective of instilling the knowledge, skills, and aptitudes essential to a socially integrated, self-supporting adult life.” The bill specifies that these services may include, but are not limited to:

- Assessment of the youth’s ability and readiness for adult life;

²³ Chafee ILP - \$7,046,049; Chafee ETV - \$2,396,966; Chafee ILP Match - \$1,761,513; Chafee ETV Match - \$599,241; General Revenue - \$21,303,202; and Title IV-E - \$2,495,646. Comm. on Children, Families, and Elder Affairs, *supra* note 13.

²⁴ *Id.*

²⁵ Information from the Dep’t of Children and Families provided to Professional Staff of the Senate Committee on Children, Families, and Elder Affairs on Mar. 2, 2011 (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁶ *Id.*

²⁷ Dep’t of Children and Families, *supra* note 1.

²⁸ Section 985.0301(5)(a), F.S.

- A plan for the youth to acquire the knowledge, information, and counseling necessary to make a successful transition to adulthood; and
- Services that have been proven effective toward achieving the transition to adulthood.

The bill provides legislative intent that the Department of Juvenile Justice (DJJ or department) may provide older youth in its custody or under its supervision opportunities to participate in transition-to-adulthood services while in DJJ's commitment programs or in probation or conditional release programs in the community.²⁹ The bill specifies that these services should be reasonable and appropriate for the youths' respective ages or for any special needs the youth may have.

The bill also provides that youth who enter a DJJ placement from a foster care placement and who are in the legal custody of the Department of Children and Family Services (DCF) may, if eligible, receive DCF's independent living transition services pursuant to s. 409.1451, F.S. The bill also provides that court-ordered commitment or probation is not a barrier to eligibility for youth to receive the array of services available if they were in foster care. This is consistent with current DCF policy.³⁰

The bill provides that adjudication of delinquency may not, by itself, disqualify a dependent youth for eligibility to receive independent living transition services from DCF.

The bill allows DJJ to:

- Assess a child's skills and abilities to live independently and become self sufficient;
- Develop a list of age-appropriate activities and responsibilities to be incorporated into the child's written case plan for any youth 17 years of age or older. The activities may include, but are not limited to, life skills such as banking and budgeting skills, interviewing and career planning skills, parenting skills, personal health management, and time management or organizational skills; educational support; employment training; and counseling;
- Provide information related to social security insurance benefits and public assistance;
- Request parental or guardian permission for the youth to participate in the transition-to-adulthood services. Upon such consent, the age-appropriate activities must be incorporated into the youth's written case plan. The case plan may include specific goals and objectives and must be reviewed and updated quarterly. The plan may not interfere with the parent's or guardian's rights to train the child; and
- Contract for transition-to-adulthood services, which include residential services and assistance, that allow for the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175, F.S. The bill provides for program eligibility to include youth at least 17 but not yet 19 years of age and who are not a danger to the public and have a demonstrated sufficient skills and aptitude for living under decreased adult supervision.

²⁹ This appears to be a similar authority to that which currently exists in the conditional release program operated by DJJ for youth transitioning back to the community. See s. 985.46, F.S.

³⁰ Dep't of Children and Families, *supra* note 1.

The bill requires that transition-to-adulthood services be part of an overall plan leading to the total independence of the child from DJJ's supervision. The plan must include:

- A description of the child's skills and a plan for learning additional identified skills;
- The behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities;
- The provision for future educational, vocational, and training skills;
- Present financial and budgeting capabilities and a plan for improving resources and abilities;
- A description of the proposed residence;
- Documentation that the child understands the specific consequences of his or her conduct in such a program;
- Documentation of proposed services to be provided by DJJ and other agencies, including the type of services and the nature and frequency of contact; and
- A plan for maintaining or developing relationships with family, other adults, friends, and the community.

These changes will permit DJJ to provide services to youth in their custody or supervision which may increase a youth's ability to live independently and become a self-sufficient adult.

The bill also amends s. 985.0301(5)(a), F.S., to allow a court to retain jurisdiction for an additional 365 days following a child's 19th birthday if the child is participating in a DJJ transition-to-adulthood program. The bill also provides that the transition services created in s. 985.461, F.S., require voluntary participation by affected youth and are not intended to create an extension of involuntary court-sanctioned residential commitment.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Neither the Department of Children and Family Services nor the Department of Juvenile Justice expects there to be a fiscal impact.³¹

VI. Technical Deficiencies:

There are several places in the bill where the language appears duplicative. For example, lines 81-83 provide that the Department of Juvenile Justice may “develop a list of age-appropriate activities and responsibilities to be incorporated in the child’s written case plan . . .” and lines 93-95 provide that “age-appropriate activities shall be incorporated into the youth’s written case plan.”

Additionally, the terms “child” and “youth” are used interchangeably throughout the bill. The Legislature may wish to amend the bill to use one term in order to provide consistency.

VII. Related Issues:

The Department of Children and Family Services (DCF) is attempting to amend portions of chs. 39 and 409, F.S., to support the federal H.R. 6893, “Fostering Connections to Success and Increasing Adoptions Act,” passed by the 110th Congress in 2008. If these amendments are made, DCF’s current Independent Living services will be modified. According to DCF, if the changes to chs. 39 and 409, F.S., are made to include the Fostering Connections to Success and Increasing Adoptions Act, there may be a fiscal impact to implement this bill.³²

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

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

None.

B. Amendments:

None.

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

³¹ Dep’t of Children and Families, *supra* note 1; Department of Juvenile Justice, Senate Bill 404 (Mar. 1, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³² Dep’t of Children and Families, *supra* note 1.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 878

INTRODUCER: Senator Garcia

SUBJECT: Child Welfare

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Pre-meeting
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill, short titled the "Lambourg Keep Families United Act," makes numerous changes to chapter 39, Florida Statutes, relating to dependency proceedings for children. Those changes include:

- Requiring photographs of a child to be taken by all caseworkers, guardians ad litem, and volunteers at each visit and requiring that those photographs and a report be immediately transmitted to the court, foster parents, and all parties to the case;
- Providing that an unmarried biological father is not a relative for purposes of the Relative Caregiver Program under s. 39.5085, F.S.;
- Providing that a court may direct a person with, or seeking, custody of a child into a residential treatment facility in which the child may also reside;
- Changing the best interest standard for placement of a child;
- Requiring quarterly reports from counties and reduced funding to those counties based on the percentage of children who entered the child welfare system;
- Requiring permanency hearings to be timed so permanency will be achieved within 12 months;
- Revising provisions relating to visitation with a child in care; and
- Revising the scope of federally authorized pilot and demonstration projects.

The bill substantially amends ss. 39.0136, 39.5085, 39.521, 39.621, 39.801, 39.803, 39.809, 39.812, and 39.816, and creates ss. 39.0142, 39.6215, and 39.8056, of the Florida Statutes.

II. Present Situation:

Chapter 39, F.S., establishes legislative intent to provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to recognize that most families desire to be competent caregivers and providers for their children; to ensure permanency for children within one year, and to ensure that the health and safety of children served shall be of paramount concern.¹ Chapter 39, F.S., provides the process and procedures for the following:

- Reporting child abuse and neglect;
- Protective investigations;
- Taking children into custody and shelter hearings;
- Petition, arraignment, adjudication, and disposition;
- Disposition; postdisposition change of custody;
- Case plans;
- Permanency;
- Judicial reviews; and
- Termination of parental rights.

Many of the provisions and time-frames in chapter 39, F.S., are required by federal law in order to be eligible for federal funding.²

Chapter 63, F.S., establishes legislative intent that in every adoption, the best interest of the child should govern and be of foremost concern in the court's determination and that the court shall make a specific finding as to the best interest of the child in accordance with the provisions of the chapter. The chapter also includes provisions pertaining to responsibilities of unmarried biological fathers.

Photographs and reports of child visitation

Photographs are required for:

- All children under court ordered in-home supervision within fifteen days after the case has been staffed and transferred to a service unit;
- All children placed in care within seventy-two hours of the beginning of a removal;
- Any child who has been on runaway status shall immediately upon return to care. The exception is when a child's appearance has not significantly changed since a prior photograph was taken; and
- All children and sibling groups available for adoption who are required to be registered on the Adoption Exchange System.³

¹ s. 39.001, F.S.

² Including, but not limited to, the Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351), the Keeping Children and Families Safe Act (P.L. 108-36), the Adoption and Safe Families Act (P.L. 105-89), the Child Abuse Prevention and Treatment Act (P.L. 93-247), and the Adoption Assistance and Child Welfare Act (P.L. 96-242).

³ 65C-30.004, F.A.C.

The child's identity must be verified by the child protective investigator, case manager, or other personnel familiar with the child. The photograph and identifying information shall be maintained in the statewide photo database. Photographs are required to be updated every six months for children who are 59 months of age or less, and annually for all other children.⁴

In addition, because of inaccurate reports about missing children in care and caseworker dishonesty related to visiting children, at least some of Florida's caseworkers carry handheld GPS units that stamp a date and location on a photograph when they visit each child. The information is automatically updated into the state's database, making it easier to see a missing child's last whereabouts and adding more oversight for caseworkers.⁵

Relative Caregiver Program

The Florida Legislature created the Relative Caregiver Program in 1998 to provide for the establishment of procedures and protocols that serve to advance the continued safety of children by acknowledging the valued resource uniquely available through grandparents and relatives of children.⁶ Relatives who are caring for children placed with them by the court pursuant to this chapter shall receive a special monthly relative caregiver benefit established by department rule. Relatives eligible for financial assistance include:

- Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.
- Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

The definition of relative in s. 39.01(64), F.S., includes a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

Substance Abuse Facilities

An estimated 1,427,000 children under the age of 18 live with a substance dependent mother in a single-parent (mother) household.⁷ Many of these women may be reluctant to enter substance abuse treatment because they have no child care options, or they may be concerned about losing custody of their children. Increasing the awareness of substance abuse treatment facilities that

⁴ *Id.*

⁵ The Ledger. *DCF Closing 'Gaps' in Tracking Children*, September, 2009. Available at: <http://www.theledger.com/article/20090914/NEWS/909145082?p=all&tc=pgall>. (Last visited March 22, 2011).

⁶ s. 39.5085, F.S.

⁷ National Survey of Substance Abuse Treatment Services. Residential Substance Abuse Treatment Facilities Offering Residential Beds for Clients' Children. October 2009. Available at: <http://www.oas.samhsa.gov/2k9/219/219ResChildBed2k9.htm>. (Last visited March 21, 2011).

provide child care options may help these mothers better understand the available options in order to receive the treatment they need to improve their lives and the lives of their children.⁸

The federal Substance Abuse and Prevention and Treatment Block Grant requires that women be treated with their children and specifies set-aside criteria for these services. Some of these services include residential services for women and their children. The department reports that these services are not available in all DCF circuits and, therefore, statewide capacity is limited. Children admitted to treatment with their mothers typically reside in the same facility and even share their bedroom, especially infants and toddlers. Most women's programs of this type focus on mothers with newborns and toddlers.⁹

Permanency

Chapter 39, F.S., provides that time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or no later than 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first.¹⁰ The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to receive supervision from the department or awaits adoption. Available permanency goals for children listed in order of preference, are:

- Reunification;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship of a dependent child under s. 39.6221;
- Permanent placement with a fit and willing relative under s. 39.6231; or
- Placement in another planned permanent living arrangement under s. 39.6241.¹¹

The best interest of the child is the primary consideration in determining permanency for a child.¹²

Required reports by counties as to children in care and program funding

Foster care and related services are provided by Community Based Care (CBC) lead agencies and their subcontracted providers.¹³ Services are provided by circuits that conform to judicial circuits, and not counties. CBCs are responsible for entering information on children in care into the statewide automated information system, known as Florida Safe Families Network (FSFN). This automated system generates reports on children in care, including the outcome measure related to achieving permanency within twelve months.

⁸ *Id.*

⁹ Department of Children and Family Services. Staff Analysis and Economic Impact. SB 878. February 7, 2011.

¹⁰ s. 39.621, F.S.

¹¹ *Id.*

¹² *Id.*

¹³ s. 409.1671, F.S.

Chapter 39 provides for extending out of home care beyond twelve months as the result of a judicial determination.¹⁴ There are no financial penalties at this time imposed on CBCs for children who remain in care longer than twelve months.

Diligent search

When a child is removed from the physical custody of his or her parent or guardian, a diligent search must be initiated to identify and locate any absent parent. An affidavit of diligent search shall be included in the predisposition report. Diligent search efforts shall continue until the department is released from any further search by the court. When a child is placed in care, for the purpose of concurrent planning, the caseworker shall initiate or continue diligent efforts to identify and locate any relatives who would be willing and able to care for the child.¹⁵

Authorization for pilot and demonstration projects

Section 39.816, F.S., authorizes DCF to establish pilot¹⁶ and demonstration projects¹⁷ for specific purposes, contingent upon receipt of a federal grant or contract pursuant to s. 473A(i) of the Social Security Act, 42 U.S.C. s. 673A(i) and s. 1130(a) of the Social Security Act, 42 U.S.C. s. 1320a-9, respectively. Authorization for these pilots and demonstration projects were provisions of the Adoption and Safe Families Act, enacted in November of 1997.¹⁸

III. Effect of Proposed Changes:

The bill makes a number of changes to chapter 39, F.S., relating to dependent children, including:

- Requiring all caseworkers, guardians ad litem, and department approved volunteers to photograph a child at every visit and submit the photograph and a report while at the site where the child is located. The photograph and the report are to be transmitted immediately to all parties to the case, the court and the foster parents;

¹⁴ ss.39.0136 and 39.621, F.S.

¹⁵ s.39.503, F.S.

¹⁶ Pilots could be funded for the purposes of the development of best practice guidelines for expediting termination of parental rights, models to encourage the use of concurrent planning, the development of specialized units and expertise in moving children toward adoption as a permanency goal, the development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home, models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements, and development of programs that place children into pre-adoptive families without waiting for termination of parental rights. Available at: <http://thomas.loc.gov/cgi-bin/query/F?c105:7:./temp/~c105kVJSoh:e22134>: (last visited March 21, 2011).

¹⁷ Demonstration projects could be funded for the purpose of identifying and addressing barriers that result in delays to adoptive placements for children in foster care and identifying and addressing parental substance abuse problems that endanger children and result in the placement of children in foster care, including through the placement of children with their parents in residential treatment facilities that are specifically designed to serve parents and children together in order to promote family reunification and that can ensure the health and safety of the children in such placements. Available at: http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/public_law/pl105_89/pl105_89a3.htm (last visited March 21, 2011).

¹⁸ Public Law 105-89.

- Providing that an unmarried biological father, as defined in s. 63.032, F.S., is not considered a relative for purposes of the Relative Caregiver Program;
- Providing that the court may direct the placement of a person in a substance abuse treatment facility in which the child may also reside at the same location as described in s. 39.816, F.S., relating to the authorization of pilot and demonstration projects approved and funded by the federal government;
- Removing the best interests of child standard relating to adoption;
- Requiring permanency hearing to be held at such time so child will achieve permanency within 12 months;
- Requiring reports by counties as to children in care and program and providing for financial penalties;
- Eliminating the requirement to complete a diligent search prior to the adjudicatory hearing on the termination of parental rights if the person whose location is unknown is an unmarried biological father and the mother files an affidavit to that effect within 30 days after the child enters care. If a mother files such an affidavit within thirty days, the diligent search must be completed within 60 days of the date the court accepted the affidavit;
- Prohibiting visitation with a child who has been placed with a licensed foster parent who has applied to adopt the child, unless there is a preexisting visitation arrangement; and
- Expanding the types of pilots and demonstration projects that may be authorized.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Fiscal sanctions for not achieving permanency in 12 months may result in fewer funds for a community-based care agency.

C. Government Sector Impact:

The department reports the fiscal impact cannot be determined.

VI. Technical Deficiencies:

- On lines 69-76 of the bill, it is unclear who “department authorized volunteers” are and why they would be visiting children in care. It is also unclear what constitutes a “report,” by what means it and the photograph of the child must be submitted from the site of the visit, and by what means and how often the courts, foster parents and all other parties to the case would be required to access information transmitted. The bill does not specify for what purpose the photograph and report would be used.
- Lines 110-111 of the bill exclude an unmarried biological father as a relative for purposes of the Relative Caregiver Program. Unmarried biological fathers are not currently eligible for the Relative Caregiver program.
- Lines 141-144 of the bill, permit placement in a substance abuse facility as described in s. 39.816, F.S., which refers to types of demonstration projects that were authorized under the Adoption and Safe Families Act and were funded through fiscal year. The intent of this provision in the bill is unknown.
- Lines 220-221 of the bill, delete the best interest of child standard for placement after an unfavorable home study.
- Lines 422-480 of the bill amend s. 39.816, F.S., relating to the authorization for pilot and demonstration projects. Authorization for these pilots and demonstration projects was provided for in the Adoption and Safe Families Act in 1997. Funding for the pilot projects was limited to fiscal years 1998-2000. Funding for the demonstration projects was limited to fiscal years 1998-2002. The scope of these projects is provided for in federal law and cannot be amended by states. Since the funding authority has expired for both the pilots and the demonstrations, it would appear that s. 39.816, F.S., should be repealed and not amended.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.



228632

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete line 26
and insert:
(2) The Department of Elderly Affairs may designate

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

And the title is amended as follows:

Delete lines 4 - 5
and insert:
 providing a definition; authorizing the Department of
 Elderly Affairs to designate a home health



185364

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 31 - 38
and insert:
services for more than 10 consecutive years.

(b) Participates in a nationally recognized accreditation
program and holds a valid accreditation, such as the
accreditation awarded by the Community Health Accreditation
Program.

(c) Has been in business in this state for a minimum of 20



153946

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 66 - 69.

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

And the title is amended as follows:

Delete line 7

and insert:

based care;

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1158

INTRODUCER: Senator Garcia

SUBJECT: Teaching Agency for Home and Community-based Care

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Pre-meeting
2.			HR	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill creates a new section of law authorizing the Agency for Health Care Administration (AHCA or agency) to designate a home health agency as a teaching agency for home and community-based care if the home health agency meets certain requirements. The agency is authorized to collect a fee of up to \$250 from any home health agency seeking the designation as a teaching agency for home and community-based care.

The bill also authorizes a teaching agency for home and community-based care to be affiliated with an academic health center in the state in order to foster the development of methods for improving and expanding the capabilities of home health agencies to respond to the medical, health care, psychological, and social needs of frail and elderly persons.

This bill creates section 430.81, Florida Statutes.

II. Present Situation:

Home Health Agencies

A “home health agency” is an organization that provides home health services and staffing services.¹ Home health services are health and medical services and medical supplies furnished to an individual in the individual’s home or place of residence.² These services include:

¹ Section 400.462(12), F.S.

² Section 400.462(14), F.S.

- Nursing care;
- Physical, occupational, respiratory, or speech therapy;
- Home health aide services;
- Dietetics and nutrition practice and nutrition counseling; and
- Medical supplies, restricted to drugs and biologicals prescribed by a physician.

A home health agency, as well as all of its related offices, must be licensed by the Agency for Health Care Administration (AHCA or agency) in order to operate in the state.³ The licensure requirements for home health agencies are found in the general provisions of part II of ch. 408, F.S., the specific home health agency provisions of part III of ch. 400, F.S., and ch. 59A-8 of the Florida Administrative Code.

To obtain a home health agency license, an applicant must submit, among other things, the following:

- An application under oath which includes the name, address, social security number and federal employer identification number or taxpayer identification number of the applicant and each controlling interest, and the name of the person who will manage the provider;
- The total number of beds requested;
- Proof of a certificate of authority in certain cases;
- An affidavit of compliance with the law;
- A description and explanation of any exclusions, suspensions, or terminations of the applicant from the Medicare, Medicaid, or federal Clinical Laboratory Improvement Amendment programs;
- Proof of the applicant's legal right to occupy the property;
- Information identifying the service areas and counties to be served and services to be provided;
- The number and discipline of professional staff to be employed;
- A business plan;
- Evidence of contingency funding;
- Proof of professional and commercial liability insurance of not less than \$250,000 per claim;
- Proof of financial ability to operate; and
- A licensure fee.⁴

Additionally, an applicant must comply with background screening requirements and pass a survey by AHCA inspectors.⁵

Prior to 2008, AHCA saw significant growth in the number of applications and new licenses of home health care agencies.⁶ The agency received 431 new licensure applications for home health

³ Section 400.464(1) and (2), F.S.

⁴ See ss. 400.471, 408.806, 408.810, F.S.

⁵ See s. 408.810(1), F.S., and ch. 59A-8.003, F.A.C.

⁶ Comm. on Health Regulation, The Florida Senate, *Review Regulatory Requirements for Home Health Agencies* (Interim Project Report 2008-135) (Nov. 2007), available at

agencies during 2007.⁷ In 2008, the Legislature significantly strengthened the home health agency license requirements to address fraud and abuse in the Medicaid and Medicare programs. According to AHCA, the new accreditation requirements have slowed the growth in new licenses, but the agency continues to receive a high volume of applications.⁸ As of February 23, 2011, there were 2,317 licensed home health agencies in the state of Florida.⁹

Florida law prohibits unlicensed activity and authorizes AHCA to fine unlicensed providers \$500 for each day of noncompliance, and authorizes state attorneys and AHCA to bring an action to enjoin unlicensed providers.¹⁰ Unlicensed activity is a second-degree misdemeanor and each day of continued operation is a separate offense.¹¹

Lead Agencies

The Department of Elder Affairs (DOEA or department) is created in s. 20.41, F.S. This section directs the department to plan and administer its programs and services through planning and service areas designated by the department. The department is designated as the state unit on aging as defined in the federal Older Americans Act (the act).¹²

The department serves as the primary state agency responsible for administering human services programs for the elderly and for developing policy recommendations for long-term care;¹³ recommends state and local level organizational models for the planning, coordination, implementation, and evaluation of programs serving the elderly population;¹⁴ and oversees implementation of federally funded and state funded programs and services for the state's elderly population.¹⁵

Federal law directs the department to administer the act using Florida's 11 Area Agencies on Aging (AAA).¹⁶ Contractual agreements to implement the department's programs are executed at three levels:

- Contracts between DOEA and the AAAs for each major program;
- Contracts between the AAAs and lead agencies or service providers; and
- Contracts between lead agencies and local service providers.

http://archive.flsenate.gov/data/Publications/2008/Senate/reports/interim_reports/pdf/2008-135hr.pdf (last visited Mar. 23, 2011).

⁷ Comm. on Health and Human Servs. Appropriations, The Florida Senate, *Bill Analysis and Fiscal Impact Statement CS/CS/SB 1986* (April 16, 2009), available at

<http://archive.flsenate.gov/data/session/2009/Senate/bills/analysis/pdf/2009s1986.ha.pdf> (last visited Mar. 23, 2011).

⁸ *Id.*

⁹ Agency for Health Care Admin., *2011 Bill Analysis & Economic Impact Statement SB 1158* (rcv'd Mar. 22, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰ Section 408.464(4)(b) and (f), F.S.

¹¹ Section 408.464(4)(e), F.S.

¹² Section 20.41(5), F.S.

¹³ Section 430.03(1), F.S.

¹⁴ Section 430.03(6), F.S.

¹⁵ Section 430.03(7), F.S.

¹⁶ 42 U.S.C. s. 3025, codified in s. 20.41, F.S.

The department works closely with the 11 AAAs in Florida. The AAAs administer funds locally and contract with a variety of provider agencies to offer a wide array of services designed to address the needs of their senior constituencies. Some of the services offered through AAAs are congregate and home delivered meals; Senior Center activities and adult day care; case management; and information and referral.

A lead agency is an agency designated at least once every six years by a AAA as a result of a request for proposal process.¹⁷ Lead agencies provide and coordinate services for elders in designated areas. There are 58 lead agencies serving all of Florida's 67 counties.¹⁸ Lead agency providers are either non-profit corporations or county government agencies, and are the only entities that can provide fee-for-service case management on an ongoing basis.¹⁹

Teaching Nursing Home Pilot Project

Section 430.80, F.S., authorizes the implementation of a teaching nursing home pilot project. The statute defines a "teaching nursing home" as a nursing home facility licensed under ch. 400, F.S., which contains a minimum of 400 licensed nursing home beds; has access to a resident senior population of sufficient size to support education, training, and research relating to geriatric care; and has a contractual relationship with a federally-funded, accredited geriatric research center in Florida.

To be designated as a teaching nursing home, a nursing home licensee must:

- Provide a comprehensive program of integrated senior services that include institutional services and community-based services;
- Participate in a nationally recognized accreditation program and hold a valid accreditation;
- Have been in business in Florida for a minimum of 10 consecutive years;
- Demonstrate an active program in multidisciplinary education and research that relates to gerontology;²⁰
- Have a formalized contractual relationship with at least one accredited health profession education program located in Florida;
- Have senior staff members who hold formal faculty appointments at universities that have at least one accredited health profession education program; and
- Maintain insurance coverage or proof of financial responsibility in a minimum amount of \$750,000.²¹

A teaching nursing home may be affiliated with a medical school in Florida and a federally funded center of excellence in geriatric research and education, in order to foster the

¹⁷ Section 430.203(9), F.S.

¹⁸ Some lead agencies provide services in more than one county due to the scarcity of providers in some rural counties

¹⁹ Dep't of Elder Affairs, *Elder Services Network Components and Their Roles*, available at <http://elderaffairs.state.fl.us/english/pubs/pubs/sops2007/Files/Elder%20Services%20Network%20Components%20and%20their%20roles.pdf> (last visited Mar. 24, 2011).

²⁰ Gerontology is defined as "the comprehensive study of aging and the problems of the aged." Merriam-Webster, *gerontology*, <http://www.merriam-webster.com/dictionary/gerontology> (last visited Mar. 23, 2011).

²¹ Section 430.80(3), F.S.

development of methods for improving and expanding the capability of health care facilities to respond to the medical, psychological, and social needs of frail and elderly persons by providing the most effective and appropriate services.

Section 430.80, F.S., provides that the Legislature may appropriate funds to the nursing home facility designated as a teaching nursing home, and a teaching nursing home may not expend any funds received for any purpose other than operating and maintaining a teaching nursing home and conducting geriatric research.²²

III. Effect of Proposed Changes:

This bill creates s. 430.81, F.S., which authorizes the Agency for Health Care Administration (AHCA or agency) to designate a home health agency as a teaching agency for home and community-based care if the home health agency:

- Has been a not-for-profit, designated community care for the elderly lead agency for home and community-based services for more than 10 consecutive years and serves a geographic area with a minimum of 200,000 adults age 60 or older;
- Participates in a nationally recognized accreditation program and holds valid accreditation;
- Has been in business in Florida for a minimum of 30 consecutive years;
- Demonstrates an active program in multidisciplinary education and research that relates to gerontology;
- Has a formalized affiliation agreement with at least one established academic research university with a nationally accredited health professions program in Florida;
- Has salaried academic faculty from a nationally accredited health professions program;
- Is a Medicare and Medicaid certified home health agency that has participated in the nursing home diversion program for a minimum of five consecutive years; and
- Maintains insurance coverage pursuant to s. 400.141(1)(s), F.S.,²³ or proof of financial responsibility in a minimum amount of \$750,000.

Proof of financial responsibility may include maintaining an escrow account or obtaining and maintaining an unexpired, irrevocable, nontransferable, and nonassignable letter of credit issued by any bank or savings association authorized to do business in the state. The bill provides that the letter of credit is to be used to satisfy the obligation of the agency to a claimant upon presentation of a final judgment against the facility or upon presentation of a settlement agreement signed by all parties to the agreement when the final judgment or settlement is a result of a liability claim against the agency.

The bill defines the term “teaching agency for home and community-based care” as “a home health agency that is licensed under part III of chapter 400 and has access to a resident population of sufficient size to support education, training, and research related to geriatric care.”

²² Sections 430.80(5) and (7), F.S.

²³ Section 400.141, F.S., relates to the administration and management of nursing home facilities.

The agency is authorized to collect a fee of up to \$250 from any home health agency seeking the designation as a teaching agency for home and community-based care.

The bill also authorizes a teaching agency for home and community-based care to be affiliated with an academic health center in the state in order to foster the development of methods for improving and expanding the capabilities of home health agencies to respond to the medical, health care, psychological, and social needs of frail and elderly persons. A teaching agency for home and community-based care is to serve as a resource for research and for training health care professionals in providing health care services in homes and community-based settings to frail and elderly persons.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, section 10 of the Florida Constitution prohibits a special law from being passed unless notice of intention to seek enactment of the law has been published. Twenty-one categories of special laws and general laws of local application are forbidden by the constitution.²⁴ A special law operates only upon designated persons or discrete regions, and bears no reasonable relationship to differences in population or other legitimate criteria.²⁵ Even if a bill is enacted as a “general law,” a court will treat it as a special law if its effect is essentially that of a special law.²⁶

This bill provides very specific criteria for a home health agency desiring to be a teaching agency for home and community-based care. According to the Agency for Health Care Administration, there is only one home health agency (United Home Care Services, Inc.) that will qualify to be a teaching agency for home and community-based care based on the criteria.²⁷ Accordingly, this bill may be subject to a constitutional challenge under article III, section 10 of the Florida Constitution.

²⁴ FLA. CONST. art. III, s. 11.

²⁵ *Housing Authority v. City of St. Petersburg*, 287 So. 2d 307, 310 (Fla. 1973).

²⁶ *Anderson v. Board of Public Instruction for Hillsborough County*, 136 So. 334 (Fla. 1931).

²⁷ Agency for Health Care Admin., *supra* note 9.

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

None.

B. Private Sector Impact:

In order to seek designation as a teaching agency for home and community-based care, a home health agency may be required to pay a fee, up to \$250, to the Agency for Health Care Administration (AHCA or agency).

C. Government Sector Impact:

According to AHCA, based on the criteria in the bill, it does not expect to receive more than one application from home health agencies to become designated as a teaching agency for home and community-based care. The agency indicates that if costs exceed the \$250 fee AHCA will charge to applicants, it will absorb the costs of the review and communications with the applicants.²⁸

According to the Board of Governors (board), the bill “appears to have little fiscal impact to the state universities.” However, one of the bill’s requirements (that the teaching agency must have salaried academic faculty from a nationally accredited health professions program) is not specific as to the source of the salary. According to the board, “it is not clear if that portion of the faculty member’s time devoted to the teaching agency would be funded by the state university, from teaching agency funds, or a combination of the two sources. Clarification of this point will be necessary to assess any potential costs to the universities.”²⁹

VI. Technical Deficiencies:

The Agency for Health Care Administration (AHCA or agency) suggests amending the bill to replace the Department of Elder Affairs as the entity that may designate a home health agency as a teaching agency for home and community-based care. The agency provides the following justification for the recommendation:

The Department of Elder Affairs oversees the area agencies on aging and their community care for the elderly lead agencies, administers the nursing home diversion program, and works with universities regarding gerontology. The Department is also the state agency lead on home and community based care for older persons. In addition, the proposed law change is in the Department’s statutes, chapter 430, F.S.³⁰

²⁸ Agency for Health Care Admin., *supra* note 9.

²⁹ Board of Governors, *2011 Legislative Bill Analysis SB 1158* (Mar. 7, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³⁰ Agency for Health Care Admin., *supra* note 9.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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



673554

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 57 - 142.

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

And the title is amended as follows:

Delete lines 5 - 9

and insert:

communication and computation skills; amending



881150

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 147 - 159
and insert:

~~(12) (a) A public postsecondary educational institution may
not confer an associate in arts or baccalaureate degree upon any
student who fails to successfully complete one of the following
requirements:~~

~~1. Achieve a score that meets or exceeds a minimum score on
a nationally standardized examination, as established by the
State Board of Education in conjunction with the Board of
Governors; or~~



881150

13 ~~2. demonstrate successful mastery remediation of any~~
14 ~~academic competencies deficiencies and achieve a cumulative~~
15 ~~grade point average of 2.0 2.5 or above, on a 4.0 scale, in~~
16 ~~postsecondary-level coursework identified by the State Board of~~
17 ~~Education in conjunction with the Board of Governors. The~~
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568730

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 465 - 484.

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

And the title is amended as follows:

Delete line 37

and insert:

for approval; amending s. 467.009, F.S.;

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1194

INTRODUCER: Higher Education Committee and Senator Oelrich

SUBJECT: Postsecondary Education

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	Fav/CS
2.	Daniell	Walsh	CF	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

This bill makes changes to several sections of the Florida Statutes relating to postsecondary education. Specifically, the bill:

- Removes obsolete references to the College Level Academic Skills Test;
- Makes college readiness testing uniform;
- Codifies the Articulation Coordinating Committee;
- Removes a barrier to postsecondary education for individuals with intellectual disabilities by allowing them to use reasonable substitutions for admission to postsecondary programs;
- Authorizes the Department of Education to certify community service hours for home education students' Bright Futures Scholarship requirements;
- Deletes requirements for the State Board of Education to approve community college budgets; and
- Abrogates the repeal of the 21st Century Technology, Research, and Scholarship Act.

This bill amends the following sections of the Florida Statutes: 467.009, 1001.64, 1004.68, 1007.01, 1007.25, 1007.264, 1007.265, 1008.30, 1008.345, 1008.38, 1009.534, 1011.30, and 1012.56.

The bill repeals section 6 of chapter 2006-58, Laws of Florida.

II. Present Situation:

College Level Skills

Public postsecondary institutions are currently following the requirements established in s. 1007.25, F.S., relating to the mastery of college-level communication and computation skills. The College-Level Academic Skills Test (CLAST) was administered from October 1982 to June 2009 to students seeking associate in arts (AA), bachelor of arts (BA), or bachelor of science (BS) degrees from a Florida public college or university. The CLAST consisted of four subtests: essay, English language skills, reading, and mathematics.¹

From 1982 to 2002, the CLAST was also used as the basic skills test for teacher certification purposes. On July 1, 2002, the General Knowledge (GK) test of the Florida Teacher Certification Examinations replaced the CLAST for purposes of teacher certification. Currently, any teacher certification candidate may use his or her CLAST scores in lieu of the corresponding GK test.²

In 2009, the Legislature repealed the use of the CLAST to measure student proficiency and as a degree requirement for undergraduates seeking an AA, BA, or BS in Florida's public colleges or universities.³

Articulation

The Articulation Coordinating Committee (ACC) serves as an advisory board to the State Board of Education (SBE), Board of Governors, and Higher Education Coordinating Council on postsecondary transition issues. The ACC is no longer codified in law, but rather it is established in Rule 6A-10.024 of the Florida Administrative Code.⁴

The ACC consists of 18 members and reports to the Commissioner of Education (Commissioner). The members shall be as follows:

- Four from the Department of Education (DOE or department);
- Fourteen appointed by the Commissioner for two year terms;
- Three representing the state university system;
- Three representing the state community college system;

¹ Office of Assessment, Florida Dep't of Education, *College-Level Academic Skills Test (CLAST), CLAST Programs*, <http://www.fldoe.org/asp/clast/default.asp> (last visited Mar. 24, 2011).

² Office of Assessment, Florida Dep't of Education, *College-Level Academic Skills Test (CLAST), The Need for CLAST Scores*, <http://www.fldoe.org/asp/clast/clstneed.asp> (last visited Mar. 24, 2011).

³ Office of Assessment, Florida Dep't of Education, *College-Level Academic Skills Test (CLAST), Passing Scores*, <http://www.fldoe.org/asp/clast/clstpscr.asp> (last visited Mar. 24, 2011).

⁴ Section 3, ch. 2002-387, L.O.F., transferred the ACC to the State Board of Education.

- One representing career education;
- Three representing public schools;
- Two representing non-public postsecondary institutions;
- One representing non-public secondary education; and
- One representing students.⁵

Functions, responsibilities, and duties of the ACC include:

- Acting as the statewide pre-kindergarten through university advisory committee;
- Developing suggested guidelines for interinstitutional agreements between and among public schools, community colleges, and universities;
- Establishing groups of university-community college-school district representatives;
- Conducting a continuing review of the provisions of this rule and making recommendations to the SBE and Board of Governors;
- Reviewing instances of student transfer and admissions difficulties among universities, community colleges, and public schools;
- Examining statewide data regarding articulation, recommending resolutions of issues, and proposing policies and procedures to improve articulation systemwide;
- Recommending the priority to be given research conducted cooperatively by DOE with individual institutions;
- Reviewing and making recommendations to institutions for experimental programs;
- Collecting and disseminating information on successful cooperative programs between educational institutions;
- Establishing and maintaining a standard format to record the performance and credits of postsecondary students;
- Documenting, maintaining, and publishing a current listing of limited access, capstone, and career ladder degree programs;
- Documenting, maintaining, and publishing the statewide associate in science to bachelor of arts or bachelor of science articulation agreements;
- Documenting, maintaining, and publishing statewide applied technology diploma to associate in applied science or associate in science degree articulation agreements;
- Maintaining and reviewing annually the accelerated articulation mechanism examinations, minimum scores guaranteed for transfer, maximum credits guaranteed to transfer, and recommended course equivalencies; and
- Performing other duties as assigned.⁶

Students with Intellectual Disabilities

The federal Higher Education Opportunity Act reauthorization⁷ creates incentives for states to provide transition to postsecondary education programs for students with intellectual disabilities – those students with mental retardation or a cognitive impairment characterized by significant limitation in intellectual and cognitive functioning who are or were provided a free and

⁵ Rule 6A-10.024(2), F.A.C.

⁶ *Id.*

⁷ P.L.110-315

appropriate public education under the Individuals with Disabilities Education Act. Three Florida institutions – the University of South Florida, St. Petersburg (USFSP); University of North Florida (UNF); and Lynn University have received a grant, funded for \$421,000 a year for five years, to form a consortium⁸ to oversee the following grant activities:

- Expansion of the quality and depth of the current transition programs on the campuses of USFSP, UNF, and Lynn University;
- Support for other existing transition programs for students with intellectual disabilities at institutions of higher education across the State of Florida; and
- Expansion of the transition programs in these institutions across Florida.

While students with disabilities⁹ are eligible for reasonable substitutions for requirements for graduation, admission to a postsecondary program, or entry into the upper division of a postsecondary program, students who have been documented as having an intellectual disability are specifically excluded.¹⁰

Common Placement Testing

Minimum college placement test scores are currently established in Rule 6A-10.0315 of the Florida Administrative Code. Florida College System institutions have flexibility to establish higher college placement scores, so a student could be eligible for college level coursework at one college with a certain score but not at another college. This inconsistency may cause unintended inequities for students seeking a degree. Establishing college placement scores statewide will enable students to transfer test scores from college to college and be eligible for the same course placement.¹¹

According to the DOE, there is no statewide consistency in remediation policies. Remediation courses have been approved for high schools on the basis of the highest level of developmental education (i.e., remediation) offered at Florida College System institutions. The implementation of the high school remediation courses is voluntary and student enrollment is also voluntary. For high schools offering the remediation courses, students who enroll and pass a remediation course with a grade of “C” or better and pass the Basic Skills Exit Test will be guaranteed entry to college credit coursework without additional testing or remediation on admission to a Florida college. Colleges may offer students alternative remediation opportunities and retests.

Students may accumulate more than 12 college credit hours without demonstrating readiness in mathematics, reading, or writing, provided they are co-enrolled in developmental education. The Florida College System has recently developed statewide developmental education competencies

⁸ The Florida Consortium on Postsecondary Education Transition Programs and Intellectual Disabilities.

⁹ Section 1007.02(2), F.S., defines a “student with a disability” as a student “who is documented as having an intellectual disability; a hearing impairment, including deafness; a speech or language impairment; a visual impairment, including blindness; an emotional or behavioral disability; an orthopedic or other health impairment; an autism spectrum disorder; a traumatic brain injury; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.”

¹⁰ See ss. 1007.264 and 1007.265, F.S.

¹¹ See Florida Dep’t of Education, *2011 Agency Legislative Bill Analysis, SB 1194* (Feb. 18, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

and established common course numbers that will be implemented in fall 2011. Current law does not fully reflect all provisions to implement the postsecondary readiness testing.

Bright Futures Community Service Hours

Home school students are required to complete community service hours to be eligible for a Florida Academic Scholars award. Currently, the Office of Student Financial Assistance, within DOE, certifies home education students' community service hours for the purpose of Bright Futures Scholarship initial eligibility. However, current law does not explicitly give DOE the authority to approve community service hours for home education students.

Review and Approval of Community College Budgets

Community college boards of trustees are required to submit their budgets to the State Board of Education for approval under ss. 1001.64 and 1011.30, F.S.

The 21st Century Technology, Research, and Scholarship Act

The 21st Century Technology, Research, and Scholarship Act (Act)¹² was created in 2006 to enhance the research infrastructure at state universities. The Act includes the Centers of Excellence Program, the State University Research Commercialization Assistance Grant Program, and the 21st Century World Class Scholars Program.

The state's investment of \$84.5 million in the 11 State University Systems Centers of Excellence has yielded \$251 million in competitive grants and another \$24 million in private sector support. The centers collectively have made 223 invention disclosures, executed 43 licenses or options, received nearly a half million dollars in license revenues, initiated 30 companies, created 745 jobs, and provided over 100 specialized industry training sessions. In addition, the centers have supported 1,110 undergraduate and graduate students, and created collaborations with 508 private industry entities.¹³

The 21st Century World Class Scholars program consists of 16 faculty positions at state universities. Cumulatively, the world class scholars have received nearly \$46 million in external competitive grants and have had 16 patents issued.¹⁴

The State University Research Commercialization Assistance Grant Program has been instrumental in moving university-based inventions toward commercialization. Grants awarded under this program total \$1.8 million.¹⁵

Section 1004.226, F.S., will be repealed on July 1, 2011, unless the repeal is abrogated. The Board of Governors states that while these programs represent a small portion of the \$1.3 billion

¹² Section 1004.226, F.S.

¹³ State University System of Florida Board of Governors, *21st Century Technology, Research, and Scholarship Act Programs*, 6-7 (Jan. 2011), available at http://www.flbog.edu/new_florida/docs/PUBLISHED_2010_21st_Century_Annual_Report.pdf (last visited Mar. 24, 2011).

¹⁴ *Id.* at 14.

¹⁵ *Id.* at 16.

in federal, private, and other research and development contracts and grant awards to Florida in 2008-09, “taken together these 21st Century Act programs represent a significant, focused response to the System’s goal of transforming Florida’s economy to one that relies less on growth, tourism, and agriculture and, instead, aspires to be a national leader in high-wage, high-skill, cutting-edge technology.”¹⁶

III. Effect of Proposed Changes:

College Level Skills (sections 1, 3, 6, 7, 8, 12, and 13)

In 2009, the Legislature repealed the use of the College Level Academic Skills Test (CLAST) to measure student proficiency and as a degree requirement for undergraduates Florida’s public colleges or universities. The bill removes obsolete references to the CLAST in ss. 467.009, 1004.68, 1007.25, 1008.30, 1008.345, 1008.38, and 1012.56 F.S., since the CLAST is no longer administered for these purposes. However, according to the Department of Education, the reference to the CLAST exam should remain in s. 1012.56, F.S., to allow a teacher who had already taken and passed the CLAST exam to use it as an option to satisfy the general knowledge requirement for teacher certification.¹⁷

Articulation (section 2)

The bill provides statutory authorization for the Articulation Coordinating Committee (ACC) to serve as an advisory body that would report to the Commissioner of Education. The ACC would propose policies to coordinate among the education sectors to promote smooth and efficient student educational transitions. The duties of the ACC include monitoring institutional compliance with articulation policy, proposing guidelines for interinstitutional agreements, establishing dual enrollment course and high school subject areas equivalencies, reviewing the statewide course numbering system, and establishing a group of public and nonpublic educational institution representatives to facilitate articulation.

Students with Intellectual Disabilities (sections 4 and 5)

The bill amends ss. 1007.264 and 1007.265, F.S., to provide access to postsecondary education for individuals with intellectual disabilities by allowing reasonable substitutions for entry, admission to a program of study, and graduation requirements, as is currently provided to other students with disabilities. The proposed changes will align Florida law with the provisions of the Higher Education Opportunities Act and facilitate activities to help students with intellectual disabilities prepare for gainful employment.

Common Placement Testing (section 8)

The bill authorizes the Department of Education (DOE or department) to establish statewide consistency in the implementation of the common placement requirements. The bill requires the

¹⁶ *Id.* at 17.

¹⁷ Conversation with Darrick McGhee, Director, Office of Gov’t Relations, Florida Dep’t of Education (Mar. 24, 2011).

State Board of Education to establish by rule the test scores a student must achieve to demonstrate readiness for postsecondary work, provisions for remediation, and retesting policies.

The bill also requires colleges to advise students who have accumulated 12 college credit hours but who have not yet demonstrated proficiency in the basic competency areas in writing of the requirements for associate degree completion and state university admission. By requiring colleges to inform students of the possible implications of amassing college credit prior to successful completion of developmental education, students will have the necessary information to make informed decisions when registering for courses.

The bill also provides that a student must demonstrate successful mastery of the required developmental education competencies, as defined in State Board of Education rule, before the student will be considered to have met basic computation and communication skills. By establishing developmental education competencies in rule, there will be consistency in the delivery of developmental education in the Florida College System, as well as high schools. High school teachers would have access to the competencies Florida faculty have identified as necessary for success in entry level college credit courses. Establishing the competencies in rule will result in better informed instruction at the secondary level and better prepared students coming to the Florida colleges.

Bright Futures Community Service Hours (section 9)

The bill authorizes DOE to approve community service hours for home education students to be eligible for the Bright Futures Florida Academic Scholars award. Current law is silent regarding whether DOE can approve community service hours for home education students.

Review and Approval of Community College Budgets (sections 10 and 11)

The bill strikes the requirement in current law that DOE review *and approve* community college budgets. Under the bill, DOE will only be required to review the budgets, and the community college boards of trustees would approve the budget.

The 21st Century Technology, Research, and Scholarship Act (section 14)

The bill repeals s. 6 of ch. 2006-58, Laws of Florida, which provides that s. 1004.226, F.S., shall expire on June 30, 2011. By doing this, the bill abrogates the repeal of the 21st Century Technology, Research, and Scholarship Act.

Effective Date (section 15)

The bill provides that it will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Education (DOE or department), the department reimburses Florida Colleges for common placement tests provided to high school students who are evaluated for college readiness. To the extent this bill increases the number of high school students taking such tests, the costs for reimbursement may increase.¹⁸

Additionally, the department stated that colleges may incur additional expenses relating to the notice requirement for students who accumulate 12 college credit hours with developmental education coursework remaining. The exact cost is indeterminate, but is likely to be insignificant.¹⁹

To the extent that the revisions made by the bill to the disability-related statutes result in an increase in the number of students enrolling in colleges, those schools may collect additional tuition and fee revenue.²⁰

Finally, the department indicated that it will need to amend or promulgate several rules to address the requirements of the bill.²¹

VI. Technical Deficiencies:

None.

¹⁸ Florida Dep't of Education, *supra* note 11.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education on March 14, 2011:

The Committee Substitute:

- Leaves a reference to the CLAST exam in a teacher preparation statute to allow those that have already taken and passed the CLAST exam previously to continue to use it as an option to satisfy the general knowledge requirement;
- Adds new duties for the Articulation Coordinating Committee;
- Repeals a requirement for the Department of Education to review and approve community college budgets; and
- Abrogates the repeal of the 21st Century Technology, Research, and Scholarship Act.

- B. **Amendments:**

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1348

INTRODUCER: Senator Bogdanoff

SUBJECT: Community Residential Homes

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Pre-meeting
2.			CA	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill amends the definition of “community residential home” to include sober transitional living homes. The bill defines the term “sober transitional living home” to mean a community residential home that provides a peer-supported and managed alcohol-free and drug-free living environment. A sober transitional living home must follow all local and county standards of occupancy and may not provide onsite substance abuse treatment unless it is provided by a licensed service provider.

This bill substantially amends section 419.001, Florida Statutes.

II. Present Situation:

Historically, community housing options for persons with disabilities, frail elderly persons, dependent or delinquent children, and persons with mental illnesses have been limited. Although the transition from providing services in large institutions to community-based programs began in the 1970’s, the availability of safe, appropriate, and affordable housing in Florida has been an ongoing challenge. The “NIMBY” (Not In My Back Yard) syndrome is used to describe the opposition to placing affordable housing or housing for persons with disabilities or special needs in residential neighborhoods. This opposition began to be routinely challenged during the 1980s as policy and practice reform led to the development of more opportunities for persons with disabilities to live independently and participate fully in their communities.

Fair Housing Act

The Federal Fair Housing Act of 1988 (FHA)¹ prohibits discrimination on the basis of a handicap in all types of housing transactions. The FHA defines a “handicap” to mean those mental or physical impairments that substantially limit one or more major life activities. The term “mental or physical impairment” may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term “major life activity” may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. The FHA also protects persons who have a record of such impairment, or are regarded as having such impairment. Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders are not considered disabled under the FHA, by virtue of that status.²

The Florida Fair Housing Act in s. 760.23(7)(b), F.S., provides that it is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available. The statute provides that “discrimination” is defined to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

Community Residential Homes

In 1989, the Florida Legislature enacted ch. 89-372, Laws of Florida, which was codified as ch. 419, F.S. The legislation was aimed at preventing or reducing inappropriate institutional care by encouraging the development of community-based residential environments for persons with special needs. A community residential home is a home consisting of “7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.”³

The following are included in the definition of a “resident:”

- “Frail elder” pursuant to s. 429.65, F.S., means a functionally impaired elderly person who is 60 years of age or older and who has physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living and that impede the person’s capacity to live independently.
- Person with a “handicap” pursuant to s. 760.22(7)(a), F.S., means a person that has a physical or mental impairment which substantially limits one or more major life

¹ 42 U.S.C. 3601 *et seq.*

² See U.S. Dep’t of Justice, *The Fair Housing Act*, http://www.justice.gov/crt/about/hce/housing_coverage.php (last visited Mar. 23, 2011); see also M.M. Gorman *et al.*, *Fair Housing for Sober Living: How the Fair Housing Act Addresses Recovery Homes for Drug and Alcohol Addiction*, THE URBAN LAWYER v. 42, no. 3 (Summer 2010) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³ Section 419.001(1)(a), F.S.

activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment, or a person with a developmental disability as defined in s. 393.063, F.S.

- “Developmental disability” pursuant to s. 393.063, F.S., means a person with a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and which constitutes a substantial handicap that can reasonably be expected to continue indefinitely.
- “Nondangerous mentally ill person” means a person with a “mental illness” as defined in s. 394.455(18), F.S., which is an impairment of the mental or emotional processes that exercise conscious control of one’s actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person’s ability to meet the ordinary demands of living, regardless of etiology. ... the term does not include retardation or developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.
- “Child who is found to be dependent” as defined in s. 39.01(12), F.S., and a “child in need of services” pursuant to ss. 984.03(9) and 985.03(8), F.S.⁴

Section 419.001(3), F.S., requires a sponsoring agency⁵ to notify the chief executive officer of the local government in writing when a site for a community residential home has been selected in an area zoned for multifamily use. The notice must include the address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. The notice must also contain a statement from the licensing entity⁶ indicating the licensing status of the home and how the home meets applicable licensing criteria for the safe care and supervision of the residents. The sponsoring agency must provide the local government with the most recently published data compiled that identifies all community residential homes in the district in which the proposed site is to be located. The local government reviews the notification from the sponsoring agency in accordance with the zoning ordinance of the jurisdiction in which the community residential home is located.

The local government may only deny the siting of a community residential home if the site selected:

- Does not conform to existing zoning laws;
- Does not meet applicable licensing criteria;
- Would substantially alter the nature and character of the area.⁷

A home with six or fewer residents is deemed a single-family unit, and such a home is allowed in a single- or multi-family zoned area without approval by the local government, provided that the home does not exist within a 1,000 foot radius of another home with six or fewer residents and

⁴ Section 419.001(1)(e), F.S.

⁵ Section 419.001(1)(f), F.S., defines “sponsoring agency” as “an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.”

⁶ Section 419.001(1)(b), F.S., defines “licensing entity” as the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Family Services, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents, as defined in s. 419.001(1)(e), F.S.

⁷ Section 419.001(3)(c), F.S.

the sponsoring agency notifies the local government at the time of occupancy that the home is licensed.⁸

Sober Living Homes

“‘Sober living homes’ function under the belief that housing addicts in an environment that fosters recovery, such as low crime, drug free, single family neighborhoods, is essential to the success of any addict’s treatment.”⁹ Proponents of sober living homes believe that “such environments foster sobriety and encourage trust and camaraderie between home residents.”¹⁰ Living in a sober living home community allows a recovering addict the opportunity to develop practical life skills and build self confidence.¹¹

The facilities, operators, and organizational design of sober living homes vary greatly. It is argued that the location of the home is critical to recovery, and placing the home in a single-family neighborhood helps to avoid temptations that other environments can create.¹² Organizationally, these homes can range from a private landlord renting his or her home to recovering addicts to corporations that operate full-time treatment centers across the country and employ professional staff.¹³

Because of the wide range in variety, the sober living home concept can easily be abused. For example, some homes under the guise of a “sober living home” may have twenty to thirty individuals renting space from a landlord who is simply seeking to maximize rent and where no actual treatment is provided.¹⁴

One example of a sober living home is Florida Sober Living. This organization offers residential housing, with minimal therapy, for addicts and alcoholics to live and recover together.¹⁵ Florida Sober Living has a strict zero tolerance policy and requires participation in AA or another 12 step recovery program.¹⁶

III. Effect of Proposed Changes:

This bill amends ch. 419, F.S., relating to community residential homes, to include sober house transitional living homes in the definition of “community residential home.”

The bill defines the term “sober house transitional living home” to mean a community residential home that provides a peer-supported and managed alcohol-free and drug-free living environment. The home must be supervised by a house manager who ensures that a sober living

⁸ Section 419.001(2), F.S.

⁹ M.M. Gorman *et al.*, *supra* note 2.

¹⁰ *Id.*

¹¹ 12 Step Treatment Centres, *Sober Living Home Transitional Housing*, http://www.12steptreatmentcentres.com/SOBER_LIVING_HOME_TRANSITIONAL_HOUSING_95.asp (last visited Mar. 23, 2011).

¹² M.M. Gorman *et al.*, *supra* note 2.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Florida Sober Living, *Home*, <http://www.floridasoberliving.com/> (last visited Mar. 23, 2011).

¹⁶ *Id.*

environment is maintained and who offers structure and peer support. A sober house transitional living home must adhere to local municipal or county standards of occupancy and substance abuse treatment may not be provided onsite unless it is provided by a licensed service provider.¹⁷

The bill also provides that the limitations of the definition of “sober house transitional living home” do not apply to a sober living facility that is affiliated with, managed by, or operated by a licensed service provider.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Fair Housing Act (FHA) prohibits a large range of practices that discriminate against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability or handicap. Because disability has been interpreted as including individuals recovering from drug or alcohol addiction, discriminatory practices involving recovering addicts are forbidden.¹⁸ Accordingly, if there are too many restrictions placed on sober house transitional living homes, the restrictions may run afoul with the FHA and the owner or operator of a home may bring suit to seek relief under the FHA.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁷ A licensed service provider is defined as a public agency under ch. 397, F.S.; a private for-profit or not-for-profit agency under ch. 397, F.S.; a physician or other private practitioner licensed under ch. 397, F.S., or a hospital that offers substance abuse services through one or more licensed service components. Section 397.311(17), F.S.

¹⁸ M.M. Gorman *et al.*, *supra* note 2.

B. Private Sector Impact:

To the extent a sober house transitional living home must be licensed similarly to a community residential home, the owner or operator of the sober house transitional living home may have fees associated with licensing.

C. Government Sector Impact:

According to the Agency for Health Care Administration, Department of Children and Family Services, and the Department of Juvenile Justice, the bill will not have an operational or fiscal impact on them.¹⁹

VI. Technical Deficiencies:

On lines 44-46, the bill provides that the limitations of the definition of sober house transitional living home do not apply to a *sober living facility* that is affiliated with, managed by, or operated by a licensed service provider. The term “sober living facility” is not defined in current law and the bill does not provide a definition.

The bill provides that a sober house transitional living home is to be supervised by a house manager who “ensures that a sober living environment is maintained and who offers structure and peer support.” It is unclear how the house manager is expected to “ensure” that a sober living environment is maintained. Additionally, the bill does not provide whether there are any ramifications if a house manager does not maintain a sober living environment.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

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

¹⁹ See Agency for Health Care Admin., *2011 No Agency Impact Statement* (Mar. 1, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs); Dep’t of Children and Families (statement for HB 1055) (on file with the Senate Committee on Children, Families, and Elder Affairs); Dep’t of Juvenile Justice, *House Bill 1055* (Mar. 7, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1372

INTRODUCER: Senator Storms

SUBJECT: Persons with Developmental Disabilities/Medication

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	Fav/1 amendment
2.	Daniell	Walsh	CF	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | ☐ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☒ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

This bill amends s. 393.506, F.S., to require a registered nurse or a physician to annually assess and validate the competency of a direct service provider, who is not licensed to administer prescription medication, in certain routes of medication administration, including oral, ophthalmic, rectal, inhaled, and enteral. The bill provides that topical, transdermal, and otic routes of medication administration do not require annual revalidation.

This bill substantially amends section 393.506, Florida Statutes.

II. Present Situation:

Agency for Persons with Disabilities

In October 2004, the Agency for Persons with Disabilities (APD) became an agency separate from the DCF and was specifically tasked with serving the needs of Floridians with

developmental disabilities.¹ Prior to that time, it existed as the Developmental Disabilities Program.²

The primary purpose of APD is to work in partnership with local communities to ensure the safety, well-being, and self-sufficiency of the people served by the agency, provide assistance in identifying needs, and funding to purchase supports and services.³

Developmental Disabilities Institutions

Clients of APD may receive services through home or community settings, private intermediate care facilities, or state-run developmental services institutions. Developmental services institutions provide secure⁴ residential services for individuals who have been charged with a serious crime and who have been found by the court to be incompetent to proceed through the court process due to mental retardation.⁵ There are currently two non-secure developmental services institutions which are staffed by state employees: Marianna Sunland and Tacachale.⁶

Direct Service Providers

A direct service provider is a person 18 years of age or older who has direct face-to-face contact with a client while providing services to the client or has access to a client's living areas or to a client's funds or personal property.⁷

Currently, APD requires that each direct service provider submit to a Level 2 employment screening pursuant to s. 435.03, F.S.⁸ Section 393.0657, F.S., currently exempts a person who has undergone any portion of the background screening requirements required in s. 393.0655, F.S., within the last year from being required to repeat those screening requirements.

Section 402.3057, F.S., exempts certain individuals from background screening requirements pursuant to ch. 393, F.S. The exemption does not apply to an individual who has had a 90-day break in employment.⁹

¹ Section 393.063(9), F.S., defines the term "developmental disability" as a disorder or syndrome that is attributable to retardation, 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.

² Agency for Persons with Disabilities, *About Us*, <http://apd.myflorida.com/about> (last visited Mar. 24, 2011).

³ Office of Program Policy Analysis & Government Accountability, The Florida Legislature, *Agency for Persons with Disabilities*, <http://www.oppga.state.fl.us/profiles/5060> (last visited Mar. 24, 2011).

⁴ The only secure forensic facility under APD is the Mentally Retarded Defendant Program (MRDP) in Chattahoochee. See Agency for Persons with Disabilities, *Mentally Retarded Defendant Program*, <http://apd.myflorida.com/ddc/mrdp/> (last visited Mar. 24, 2011).

⁵ Office of Program Policy Analysis & Government Accountability, *supra* note 3.

⁶ Agency for Persons with Disabilities, *Statewide Developmental Disability Centers*, <http://apd.myflorida.com/ddc/> (last visited Mar. 24, 2011).

⁷ Section 393.063(11), F.S.

⁸ Section 393.0655, F.S.

⁹ Section 402.3057, F.S.

Administration of Medication

Section 393.506, F.S., provides that a direct service provider who is not currently licensed to administer medication may supervise the self-administration of medication or may administer several types of prescription medications to clients, including:

- Oral,¹⁰
- Transdermal,¹¹
- Ophthalmic,¹²
- Otic,¹³
- Rectal,¹⁴
- Inhaled,¹⁵
- Enteral,¹⁶ or
- Topical.¹⁷

In order to supervise the self-administration of medication or to administer medications, a direct service provider must satisfactorily complete a training course of not less than four hours in medication administration and be found competent to supervise the self-administration of medication by a client or to administer medication to a client in a safe and sanitary manner.¹⁸ Competency must be assessed and validated at least annually by a registered nurse licensed pursuant to ch. 464, F.S., or a physician licensed pursuant to ch. 458 or ch. 459, F.S., in an onsite setting and must include the registered nurse or physician personally observing the direct service provider satisfactorily supervising the self-administration of medication by a client, and administering medication to a client.¹⁹

¹⁰ “Oral” means medication taken by mouth. Merriam-Webster, Medline Plus Medical Dictionary, *Oral*, <http://www.merriam-webster.com/medlineplus/Oral> (last visited Mar. 24, 2011).

¹¹ “Transdermal” means relating to, being, or supplying a medication in a form for absorption through the skin into the bloodstream. Merriam-Webster, Medline Plus Medical Dictionary, *Transdermal*, <http://www.merriam-webster.com/medlineplus/Transdermal> (last visited Mar. 24, 2011).

¹² “Ophthalmic” means of, relating to, or situated near the eye (meaning administration of medicine to the eye). Merriam-Webster, Medline Plus Medical Dictionary, *Ophthalmic*, <http://www.merriam-webster.com/medlineplus/Ophthalmic> (last visited Mar. 24, 2011).

¹³ “Otic” means of, relating to, or located in the region of the ear (meaning the administration of medicine to the ear). Merriam-Webster, Medline Plus Medical Dictionary, *Otic*, <http://www.merriam-webster.com/medlineplus/otic> (last visited Mar. 24, 2011).

¹⁴ “Rectal” means relating to, affecting, or being near the rectum (meaning the administration of medicine to the rectum). Merriam-Webster, Medline Plus Medical Dictionary, *Rectal*, <http://www.merriam-webster.com/medlineplus/rectal> (last visited Mar. 24, 2011).

¹⁵ “Inhaled” means medicine that is administered by being breathed in. Merriam-Webster, Medline Plus Medical Dictionary, *Inhaled*, <http://www.merriam-webster.com/medlineplus/Inhaled> (last visited Mar. 24, 2011).

¹⁶ “Enteral” or “enteric” means being or possessing a coating designed to pass through the stomach unaltered and to disintegrate in the intestines (meaning medication is administered usually by tube in order to pass through the stomach and into the intestines). Merriam-Webster, Medline Plus Medical Dictionary, *Enteric*, <http://www.merriam-webster.com/medlineplus/enteric> (last visited Mar. 24, 2011).

¹⁷ “Topical” means designed for or involving application to or action on the surface of a part of the body (meaning the application of medicine on the surface of the body). Merriam-Webster, Medline Plus Medical Dictionary, *Topical*, <http://www.merriam-webster.com/medlineplus/topical> (last visited Mar. 24, 2011).

¹⁸ Section 393.506(2), F.S.

¹⁹ See ss. 393.506(2) and (4), F.S.

The client or the client's guardian or legal representative must give his or her informed consent to self-administering medication under the supervision of an unlicensed direct service provider or to receiving medication administered by an unlicensed direct service provider.²⁰

III. Effect of Proposed Changes:

This bill amends s. 393.506, F.S., to require a registered nurse licensed under ch. 464, F.S., or a physician licensed under chs. 458 or 459, F.S., to annually assess and validate the competency of a direct service provider in the administration of oral, ophthalmic, rectal, inhaled and enteral prescription medications, in an onsite setting with an actual client. For topical, transdermal, and otic routes of medication administration, a direct service provider's competency may be validated by simulation during a training course required under s. 393.506(2), F.S.,²¹ and do not require annual revalidation.

The bill provides that it shall take effect on July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Direct service providers may save money as they will no longer be required to have a registered nurse licensed under ch. 464, F.S., or a physician licensed under ch. 458 or ch. 459, F.S., perform an annual validation of the administration of certain medicines by the unlicensed direct service provider.

²⁰ Section 393.506(3), F.S.

²¹ A direct service provider who is not licensed to administer medication must satisfactorily complete a training course of not less than 4 hours in medication administration and be found competent to supervise the self-administration of medication by a client or to administer medication to a client in a safe and sanitary manner.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

There may be an inconsistency in subsection (4) of this bill and subsection (2) in s. 393.506, F.S. This bill exempts an annual revalidation for the topical, transdermal, and otic routes of administration. However, subsection (2) requires that the competency of a direct service provider be assessed and validated at least annually in an onsite setting and must include personally observing the direct service provider satisfactorily supervising the self-administration of medication by a client and administering medication to a client.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

Barcode 815108 by Health Regulation on March 22, 2011:

Requires the Department of Children and Families (department) to submit a recommended order after the conclusion of an administrative hearing to the Agency for Persons with Disabilities (agency) and the agency must issue a final order after the recommendation is made. This amendment clarifies that the final order authority rests with the agency after a hearing is conducted by department on behalf of the agency.

(WITH TITLE AMENDMENT)



815108

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/22/2011	.	
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	.	

The Committee on Health Regulation (Fasano) recommended the following:

Senate Amendment (with title amendment)

Between lines 12 and 13
insert:

Section 1. Paragraph (a) of subsection (1) of section
393.125, Florida Statutes, is amended to read:

393.125 Hearing rights.—

(1) REVIEW OF AGENCY DECISIONS.—

(a) For Medicaid programs administered by the agency, any
developmental services applicant or client, or his or her
parent, guardian advocate, or authorized representative, may
request a hearing in accordance with federal law and rules



815108

applicable to Medicaid cases and has the right to request an administrative hearing pursuant to ss. 120.569 and 120.57. These hearings shall be provided by the Department of Children and Family Services pursuant to s. 409.285 and shall follow procedures consistent with federal law and rules applicable to Medicaid cases. At the conclusion of the hearing, the department shall submit its recommended order to the agency as provided in s. 120.57(1)(k) and the agency shall issue the final order as provided in s. 120.57(1)(l).

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

And the title is amended as follows:

Delete lines 2 - 3

and insert:

An act relating to the Agency for Persons with Disabilities; amending s. 393.125, F.S.; requiring the Department of Children and Family Services to submit its recommended order to the Agency for Persons with Disabilities at the conclusion of an administrative hearing; requiring that the agency issue the final agency order; amending s.



829008

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete line 1866
and insert:

Section 69. This act shall take effect upon the earlier of
90 days following Congress amending 42 U.S.C. s. 666(f) to allow
or require states to adopt the 2008 version of the Uniform
Interstate Family Support Act, or 90 days following the state
obtaining a waiver of its state plan requirement under Title IV-
D of the Social Security Act.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1622

INTRODUCER: Senator Flores

SUBJECT: Family Support

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Connor	Maclure	JU	Favorable
2.	Daniell	Walsh	CF	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill seeks to conform Florida's Uniform Interstate Family Support Act (UIFSA) under ch. 88, F.S., to the current version of UIFSA, which was amended in 2008 and for which implementing legislation is pending approval by Congress, to be eventually adopted in each state. The 2008 UIFSA amendments were made to fully incorporate the provisions promulgated by the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague Convention) that impact existing state laws, including guidelines for the registration, recognition, enforcement, and modification of foreign support orders from other countries that are parties to the Hague Convention. Florida law currently has uniform standards for interstate enforcement of support orders, but not international enforcement.

This bill substantially amends the following sections of the Florida Statutes: 61.13, 88.1011, 88.1021, 88.1031, 88.2011, 88.2021, 88.2031, 88.2041, 88.2051, 88.2061, 88.2071, 88.2081, 88.2091, 88.3011, 88.3021, 88.3031, 88.3041, 88.3051, 88.3061, 88.3071, 88.3081, 88.3101, 88.3111, 88.3121, 88.3131, 88.3141, 88.3161, 88.3171, 88.3181, 88.3191, 88.4011, 88.5011, 88.5031, 88.5041, 88.5051, 88.5061, 88.5071, 88.6011, 88.6021, 88.6031, 88.6041, 88.6051, 88.6061, 88.6071, 88.6081, 88.6101, 88.6111, 88.6121, 88.9011, and 827.06.

This bill creates the following sections of the Florida Statutes: 88.1041, 88.2101, 88.2111, 88.6151, 88.6161, 88.7021, 88.7031, 88.7041, 88.7051, 88.7061, 88.7071, 88.7081, 88.7091, 88.7101, 88.7111, 88.7112, and 88.9021.

This bill repeals section 88.7011, Florida Statutes.

II. Present Situation:

Hague Convention¹

With the rise of globalization, many families form and extend across national boundaries. In the United States, family law has traditionally been a subject of local or state concern, generating significant conflict of laws problems between states. Global movement further complicates the regulation of family relationships. The United States has a large and mobile population, with an estimated 6.6 million private citizens living abroad, and many of these Americans will face challenging international family law problems. National and local laws are inadequate to manage transnational family issues, especially in cases of international adoption or parental abduction but also in ordinary custody, child support or child protection matters. As the scale and frequency of global movement has increased, family and children's issues have also taken on a new relevance in foreign relations. The Hague Conference on Private International Law (the Conference) has responded to the new realities of globalized families with a series of treaties that foster international cooperation in cases involving children. The Conference is an intergovernmental organization, funded and governed by its members.² Its traditional purpose has been to work for the progressive unification of the rules of private international law, including family and children's law. The United States signed the 2007 Hague Convention on the International Recovery of Child Support and Other Family Maintenance (Hague Convention), and implementing legislation is proceeding toward adoption.³

Uniform Interstate Family Support Act

The Uniform Interstate Family Support Act (UIFSA) was originally enacted in 1996 (and amended subsequently) to address complications in enforcing child support orders across state lines.⁴ In response to a congressional mandate,⁵ all states enacted the original 1996 version of UIFSA. After the United States signed the Hague Convention in 2007, establishing numerous provisions of uniform procedure for the processing international child support cases, the National Conference of Commissioners on Uniform State Laws (NCCUSL) amended the 2001 version of UIFSA, which serves as the implementing language for the Hague Convention throughout the states.⁶ The UIFSA provides universal and uniform rules for the enforcement of family support orders by:

¹ Background on the Hague Convention was taken from the article by Ann Laquer Estin, *Families Across Borders: The Hague Children's Conventions and the Case for International Family Law in the United States*, 62 FLA. L. REV. 47 (2010).

² The Conference was founded as a permanent organization in 1955. Statute of the Hague Conference on Private International Law, July 15, 1955, T.I.A.S. No. 5710, 2997 U.N.T.S. 123.

³ *Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*, reprinted in 47 I.L.M. (2008).

⁴ National Conference of Commissioners of Uniform State Laws, *2008 Amendments to the Uniform Interstate Family Support Act*, 2 (2008).

⁵ 42 U.S.C. s. 666.

⁶ National Conference of Commissioners of Uniform State Laws, *Interstate Family Support Act Amendments (2008) Summary*, available at [http://www.nccusl.org/ActSummary.aspx?title=Interstate Family Support Act Amendments \(2008\)](http://www.nccusl.org/ActSummary.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008)) (last visited Mar. 16, 2011).

- Setting jurisdictional standards for state courts;
- Determining the basis for a state to exercise continuing exclusive jurisdiction over child support proceedings;
- Establishing rules to determine which state will issue the controlling order if there are proceedings in multiple jurisdictions; and
- Providing rules to modify or refuse to modify another state's child support order.⁷

The 2008 UIFSA amendments were made to fully incorporate the provisions of the Hague Convention that impact existing state laws, including guidelines for the registration, recognition, enforcement, and modification of foreign support orders from other countries that are parties to the Hague Convention.⁸

State Adoption of Amended UIFSA

Federal implementing legislation pending approval by Congress will require that the 2008 amended version of UIFSA be enacted in every jurisdiction as a condition for federal funds for state child support programs.⁹ To date, Maine, Tennessee, Wisconsin, North Dakota and Nevada are the only states that have enacted the current version of UIFSA.¹⁰ In addition to Florida, several states have introduced UIFSA enacting legislation this year. Those states are: Hawaii, Missouri, New Mexico, Utah, and Washington.¹¹

Florida's UIFSA Statute

Along with the rest of the states, Florida enacted the original 1996 version of the UIFSA, which was codified in ch. 88, F.S., and remains current law. Its provisions provide the infrastructure to enforce child support laws uniformly among states to prevent parents from crossing state lines to avoid their support obligations. Some of the main concepts of UIFSA, as codified under Florida law, are outlined below.

Jurisdiction

Personal jurisdiction is the power of a court over the person of a defendant in contrast to the jurisdiction of a court over a person's property or property interest.¹² Under UIFSA, when a Florida tribunal is exercising personal jurisdiction over a nonresident, that tribunal may apply special rules of evidence to receive evidence from another state and assistance with discovery to obtain discovery through a tribunal of another state.¹³ There are also provisions for Florida courts to exercise jurisdiction to issue a support order during simultaneous proceedings in another

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*; see also Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, Treaty Doc. 110-21, Exec. Rept. 111-2, 111th Congress 2d. Session (Jan. 22, 2010).

¹⁰ Uniform Law Commission, *Interstate Family Support Act Amendments (2008): Enactment Status Map*, available at [http://www.nccusl.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20\(2008\)](http://www.nccusl.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008)) (last visited Mar. 16, 2011).

¹¹ *Id.*

¹² BLACK'S LAW DICTIONARY 1144 (7th ed. 1990).

¹³ Sections 88.2011, 88.2021, 88.3161, and 88.3181, F.S.

state.¹⁴ If support orders are issued by more than one state, there is a process to determine which one controls.¹⁵

General Application

Initiating tribunals have the duty to forward copies of the petition to establish a support order and its accompanying documents to the responding tribunal.¹⁶ When acting as a responding tribunal, courts are directed to apply the procedural and substantive law generally applicable to similar proceedings originating in that state¹⁷ and determine the duty of support and the amount payable in accordance with the law and support guidelines of that state.¹⁸

Establishment of Support Order

If a support order entitled to recognition under UIFSA has not been issued, a responding tribunal may issue a support order under certain conditions.¹⁹

Direct Enforcement of Income Withholding

An obligor is an individual who owes a duty of support and is liable under a support order.²⁰ An obligor may have his or her income withheld in order to make up for unpaid support. Employers are required to treat income-withholding orders from another state as if it had been issued by the state where he or she lives.²¹

Modification

After a child support order has been issued in one state, another state has the ability to modify the order if certain conditions are met.²²

Determination of Parentage

A state court may serve as an initiating or responding tribunal in a proceeding to determine whether a petitioner or a respondent is the parent of a particular child.²³

Grounds for Rendition

The Governor of this state has the ability to demand that the Governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to pay child support.²⁴

¹⁴ Section 88.2041, F.S.

¹⁵ Section 88.2071, F.S.

¹⁶ Section 88.3041, F.S.

¹⁷ Section 88.3031(1), F.S.

¹⁸ Section 88.3031(2), F.S.

¹⁹ Section 88.4011, F.S.

²⁰ Section 88.1011(13)(a)-(c), F.S.

²¹ Section 88.50211, F.S.

²² Section 88.6111, F.S.

²³ Section 88.7011, F.S.

III. Effect of Proposed Changes:

This bill seeks to conform Florida's Uniform Interstate Family Support Act (UIFSA) under ch. 88, F.S., to the current version of UIFSA, which was amended in 2008 and is pending ratification in Congress to be adopted by each state. The 2008 UIFSA amendments were made to fully incorporate the provisions promulgated by the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague Convention) that impact existing state laws, including guidelines for the registration, recognition, enforcement, and modification of foreign support orders from other countries that are parties to the Hague Convention. Florida law accounts for interstate enforcement of support orders, but not international enforcement. Following is a section-by-section analysis of the bill.

General Provisions

Section 1 amends s. 88.1011, F.S., containing definitions, to redefine or delete a number of existing terms to conform to the most current version of UIFSA and to include foreign countries in addition to states and also define the following new terms: "Application"; "Central authority"; "Convention"; "Direct request"; "Foreign central authority"; "Foreign country"; "Foreign support agreement"; "Foreign support order"; "Foreign tribunal"; "Issuing foreign country"; "Outside this state"; "Person"; "Record"; and "United States Central Authority."

Section 2 amends s. 88.1021, F.S., to designate the Department of Revenue as the support enforcement agency of the state.

Section 3 amends s. 88.1031, F.S., to specify that the act does not provide the exclusive method of establishing or enforcing a support order or grant authority to render judgment relating to child custody.

Section 4 creates s. 88.1041, F.S., to apply the act to foreign proceedings.

Jurisdiction

Section 5 amends s. 88.2011, F.S., relating to bases for jurisdiction over a nonresident, to state that personal jurisdiction under the section does not extend to the modification of child support orders unless specified conditions are met. Sections 5 and 6 both assert what is commonly described as long-arm jurisdiction over a nonresident respondent for purposes of establishing a support order or determining parentage. To sustain a support order, the tribunal must be able to assert personal jurisdiction over the parties.²⁵

Section 6 amends s. 88.2021, F.S., relating to jurisdiction over a nonresident, to specify that personal jurisdiction under the act continues as long as a tribunal has continuing jurisdiction to enforce its order.

²⁴ Section 88.8011, F.S.

²⁵ National Conference of Commissioners of Uniform State Laws, *2008 Amendments to the Uniform Interstate Family Support Act*, 20 (2008).

Section 7 amends s. 88.2031, F.S., relating to forwarding proceedings between initiating and responding tribunals, to also refer to proceedings initiated in foreign countries.

Section 8 amends s. 88.2041, F.S., relating to simultaneous proceedings in another state, to include foreign countries.

Section 9 amends s. 88.2051, F.S., relating to continuing exclusive jurisdiction, to specify that except in very narrowly defined circumstances, the issuing tribunal retains continuing, exclusive jurisdiction over a child support order.²⁶

Section 10 amends s. 88.2061, F.S., relating to continuing jurisdiction, to make adjustments that are the correlative of the continuing, exclusive jurisdiction described in the previous section. It makes the distinction between the jurisdiction “to modify a support order” established in the previous section and the “continuing jurisdiction to enforce” established in this section.²⁷

Section 11 amends s. 88.2071, F.S., relating to controlling child support orders, to provide a procedure to identify one order that will be enforced in every state. It declares that if only one child support order exists, it is to be denominated the controlling order, irrespective of when and where it was issued and whether any of the individual parties or the child continues to reside in the issuing state. It also establishes the priority scheme for recognition and prospective enforcement of a single order among existing multiple orders regarding the same obligor, obligee, and child.²⁸

Section 12 amends s. 88.2081, F.S., relating to child support orders for two or more obligees, to specify that it also applies to foreign countries.

Section 13 amends s. 88.2091, F.S., relating to credit for payments, to specify that the issuing tribunal is responsible for the overall control of the enforcement methods employed and for accounting for the payments made on its order from multiple sources.²⁹

Section 14 creates s. 88.2101, F.S., relating to the application to a nonresident subject to personal jurisdiction, to specify that upon obtaining personal jurisdiction the tribunal may receive evidence from outside the state, communicate with a tribunal outside the state, and obtain discovery outside the state. In other respects, the tribunal will apply the law of the forum.

Section 15 creates s. 88.2111, F.S., relating to jurisdiction to modify spousal orders, to specify that the restriction on modification of an out-of-state spousal support order extends to foreign countries. It also provides that the question of continuing, exclusive jurisdiction is to be resolved under the law of the issuing tribunal.³⁰

²⁶ *Id.* at 27.

²⁷ *Id.* at 29.

²⁸ *Id.* at 32.

²⁹ *Id.* at 35.

³⁰ *Id.* at 37.

Civil Provisions of General Application

Section 16 amends s. 88.3011, F.S., relating to proceedings under this act, to specify that all proceedings under this act also apply to foreign support orders.

Sections 17 and 18 amend ss. 88.3021 and 88.3031, F.S., to make technical changes.

Section 19 amends s. 88.3041, F.S., relating to the duties of the initiating tribunal, to facilitate enforcement even with states that have not implemented the updated version of UIFSA and with foreign countries.³¹

Section 20 amends s. 88.3051, F.S., relating to the duties and powers of the responding tribunal, to establish updated duties relating to responding tribunals.

Section 21 amends s. 88.3061, F.S., relating to inappropriate tribunals, to make a technical change.

Section 22 amends s. 88.3071, F.S., relating to the duties of the support enforcement agency, to specify that the obligee or the obligor may request services, and that request may be in the context of the establishment of an initial child support order, enforcement or review and adjustment of an existing child support order, or a modification of that order. It also directs the Department of Revenue, as the support enforcement agency, to make reasonable efforts to ensure that the order to be registered is the controlling one.³²

Section 23 amends s. 88.3081, F.S., relating to the duty of the Governor and Cabinet, to allow the Governor and Cabinet to make reciprocal child support determinations regarding foreign countries.

Section 24 amends s. 88.3101, F.S., relating to the duties of the state information agency, to make technical changes and add a reference to foreign countries.

Section 25 amends s. 88.3111, F.S., to establish the requirements for drafting and filing interstate pleadings.³³

Section 26 amends s. 88.3121, F.S., relating to pleadings and accompanying documents, to create an exception for providing certain information in the pleadings if its disclosure is likely to harm a party or child.

Sections 27 and 28 amend ss. 88.3131 and 88.3141, F.S., to make technical changes.

Section 29 amends s. 88.3161, F.S., relating to special rules of evidence, to make technical changes and specify that a voluntary acknowledgment of paternity is admissible to establish parentage.

³¹ *Id.* at 41.

³² *Id.* at 47.

³³ *Id.* at 51.

Sections 30 and 31 amend ss. 88.3171 and 88.3181, F.S., to make technical changes.

Section 32 amends s. 88.3191, F.S., relating to receipt and disbursement of payments, to require that when all parties reside in this state, the Department of Revenue or a tribunal must direct support payments in another state if necessary and send an income-withholding order to the obligor's employer.

Establishment of Support Order

Section 33 amends s. 88.4011, F.S., relating to support order establishment, to authorize a responding tribunal of this state to issue temporary and permanent support orders binding on an obligor over whom the tribunal has personal jurisdiction when the person or entity requesting the order is "outside this state" (i.e., anywhere else in the world). It also specifies circumstances relating to parentage that make a support order appropriate.³⁴

Direct Enforcement

Sections 34 and 35 amend ss. 88.5011 and 88.5031, F.S., to add more specific language to provisions regarding income-withholding orders.

Sections 36 and 37 amend ss. 88.5041, and 88.5051 F.S., to make technical changes to apply the sections to foreign countries.

Section 38 amends s. 88.5061, F.S., relating to a contest by the obligor, to provide more specific instructions for a contest by the obligor.

Sections 39 and 40 amend ss. 88.5071 and 88.6011, F.S., to make technical changes to apply the sections to foreign countries.

Enforcement and Modification

Section 41 amends s. 88.6021, F.S., relating to procedure to register an order for enforcement, to provide cross references and specify a process to be followed by a person requesting registration when two or more orders are in effect.

Section 42 amends s. 88.6031, F.S., relating to effect of registration for enforcement, to apply the section to foreign countries.

Section 43 amends s. 88.6041, F.S., relating to choice of law, to modify the conditions under which the law of the issuing state governs.

Section 44 amends s. 88.6051, F.S., relating to notice of registration of an order, to make technical changes applying the section to foreign countries and specify notice requirements when two or more orders are in effect.

³⁴ *Id.* at 61.

Section 45 amends s. 88.6061, F.S., relating to the procedure to contest validity or enforcement of a registered order, to provide cross references and make technical changes.

Sections 46 and 47 amend ss. 88.6071 and 88.6081 F.S., to make technical changes.

Section 48 amends s. 88.6101, F.S., relating to effect of registration for modification, to provide a cross reference and make a technical change.

Section 49 amends s. 88.6111, F.S., relating to modification of a child support order of another state, to provide cross references and create an exception relating to jurisdiction to modify an order when the parties and the child no longer reside in the issuing state and one party resides outside the United States.

Section 50 amends s. 88.6121, F.S., relating to recognition of an order modified in another state, to make technical changes.

Section 51 creates s. 88.6151, F.S., to provide standards of jurisdiction to modify a child support order of a foreign country.

Section 52 creates s. 88.6161, F.S., to specify a procedure to register a child support order of a foreign country for modification.

Section 53 repeals s. 88.7011, F.S., relating to a proceeding to determine parentage.

Provisions Specific to Foreign Countries

Section 54 creates s. 88.7021, F.S., providing that the section applies only to a support proceeding involving a foreign country in which the Hague Convention is in force with respect to the United States.

Section 55 creates s. 88.7031, F.S., to define the relationship between the Department of Children and Family Services (department) and the United States Central Authority. It recognizes the department as the agency designated by the United States Central Authority to perform specific functions under the Hague Convention.

Section 56 creates s. 88.7041, F.S., relating to the initiation by a governmental entity of support proceedings subject to the Hague Convention, to provide a list of requirements in such proceedings, and to list which support proceedings are available to an obligor under the Hague Convention. It also lists which support proceedings are available to an obligor against whom there is an existing support order.

Section 57 creates s. 88.7051, F.S., to specify provisions for a petitioner to file a direct request in a tribunal in this state seeking the establishment or modification of a support order or determination of parentage. The law of the state will apply in these proceedings. In direct request for enforcement of foreign support orders, an obligee or obligor who has benefitted from free legal assistance is also entitled to any free legal assistance provided under state law.

Section 58 creates s. 88.7061, F.S., relating to the registration of a foreign support order subject to the Hague Convention. It specifies that a party who is seeking recognition of a foreign support order is required to register the order with the state. The request for registration is required to be accompanied by an enumerated list of other documents.

Section 59 creates s. 88.7071, F.S., relating to a contest of the validity of a foreign support order subject to the Hague Convention. It provides that a contest to the recognition of a foreign support order must be filed within 30 days after the notice of the registration. If the contesting party lives outside the United States, he or she will have 60 days after the notice. It also lists possible bases for a contest, such as lack of basis for enforcement, questionable authenticity, etc.

Section 60 creates s. 88.7081, F.S., relating to the recognition and enforcement of a foreign support order subject to the Hague Convention. It provides that this state is required to recognize a foreign support order if the issuing tribunal had personal jurisdiction and the order is enforceable in the issuing country. This section also provides a process for when a tribunal of this state does not recognize a foreign support order. If the order is not recognized as a whole, any severable portions are to be recognized.

Section 61 creates s. 88.7091, F.S., relating to refusal of recognition and enforcement of a foreign support order subject to the Hague Convention. Grounds for refusal of a foreign support order include a determination that the order is incompatible with public policy, was obtained by fraud, etc.

Section 62 creates s. 88.7101, F.S., relating to foreign support orders subject to the Hague Convention. This section states that a direct request for recognition and enforcement of a foreign support order must be accompanied by the complete text of the foreign order and a record stating that the order is an enforceable decision in the issuing country. Grounds for refusal to recognize foreign orders are also listed.

Section 63 creates s. 88.7111, F.S., relating to modification of a foreign child support order subject to the Hague Convention. It provides that a tribunal in this state may not modify a foreign support order if the obligee remains a resident of the issuing country, except under specified circumstances.

Section 64 creates s. 88.7112, F.S., relating to jurisdiction to modify a spousal support order of a foreign country. This section provides that a tribunal of this state having personal jurisdiction over the parties may modify a spousal support order of a foreign tribunal under specified circumstances.

Section 65 amends s. 88.9011, F.S., to specify that in applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law among enacting states.

Section 66 creates s. 88.9021, F.S., to specify that the act applies to proceedings begun on or after the effective date, July 1, 2011.

Sections 67 and 68 amend ss. 61.13 and 827.06, F.S., relating to support of children, parenting and time-sharing, and nonsupport of dependents to provide cross references.

Section 69 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Pursuant to federal law, Florida adopted the 1996 version of the Uniform Interstate Family Support Act (UIFSA) in order to continue to receive federal funding for state child support programs.³⁵ There is currently similar legislation pending in Congress to require adoption of the 2008 UIFSA revision represented in the bill.³⁶ Congress has the authority to act only pursuant to express or implied legislative authority in the Constitution.³⁷ Under the Tenth Amendment, all other powers are reserved to the states and the people. The authority to make laws relating to family issues is not delegated in the Constitution and is thus something that has traditionally been left to the discretion of the states. However, the Supreme Court has held that under its broad taxing and spending powers, “Congress may attach conditions on the receipt of federal funds, and has repeatedly employed the power ‘to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory administrative objectives.’”³⁸ Therefore, it seems permissible for Congress to require the states to adopt this uniform act in the furtherance of the policy objective of international child support enforcement.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³⁵ 42 U.S.C. s. 666.

³⁶ Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, Treaty Doc. 110-21, Exec. Rept. 111-2, 111th Congress 2d. Session (Jan. 22, 2010).

³⁷ U.S. CONST. art. 1, s. 1. states that “All legislative Powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives.”

³⁸ *South Dakota v. Dole*, 483 U.S. 203, 206 (1987) (holding that Congress had the authority to mandate a national minimum drinking age conditioned on federal funding).

B. Private Sector Impact:

Individuals owing support based on international orders will be more likely to have those orders enforced in Florida.

C. Government Sector Impact:

According to the Department of Revenue (DOR or department), the bill will create an operational workload because DOR will have to prepare and submit a formal request for an exemption from Federal Title IV-D requirements to the Federal Office of Child Support Enforcement. The department will also have to revise its procedures for interstate case processing and retrain staff. The bill may also affect DOR's IV-D automated system.³⁹

There may also be some additional workload for Florida courts.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Federal Funding**

Federal law requires that states adopt the 1996 version of the Uniform Interstate Family Support Act (UIFSA) in order to receive federal funding. After the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague Convention), UIFSA was amended in 2008 to incorporate the treaty created at Hague Convention. Currently, the U.S. Senate has not ratified the treaty and therefore the Hague Convention is not in effect in the United States.

This bill makes many changes to ch. 88, F.S., which is the section of law relating to UIFSA. According to the Department of Revenue (DOR or department), if this bill passes, Florida will not be in compliance with federal law.⁴⁰ If Florida is not in compliance with federal law, its Title IV-D plan may be disapproved, which will mean Florida will not receive federal IV-D matching funds or incentive payments. Additionally, a federal financial penalty may be imposed on the state's Title IV-A TANF block grant.⁴¹

The Federal Office of Child Support Enforcement (OCSE or office) has stated that if a state adopts UIFSA, as amended in 2008, "verbatim" and with a provision that the effective date is

³⁹ Florida Department of Revenue, *Senate Bill 1622 Analysis* (Mar. 21, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴⁰ *Id.*

⁴¹ *Id.*

delayed until the Hague Convention is ratified, then OCSE will approve the state's IV-D state plan.⁴²

A state may formally request an exemption or waiver from the OCSE justifying why the state's Title IV-D plan should be approved, but the OCSE may not grant the request. Because this bill does not adopt UIFSA, as amended in 2008, verbatim, and the bill does not contain a delayed effective date contingent on the ratification of the Hague Convention, Florida would have to formally request an exemption from OCSE.⁴³

According to DOR, there are currently only four states that have adopted UIFSA, as amended in 2008, and the law in each of those states incorporated a delayed effective date pending approval of the Hague Convention.⁴⁴

Telephonic Testimony

The bill amends s. 88.3161(6), F.S., to require a tribunal to permit a party or witness outside this state to be deposed or to testify by telephone, audiovisual means, or other electronic means. Currently, UIFSA allows, but does not require, a tribunal to permit telephonic testimony. Allowing a party to provide telephonic testimony requires the consent of all parties involved in the proceeding.⁴⁵ To the extent that this bill requires a tribunal to permit such testimony over the objection of a party, it will conflict with the Florida rules of judicial administration, as well as Florida case law.

Determination of Paternity

According to DOR, the state is required by federal law to determine paternity in interstate initiating and responding cases.⁴⁶ Under current law, s. 88.7011, F.S., provides that a tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought to determine parentage. This bill repeals that section of law. The determination of parentage is still provided for under s. 88.3051, F.S., in the bill; however, this section of law only relates to the duties and powers of a responding tribunal. There is no corresponding provision in s. 88.3041, F.S., which relates to the duties of the initiating tribunal. Accordingly, it appears that if this bill becomes law, a tribunal of this state may only act as a responding tribunal in determination of parentage proceedings.

Legal Assistance

The bill creates s. 88.7051, F.S., which provides, in part, that in a direct request for recognition

⁴² Office of Child Support Enforcement, Administration for Children and Families, U.S. Dep't of Health and Human Servs., *Dear Colleague Letter DCL-08-41, Subject: Uniform Interstate Family Support Act 2008*, available at <http://www.acf.hhs.gov/programs/cse/pol/DCL/2008/dcl-08-41.htm> (last visited Mar. 24, 2011).

⁴³ According to DOR, a delayed effective date that is contingent on ratification of a treaty by the United States may constitute an impermissible delegation of legislative authority in violation of article II, section 3 of the Florida Constitution. Florida Department of Revenue, *supra* note 39.

⁴⁴ *Id.*

⁴⁵ Fla. R. Jud. Admin. 2.530(d)(1); *M.S. v. Dep't of Children and Families*, 6 So. 3d 109 (Fla. 4th DCA 2009); *S.A. v. Dep't of Children and Families*, 961 So. 2d 1066 (Fla. 3d DCA 2007).

⁴⁶ Florida Department of Revenue, *supra* note 39; see also 45 C.F.R. s. 303.7.

and enforcement of a foreign support order or agreement the obligee or obligor is entitled to benefit from free legal assistance provided for by the law of this state if the person was receiving free legal assistance in the issuing country. According to DOR, “the impact of this requirement, legally and fiscally, is unknown.”⁴⁷

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. Amendments:

None.

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

⁴⁷ Florida Department of Revenue, *supra* note 39.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 2062

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Persons with Developmental Disabilities

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Walsh	Walsh	CF	Pre-meeting
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

Senate Bill 2062 prohibits the imposition of monitoring requirements that would mandate the availability of pornographic materials in residential facilities serving clients of the Agency for Persons with Disabilities (agency or APD).

The bill requires that in proceedings for involuntary placement, the court must order the person to the agency for placement in an appropriate facility, and may not release the person to a residential service provider. The agency is authorized to move the person from one facility to another and must notify the court when it does so.

SB 2062 requires the agency to ensure there are sufficient community-based placements for defendants who are charged with sex offenses.

The bill establishes a task force to provide input to APD for the creation of guidelines and procedures for providers of residential services relating to sexual activity among the residents of its facilities. The agency will provide administrative support for the task force, which will issue a report to the Legislature by November 1, 2011.

This bill substantially amends ss. 393.067, 393.11, 916.1093, and 916.3025, F.S., and creates an unnumbered section of Florida law.

II. Present Situation:

Background

In December 2010, the St. Petersburg Times reported¹ on the case of Kevin Rouse, a 42 year old mentally retarded client of the agency, who is involuntarily committed to the Human Development Center (HDC) in Seffner, Florida. Mr. Rouse was placed at the facility for developmentally disabled men by the court after he was accused of committing a sexual offense.

Mr. Rouse's mother alleges that HDC promotes sexual activity among its residents and that her son, as part of his treatment plan, was encouraged to participate — against his religious convictions and desires and hers.² HDC responds that their policy respects the rights of the developmentally disabled to safely engage in consensual sexual activity.³ Others in the field express divergent opinions on the ability of residents living in group homes housing sexual offenders to consent to sexual activity.⁴

In addition, Mrs. Rouse's request to APD that he be transferred to another facility was not honored.⁵ The agency indicated that the only other available facility was located even further from Mr. Rouse's family than HDC, and that HDC is one of the few facilities in the state that is willing to provide services to sex offenders.⁶

The New Horizons Group Home in Brandon was cited during a licensure inspection in 2005 for failure to allow its residents to watch movies that were R- or X-rated. The inspector felt that this house rule restricted the residents from fully exercising their rights.⁷ The agency reports that the quality assurance tool now in use clarifies for inspectors that faith-based providers, such as New Horizons, have the authority to establish rules which prevent residents from viewing objectionable materials.⁸ Concern exists, however, that absent specific direction, the agency's interpretation may change over time.

The Arc notes that community services for developmentally-disabled persons charged with sexual offenses are virtually nonexistent.⁹ Further,

Society is uncomfortable recognizing that people with disabilities are sexual beings and have the same needs for affection, intimacy and sexual gratification as those without disabilities. Providing good sex and relationship education and

¹ *Group home's unorthodox sex policy disquiets mother*. St. Petersburg Times, December 17, 2010.

² *Group home's unorthodox sex policy disquiets mother*.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Testimony by Jim DeBeaugrine, Director, Agency for Persons with Disabilities, before the Senate Committee on Children, Families, and Elder Affairs, February 8, 2011.

⁷ E-mail from Logan McFaddin, Legislative Affairs Director, Agency for Persons with Disabilities, March 16, 2011 (on file with the Committee).

⁸ *Id.*

⁹ Q&A People with Intellectual Disabilities and Sexual Offenses. August 2009. The ARC. Available at <http://www.thearc.org/page.aspx?pid=2456> (last visited March 18, 2011).

ample opportunities for sexual expression should be a high priority for parents, disability advocates, community agencies and all those who know or work with people with intellectual disabilities.¹⁰

APD was to have promulgated guidelines relating to sexual activity among residents of its facilities over two years ago,¹¹ but has not yet done so.¹²

Monitoring Requirements

Section 393.067, F.S., requires APD to provide, through its licensing authority and by rule, requirements for monitoring foster care facilities, group home facilities, residential habilitation centers, and comprehensive transitional education programs that serve agency clients.

Involuntary Admission to Residential Services

Pursuant to ss. 393.11 and 916.3025, F.S., a person may be involuntarily admitted to a residential facility for treatment after criminal proceedings against the individual are resolved and the court finds that the person needs continuing residential services. The need for services may be because (a) the person lacks ability to consent for voluntary admission and lacks sufficient basic self care skills to ensure he or she is not a danger to self; or (b) the person would be a danger to himself or others.

The statutes appear to allow a court to commit the person to [the custody of] a facility. It has been reported that this provision has made it difficult for the agency to transfer a resident to another facility should the need arise.¹³

UECDDs

University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDD) are funded by the federal Administration on Developmental Disabilities.¹⁴ There are currently 67 UCEDDs throughout the country, including two in Florida.¹⁵ The Centers work with people with disabilities, members of their families, state and local government agencies, and community providers in projects that provide training, technical assistance, service, research, and information sharing, with a focus on building the capacity of communities to serve all.¹⁶

¹⁰ *Id.*

¹¹ *Group home's unorthodox sex policy disquiets mother.*

¹² Testimony by Jim DeBeaugrine, Director, Agency for Persons with Disabilities, before the Senate Committee on Children, Families, and Elder Affairs, February 8, 2011.

¹³ *Id.*

¹⁴ The national network of UCEDDs is authorized under Public Law 106-402 (The Developmental Disabilities Assistance and Bill of Rights Act of 2000 or "DD Act").

¹⁵ At the Mailman Center for Child Development at the University of Miami Miller School of Medicine, and at the Florida Center for Inclusive Communities at the University of South Florida in Tampa. A complete listing of the centers is available at <http://www.acf.hhs.gov/programs/add/adddocs/uceddstxt.pdf> (last visited March 25, 2011).

University of South Florida,

¹⁶ *About UCEDD.* Available at <http://www.aucd.org/template/page.cfm?id=667> (last visited March 25, 2011).

III. Effect of Proposed Changes:

Senate Bill 2062 prohibits the imposition of monitoring requirements that would mandate the availability of pornographic materials in residential facilities serving clients of the Agency for Persons with Disabilities.

SB 2062 requires that when two or fewer community placements the agency to ensure there are sufficient community-based placements for defendants who are charged with sex offenses.

The bill requires that in proceedings for involuntary admission pursuant to s. 393.11, F.S., or i s. 916.3025, F.S., the court must order the person to the agency for placement in an appropriate facility, and may not release the person to a residential service provider.

The agency is authorized to move the person from one facility to another and must notify the court when it does so.

The bill provides that the Legislature recognizes the rights of the developmentally disabled to lead full and rewarding lives, and its obligation to protect vulnerable adults from sexual abuse. In order to address these complexities, the bill establishes a task force to provide input to APD for the creation of guidelines and procedures for providers of residential services relating to sexual activity among the residents of its facilities.

The task force is composed of the following members:

- The director of the Agency for Persons with Disabilities or his or her designee.
- The director of Adult Protective Services in the Department of Children and Family Services.
- The executive director of The Arc of Florida.
- An Arc of Florida family board member appointed by the executive director of The Arc of Florida.
- The chair of the Family Care Council Florida.
- A parent representative from the Family Care Council Florida appointed by the chair of the Family Care Council Florida.
- A representative from the Developmental Disabilities Council, Inc.
- A representative from Disability Rights Florida.
- A representative from the Florida courts.
- A representative from the Florida Prosecuting Attorneys Association.
- A representative from the Florida Public Defender Association.
- A staff member of the University Center for Excellence in Developmental Disabilities at the University of South Florida/Center for Inclusive Communities.
- A self-advocate.

The members of the task force must hear from self-advocates, family members, experts at universities and colleges, and other entities with expertise pertinent to this issue.

Members of the task force serve without compensation, but are entitled to per diem and travel as provided in s. 112.061, F.S. The agency is to provide administrative support for the task force,

and the task force must report its findings to the President of the Senate and the Speaker of the House of Representatives by November 1, 2011.

The act is effective July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The members of the task force are entitled to per diem and travel expenses related to their service, and the agency is to provide administrative support for the task force established in the bill. The fiscal impact to APD is expected to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

APD notes¹⁷ that as relates to the requirement that it ensure sufficient facilities for defendants charged with sexual offenses (Section 3 of the bill):

¹⁷ Agency for Persons with Disabilities 2011 Bill Analysis SB 7080, March 18, 2011 (on file with the Committee).

The term "sufficient" is not defined. The Agency also cannot force private group home providers to render specific services nor serve specific individuals. The proposed language could put the Agency at risk of failure to comply with a statutory requirement if new facilities are not able to be "procured."

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. Amendments:

None.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 2064

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Mental Health and Substance Abuse Treatment

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Pre-meeting
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill stems from an interim report of the Florida Senate Committee on Children, Families, and Elder Affairs relating to a forensic hospital diversion pilot program. The bill creates the Forensic Hospital Diversion Pilot Program which is to be implemented in Escambia, Hillsborough, and Dade counties by the Department of Children and Family Services (DCF or department), in conjunction with the First, Eleventh, and Thirteenth Judicial Circuits.

The purpose of the pilot program is to serve individuals with mental illnesses or co-occurring mental illnesses and substance use disorders and who are involved in or at risk of entering state forensic mental health treatment facilities, prisons, jails, or state civil mental health treatment facilities. Eligibility for the pilot program is limited to persons who:

- Are 18 years of age or older;
- Are charged with a felony of the second or third degree;
- Do not have a significant history of violent criminal offenses;
- Are adjudicated incompetent to proceed to trial or not guilty by reason of insanity pursuant to part II of ch. 916, F.S.;
- Meet public safety and treatment criteria established by DCF; and
- Otherwise would be admitted to a state mental health treatment facility.

The bill encourages the Florida Supreme Court to develop educational training for judges in the pilot program areas and authorizes the department to adopt rules. The bill also requires the Office of Program Policy Analysis and Government Accountability to evaluate the pilot program and

submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2012.

The bill also amends Florida's law relating to the involuntary commitment of a defendant who is adjudicated incompetent to provide that a defendant who is being discharged from a state treatment facility shall be provided with up to a seven day supply of the psychotropic medications he or she is receiving at the time of discharge. The bill requires that the most recent formulary approved by the department be used when filling prescriptions for psychotropic medications prescribed to defendants being discharged from state treatment facilities.

Finally, the bill provides that county courts may order the conditional release of a defendant for purposes of outpatient care and treatment.

The bill makes conforming changes.

This bill substantially amends the following sections of the Florida Statutes: 916.106, 916.13, 916.17, and 951.23. The bill creates section 916.185, Florida Statutes.

II. Present Situation:¹

Forensic Mental Health

On any given day in Florida, there are approximately 17,000 prison inmates, 15,000 local jail detainees, and 40,000 individuals under correctional supervision in the community who experience serious mental illnesses. Annually, as many as 125,000 adults with mental illnesses or substance use disorders requiring immediate treatment are placed in a Florida jail.

Over the past nine years, the population of inmates with mental illnesses or substance use disorders in Florida prisons increased from 8,000 to nearly 17, 000 individuals. In the next nine years, this number is projected to reach more than 35,000 individuals, with an average annual increase of 1,700 individuals. Forensic mental health services cost the state a quarter-billion dollars a year and are now the fastest growing segment of Florida's public mental health system.

Forensic Services

Chapter 916, F.S., called the "Forensic Client Services Act," addresses the treatment and training of individuals who have been charged with felonies and found incompetent to proceed to trial due to mental illness, mental retardation, or autism, or are acquitted by reason of insanity.

Part II of ch. 916, F.S., relates to forensic services for persons who are mentally ill and describes the criteria and procedures for the examination, involuntary commitment, and adjudication of persons who are incompetent to proceed to trial due to mental illness or who have been

¹ The information contained in the Present Situation of this bill analysis is from an interim report by the Committee on Children, Families, and Elder Affairs of the Florida Senate. See Comm. on Children, Families, and Elder Affairs, The Florida Senate, *Forensic Hospital Diversion Pilot Program* (Interim Report 2011-106) (Oct. 2010), available at http://archive.flsenate.gov/data/Publications/2011/Senate/reports/interim_reports/pdf/2011-106cf.pdf (last visited Mar. 17, 2011).

adjudicated not guilty by reason of insanity. Persons committed under ch. 916, F.S., are committed to the custody of the Department of Children and Family Services (DCF or department).

Part II of ch. 916, F.S., relates to forensic services for persons who are mentally ill and describes the criteria and procedures for the examination, involuntary commitment, and adjudication of persons who are incompetent to proceed to trial due to mental illness or who have been adjudicated not guilty by reason of insanity. Persons committed under ch. 916, F.S., are committed to the custody of the Department of Children and Family Services (DCF or department).

Under the authority of ch. 916, F.S., DCF provides mental health assessment, evaluation, and treatment of individuals committed to DCF following adjudication as incompetent to proceed or not guilty by reason of insanity. These individuals are charged with a felony offense and must be admitted to a treatment facility within 15 days of the department's receipt of the commitment packet from the court.² Persons committed to the custody of DCF are treated in one of three forensic mental health treatment facilities throughout the state. These facilities contain a total of 1,700 beds and serve approximately 3,000 people each year. The cost to fund these beds is more than \$210 million annually.³

Individuals admitted to state forensic treatment facilities for competency restoration receive services primarily focused on resolving legal issues, but not necessarily targeting long-term wellness and recovery from mental illnesses. Once competency is restored, individuals are discharged from state treatment facilities and generally returned to jails, where they are rebooked and incarcerated while waiting for their cases to be resolved. A sizable number of individuals experience a worsening of symptoms while waiting in jail, and some are readmitted to state facilities for additional treatment and competency restoration services.

The majority of individuals who enter the forensic treatment system do not go on to prison,⁴ but return to court, and either have their charges dismissed for lack of prosecution or the defendant takes a plea such as conviction with credit for time served or probation.⁵ Most are then released to the community, often with few or no community supports and services in place.⁶ Many are subsequently rearrested and return to the justice and forensic mental health systems, either as the result of committing a new offense or failing to comply with the terms of probation or community control.⁷

² See s. 916.107(1)(a), F.S.

³ Comm. on Children, Families, and Elder Affairs, *supra* note 1.

⁴ H. Richard Lamb et al., *Community Treatment of Severely Mentally Ill Offenders Under the Jurisdiction of the Criminal Justice System: A Review*, 50 PSYCHIATRIC SERV. 907-913 (July 1999), available at <http://psychservices.psychiatryonline.org/cgi/content/full/50/7/907> (last visited Mar. 18, 2011).

⁵ Interview with Judge Steven Leifman, Special Advisor to the Florida Supreme Court on Criminal Justice and Mental Health (Aug. 20, 2010).

⁶ *Id.*

⁷ *Id.*

Diversion

“Diversion is the process of diverting individuals with severe mental illness and/or co-occurring substance abuse disorders away from the justice system and into the community mental health system, where they are more appropriately served.”⁸ By providing more appropriate community-based services, diversion programs prevent individuals with mental illness and substance abuse disorders from becoming unnecessarily involved in the criminal justice system.⁹ There are numerous benefits to the community, criminal justice system and the diverted individual, including:

- Enhancing public safety by making jail space available for violent offenders.
- Providing judges and prosecutors with an alternative to incarceration.
- Reducing the social costs of providing inappropriate mental health services or no services at all.
- Providing an effective linkage to community-based services, enabling people with mental illness to live successfully in their communities, thus reducing the risk of homelessness, run-ins with the criminal justice system, and institutionalization.¹⁰

In Florida, this approach is being tested in the Miami-Dade Forensic Alternative Center (MD-FAC), a pilot program implemented in August 2009 by DCF, the Eleventh Judicial Circuit of Florida,¹¹ and the Bayview Center for Mental Health. The pilot program was established to demonstrate the feasibility of diverting individuals with mental illness adjudicated incompetent to proceed to trial from state hospital placement to placement in community-based treatment and competency restoration services.”¹²

“Admission to MD-FAC is limited to individuals who otherwise would be committed to DCF and admitted to state forensic hospitals.”¹³ In order to be eligible for MD-FAC, an individual must be charged with a less serious offense, such as a second or third degree felony. Following admission, individuals are initially placed in a locked inpatient setting where they receive crisis stabilization, short-term residential treatment, and competency restoration services.¹⁴ As of September 2010, twenty-four individuals have been admitted to the pilot program and diverted

⁸ The Supreme Court, State of Florida, *Mental Health: Transforming Florida's Mental Health System*, available at http://www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf (last visited Mar. 18, 2011).

⁹ *Id.*

¹⁰ Nat'l Mental Health Ass'n, TAPA Ctr. for Jail Diversion, Nat'l GAINS Ctr., *Jail Diversion for People with Mental Illness: Developing Supportive Community Coalitions*, (Oct. 2003), available at http://www.gainscenter.samhsa.gov/pdfs/jail_diversion/NMHA.pdf (last visited Mar. 18, 2011).

¹¹ MD-FAC is part of Eleventh Judicial Circuit Criminal Mental Health Project (CMHP). This CMHP runs four diversion programs (Pre-Arrest Diversion, Post-Arrest Misdemeanor Diversion, Post-Arrest Felony Diversion, and Forensic Hospital Diversion). Interview with Judge Steven Leifman, *supra* note 7. The Eleventh Judicial Circuit includes Miami-Dade County, which has one of the nation's largest percentages of mentally ill residents. Abby Goodnough, *Officials Clash Over Mentally Ill in Florida Jails*, N.Y. TIMES, Nov. 15, 2006, available at <http://www.nytimes.com/2006/11/15/us/15inmates.html> (last visited Mar. 18, 2011).

¹² Miami-Dade Forensic Alternative Ctr., *Pilot Program Status Report* (Aug. 2010) (on file with the Senate Comm. on Children, Families, and Elder Affairs).

¹³ *Id.*

¹⁴ *Id.*

from admission to state forensic facilities.¹⁵ To serve these 24 people, MD-FAC operates 10 beds, with an average bed per day cost of \$274.00 for a total cost of \$1,000,100.¹⁶ MD-FAC reports that increasing the bed capacity will decrease the average bed per day cost at MD-FAC to less than \$230, with the possibility of further decreasing costs in the future.¹⁷

As a result of the MD-FAC program:

- The average number of days to restore competency has been reduced, as compared to forensic treatment facilities.¹⁸
- The burden on local jails has been reduced, as individuals served by MD-FAC are not returned to jail upon restoration of competency.¹⁹
- Because individuals are not returned to jail, it prevents the individual's symptoms from worsening while incarcerated, possibly requiring readmission to state treatment facilities.²⁰
- Individuals access treatment more quickly and efficiently because of the ongoing assistance, support, and monitoring following discharge from inpatient treatment and community re-entry.
- Individuals in the program receive additional services not provided in the state treatment facilities, such as intensive services targeting competency restoration, as well as community-living and re-entry skills.
- It is standard practice at MD-FAC to provide assistance to all individuals in accessing federal entitlement benefits that pay for treatment and housing upon discharge.

¹⁵ Additionally, three individuals who met criteria for admission to the program were subsequently admitted to a state hospital because of lack of bed availability at MD-FAC, i.e., the program was at or above capacity. On average, the program has diverted 2.2 individuals per month from admission to state forensic facilities. *Id.*

¹⁶ *Id.*

¹⁷ Staffing standards at MD-FAC allow for additional bed capacity without substantially increasing program staff or fixed costs. As a result, operations will become more efficient as program capacity is increased. *Id.*

¹⁸

Comparison of competency restoration services provided in forensic treatment facilities and MD-FAC (average number of days year to date, FY2009-10):	Forensic facilities	MD-FAC	Difference*
Average days to restore competency (admission date to date court notified as competent)	138.9	99.3	39.6 days (-29%)
Average length of stay for individuals restored to competency (this includes the time it takes for counties to pick up individuals)	157.8	139.6	18.2 days (-12%)

“The diminishing advantage of MD-FAC over forensic facilities in terms of average number of days to restore competency (39.6 day reduction) and overall average length of stay for individuals restored to competency (18.2 day reduction) relates to the fact that individuals enrolled in MD-FAC are not rebooked into the jail following restoration of competency. Instead, they remain at the treatment program where they are re-evaluated by court appointed experts while the treatment team develops a comprehensive transition plan for eventual step-down into a less restrictive community placement. When court hearings are held to determine competency and/or authorize step-down into community placements, individuals are brought directly to court by MD-FAC staff. This not only reduces burdens on the county jail, but eliminates the possibility that individuals will decompensate while incarcerated and require subsequent readmission to state treatment facilities. It also ensures that individuals remain linked to the service provider through the community re-entry and re-integration process.” *Id.*

¹⁹ MD-FAC program staff provides ongoing assistance, support and monitoring following discharge from inpatient treatment and community re-entry. Additionally, individuals are less likely to return to state hospitals, emergency rooms, and other crisis settings. *Id.*

²⁰ Of the 44 individuals referred to MD-FAC to date, 10 (23%) had one or more previous admissions a state forensic hospital for competency restoration and subsequent readmission to the Miami-Dade County Jail. *Id.*

County Court Authority

As described above, Chapter 916, F.S., allows the circuit court to order forensic commitment proceedings for a defendant adjudicated incompetent to proceed to trial. The Florida Supreme Court, in *Onwu v. State*, ruled that only the circuit court, and not the county court, has the authority to order forensic commitment of persons found incompetent to proceed to trial (ITP) through Chapter 916, F.S.²¹ The Court noted that the county court may still commit misdemeanor defendants found ITP through the Baker Act.²²

However, county court judges are without recourse when a misdemeanor defendant found ITP does not meet the criteria for Baker Act involuntary hospitalization, but may still pose a danger to himself or others in the future, and thus requires treatment. In this instance, the county court judge can conditionally release the defendant into the community, but has no authority to order any mental health treatment services. If the defendant receives mental health services while on conditional release, competency may be restored so that a plea can be entered within the year. It is reported that many misdemeanor defendant cases are dismissed by the end of the year because competency has not been restored. In other cases, by the end of the year, the individual has either disappeared or has been rearrested.²³

Committee on Children, Families, and Elder Affairs' Review of the Forensic Hospital Diversion Pilot Program

During the 2011 interim, the Florida Senate Committee on Children, Families, and Elder Affairs studied forensic mental health in Florida and the benefits of a Forensic Hospital Diversion Pilot Program.²⁴ The recommendations identified by the interim report include:

- Expanding the forensic hospital diversion pilot program to other areas of the state. The department and representatives from the Office of the State Courts Administrator suggested pilots be implemented in Hillsborough and Escambia counties because they have the largest forensic need in the state.
- Providing program-specific training to judges in the pilot areas.
- Authorizing county court judges to order involuntary outpatient treatment as a condition of release.

III. Effect of Proposed Changes:

This bill stems from an interim report of the Florida Senate Committee on Children, Families, and Elder Affairs relating to a forensic hospital diversion pilot program. The bill creates the Forensic Hospital Diversion Pilot Program to be implemented in Escambia, Hillsborough, and Dade counties by the Department of Children and Family Services (DCF or department), in conjunction with the First, Eleventh, and Thirteenth Judicial Circuits. The program is to be

²¹ *Onwu v. State*, 692 So.2d 881 (Fla. 1997).

²² *Id.* Baker Act procedures are found in part I, ch. 394, F.S.

²³ Telephone interview with Judge Steven Leifman, Special Advisor to the Florida Supreme Court on Criminal Justice and Mental Health (Sep. 28, 2010).

²⁴ Comm. on Children, Families, and Elder Affairs, *supra* note 1.

implemented within available resources and the bill authorizes DCF to reallocate resources from forensic mental health programs or other adult mental health programs serving individuals involved in the criminal justice system. The purpose of the pilot program is to serve individuals with mental illnesses or co-occurring mental illnesses and substance use disorders and who are involved in or at risk of entering state forensic mental health treatment facilities, prisons, jails, or state civil mental health treatment facilities. In creating and implementing the program, DCF is directed to include a comprehensive continuum of care and services that use evidence-based practices and best practices to treat people who have mental health and co-occurring substance use disorders. The bill provides definitions for the terms “best practices,” “community forensic system,” and “evidence-based practices.”

Eligibility for the pilot program is limited to persons who:

- Are 18 years of age or older;
- Are charged with a felony of the second or third degree;
- Do not have a significant history of violent criminal offenses;
- Are adjudicated incompetent to proceed to trial or not guilty by reason of insanity pursuant to part II of ch. 916, F.S.;
- Meet public safety and treatment criteria established by DCF; and
- Otherwise would be admitted to a state mental health treatment facility.

The bill encourages the Florida Supreme Court, in consultation with the Supreme Court Mental Health and Substance Abuse Committee, to develop educational training for judges in the pilot program areas. The bill authorizes DCF to adopt rules to administer the program. The bill also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the pilot program and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2012. The OPPAGA is directed to examine the efficiency and cost-effectiveness of providing forensic services in secure, outpatient, community-based settings in the report.

The bill amends s. 916.13, F.S., relating to the involuntary commitment of a defendant who is adjudicated incompetent, to provide that a defendant who is being discharged from a state treatment facility shall be provided with up to a seven day supply of the psychotropic medications he or she is receiving at the time of discharge. The defendant is to remain on the medications, to the extent it is deemed medically appropriate, in order to accommodate continuity of care and ensure the ongoing level of treatment that helped the defendant become competent. The bill requires that the most recent formulary approved by the department be used when filling prescriptions for psychotropic medications prescribed to defendants being discharged from state treatment facilities. The bill also amends s. 951.23, F.S., to require all county detention facilities, county residential probation centers, and municipal detention facilities filling prescriptions for psychotropic medications prescribed to defendants discharged from state treatment facilities to follow the formulary approved by DCF in order to conform to the changes made in s. 916.13, F.S.

Finally, the bill authorizes a county court to order the conditional release of a defendant for purposes of outpatient care and treatment only. The bill amends the definition of “court” in s. 916.106, F.S., to conform to this change.

The bill shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides that the Forensic Hospital Diversion Pilot Program is to be implemented by the Department of Children and Family Services (DCF or department), in conjunction with the First, Eleventh, and Thirteenth Judicial Circuits in Escambia, Dade, and Hillsborough counties, “within available resources.” The department is also authorized to reallocate resources from forensic mental health programs or other adult mental health programs serving individuals involved in the criminal justice system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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