<table>
<thead>
<tr>
<th>Tab 2</th>
<th>SB 52 by Bean; Medicaid Services</th>
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<tr>
<td>Tab 3</td>
<td>SB 82 by Bean; Individuals With Disabilities</td>
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<td>D S RCS AHS, Bean Delete everything after 01/28 01:36 PM</td>
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<td>Tab 4</td>
<td>SB 1020 by Bean; (Similar to H 00559) Institutional Formularies Established by Nursing Home Facilities</td>
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<td>Tab 5</td>
<td>CS/SB 1324 by CF, Simpson; (Compare to H 00043) Child Welfare</td>
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<td>SB 1326 by Simpson; Department of Children and Families</td>
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The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Bean, Chair
Senator Harrell, Vice Chair

MEETING DATE: Wednesday, January 29, 2020
TIME: 11:00 a.m.—12:30 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bean, Chair; Senator Harrell, Vice Chair; Senators Book, Diaz, Farmer, Flores, Hooper, Passidomo, Rader, and Rouson

<table>
<thead>
<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
</tr>
</thead>
</table>
| 1   | Review and Discussion of Fiscal Year 2020-2021 Budget Issues Relating to:  
Agency for Health Care Administration  
Agency for Persons with Disabilities  
Department of Children and Families  
Department of Elderly Affairs  
Department of Health  
Department of Veterans' Affairs | | Discussed |

Continuation of Tuesday, January 28, 2020 Meeting:

| 2   | SB 52  
Bean | Medicaid Services: Deleting the expiration of a requirement for the Agency for Health Care Administration to make payments for Medicaid-covered services for certain persons based on specified retroactive eligibility timeframes, etc. | Temporarily Postponed |

| HP  | 01/21/2020 Favorable |
| AHS | 01/28/2020 Temporarily Postponed |
| AHS | 01/29/2020 Temporarily Postponed |
| AP  | |

| 3   | SB 82  
Bean | Individuals With Disabilities; Requiring persons and entities under contract with the Agency for Persons with Disabilities to use the agency data management systems to bill for services; revising criteria used by the agency to develop a client's iBudget; requiring the Agency for Health Care Administration to seek federal approval to provide consumer-directed options; requiring the Agency for Persons with Disabilities to competitively procure qualified organizations to provide support coordination services, etc. | |

<p>| CF  | 01/15/2020 Favorable |
| AHS | 01/28/2020 Fav/CS |
| AHS | 01/29/2020 |
| AP  | |</p>
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<td>4</td>
<td>SB 1020 Bean</td>
<td>Institutional Formularies Established by Nursing Home Facilities; Authorizing a nursing home facility to establish and implement an institutional formulary; requiring a nursing home facility to maintain written policies and procedures for the institutional formulary; authorizing a pharmacist to therapeutically substitute medicinal drugs under an institutional formulary established by a nursing home facility, under certain circumstances, etc.</td>
<td>Favorable Yeas 10 Nays 0</td>
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<tr>
<td></td>
<td>(Similar H 559)</td>
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<td>CS/SB 1324</td>
<td>Child Welfare; Requiring the Florida Court Educational Council to establish certain standards for instruction of circuit and county court judges for dependency cases; authorizing circuit courts to create early childhood court programs; requiring the Department of Children and Families to contract with certain university-based centers; requiring the court to retain jurisdiction over a child under certain circumstances, etc.</td>
<td>Favorable</td>
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<td></td>
<td>Children, Families, and Elder Affairs / Simpson</td>
<td>(Compare H 43, H 449, CS/H 1105, CS/S 236, S 1548)</td>
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<td>6</td>
<td>SB 1326 Simpson</td>
<td>Department of Children and Families; Citing this act as the &quot;DCF Accountability Act&quot;; providing for the creation of the Office of Quality Assurance and Improvement in the Department of Children and Families; extending the timeframe within which a protective investigation is required to be commenced in certain circumstances; requiring certain sheriffs to adopt Florida’s Child Welfare Practice Model and operate under certain provisions of law; providing for the calculation of the allocation of core plus funds, etc.</td>
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<td>Other Related Meeting Documents</td>
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Senate Appropriations Subcommittee on
(Health and Human Services)

FY 2020-2021 Subcommittee Budget Proposal

Budget Spreadsheet
Conforming/Substantive Bill Summary

Senator Bean, Chair
Senator Harrell, Vice Chair

January 29, 2020
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<th>ISSUE TITLE</th>
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<th>TOBACCO</th>
<th>OTHER STATE TFs</th>
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## Health & Human Services Subcommittee

### SUBCOMMITTEE PROPOSED BUDGET

<p>| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | TOBACCO | OTHER STATE TFs | ALL TF FED | ALL FUNDS | |
|------|------------|-------------|-----|------|--------|-------|---------|----------------|------------|-----------|
| 72   | 4003316    | ARC Jacksonville | -   |      | 300,000 |       |         | 300,000         | 300,000     | 72        |
| 73   | 4003318    | Jewish Adoption and Family Care Options (JAFCO) Children's Ability Center | - | 250,000 |       |       |         | 250,000         | 73        |
| 74   | 4003320    | DNA Comprehensive Therapy Services | - | 1,000,000 |       |       |         | 1,000,000       | 74        |
| 75   | 4003321    | Club Challenge | - | 303,998 |       |       |         | 303,998         | 75        |
| 76   | 4003327    | Aceing Autism Florida Adaptive Tenn Is Project | - | 25,000 |       |       |         | 25,000          | 76        |
| 77   | 54R0010    | Casually Insurance Premium Readjustment | 61,498 | 4,331 | 34,247 | 100,076 | 43,939 | 128,400 | 77        |
| 78   | 54R0020    | Casually Insurance Premium Distribution Modification | 78,904 | 5,557 | 43,939 | 128,400 | 100,076 | 250,000 | 78        |
| 79   | 990C000    | Code Corrections | - |       |         | 2,655,886 | 2,655,886 |         | 79        |
| 80   | 080754     | APD/FCO Needs/Cen Mgd Facs | - | 2,870,000 |       |       |         | 2,870,000       | 80        |
| 81   | 990G000    | Grants and Aids - Fixed Capital Outlay | - |       |         |         |         |         | 81        |
| 82   | 140211     | The ARC Nature Coast | - | 1,100,000 |       |       |         | 1,100,000       | 82        |
| 83   | 140211     | Hialeah Gardens Therapy Center for the Physically Challenged | - | 250,000 |       |       |         | 250,000         | 83        |
| 84   | 990M000    | Maintenance and Repair | - |       |         |         |         |         | 84        |
| 85   | 080754     | APD/FCO Needs/Cen Mgd Facs | - | 2,870,000 |       |       |         | 2,870,000       | 85        |
| 86   | Total     | PERSONS WITH DISABILITIES | 2,700.50 | 502,168,124 | 1,823,063,177 | 44,832,511 | 1,284,091,958 | 3,151,987,646 | 86        |
| 87   | Total     | CHILDREN &amp; FAMILIES | 12,050.75 | 502,168,124 | 1,823,063,177 | 44,832,511 | 1,284,091,958 | 3,151,987,646 | 87        |
| 88   | Total     | Startup (OPERATING) | 16,101.25 | 502,168,124 | 1,823,063,177 | 44,832,511 | 1,284,091,958 | 3,151,987,646 | 88        |
| 89   | 1600990    | Distribution of Fiscal Year 2019-20 Assistant State Attorney and Assistant Public Defender Pay Increase - Effective 10/1/2019 | 1,563 |       | 2,064 | 3,627 | 90        |
| 90   | 2000430    | Realignment of Transfer to Department of Management Services Human Resources Services Category - Add | 103,133 | 29,228 | 141,216 | 273,577 | 91        |
| 91   | 2000440    | Realignment of Transfer to Department of Management Services Human Resources Services Category - Deduct | (103,133) | (29,228) | (141,216) | (273,577) | 92        |
| 92   | 2000760    | Realignment of Resources Within the Department - Add | 9.00 | 431,698 | 446,750 | 222,135 | 668,885 | 93        |
| 93   | 2000770    | Realignment of Resources Within the Department - Deduct | (9.00) | (431,698) | (446,750) | (222,135) | (668,885) | 94        |
| 94   | 2001010    | Title IV-E Guardianship Assistance Program Payments Realignment - Add | 9,220,580 |       | 9,220,580 |       | 9,220,580 | 95        |
| 95   | 2001020    | Title IV-E Guardianship Assistance Program Payments Realignment - Deduct | (9,220,580) |       | (9,220,580) |       | (9,220,580) | 96        |
| 96   | 2503080    | Direct Billing for Administrative Hearings | (42,295) |       | (42,295) |       | (42,295) | 97        |</p>
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<th>NR GR</th>
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**ELDER AFFAIRS**

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### Health & Human Services Subcommittee

#### SUBCOMMITTEE PROPOSED BUDGET

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## Health & Human Services Subcommittee

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1/29/2020 8:31 AM
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<td>Transfers the State of Florida Correctional Medical Authority from the Executive Office of the Governor to the Department of Health via a type two transfer.</td>
</tr>
<tr>
<td>2</td>
<td>Amends s. 945.602, F.S., to create the State of Florida Correctional Medical Authority in the Department of Health.</td>
</tr>
<tr>
<td>3</td>
<td>The bill has an effective date of July 1, 2020.</td>
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### Committee Vote Record

**Committee:** Appropriations Subcommittee on Health and Human Services  
**Item:** Review and Discussion of Fiscal Year 2020-2021 Budget Issues Relating to: Agency for...

**Final Action:**

**Meeting Date:** Wednesday, January 29, 2020  
**Time:** 11:00 a.m.—12:30 p.m.  
**Place:** 412 Knott Building

#### Final Vote

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<td>1/29/2020 Motion to accept subcommittee budget recommendations to AP Committee Passidomo</td>
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#### Senators

- Book
- Diaz
- Farmer
- Flores
- Hooper
- Passidomo
- Rader
- Rouson
- Harrell, VICE CHAIR
- Bean, CHAIR

#### Totals

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<th>Yea</th>
<th>Nay</th>
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### Codes

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

**Reporting Instruction:** Publish S-010 (10/10/09)
I. Summary:

SB 52 amends section 409.904, Florida Statutes, to delete a current-law provision that will cause subsection (12) of that statute to expire on July 1, 2020. By deleting the expiration date, the bill maintains Florida’s current policy to limit a non-pregnant adult’s retroactive eligibility for the Medicaid program to the first day of the month in which such an adult’s application to be enrolled in the program is filed.

A fiscal impact estimate for this bill has not been provided by the Agency for Health Care Administration. See Section V for historical cost estimates.

The bill takes effect on July 1, 2020.

II. Present Situation:

Florida Medicaid Program

The Florida Medicaid program is a partnership between the federal and state governments. Each state operates its own Medicaid program under a state plan approved by the federal Centers for Medicare & Medicaid Services (CMS). The state plan outlines Medicaid eligibility standards, service coverage policies, and reimbursement methodologies.

Florida’s Medicaid program is administered by the Agency for Health Care Administration (AHCA) and financed with federal and state funds. According to the most recently published estimates, approximately 3.8 million Floridians are currently enrolled in Medicaid, and the program’s projected expenditures for the 2020-2021 fiscal year are $29.2 billion.¹

Eligibility for Florida Medicaid is based on several factors, including age, household or individual income, and assets. State Medicaid payment guidelines are provided in s. 409.903, F.S., (Mandatory Payments for Eligible Persons) and s. 409.904, F.S., (Optional Payments for Eligible Persons). Minimum coverage thresholds are established in federal law for certain population groups, such as children or pregnant women.

**Medicaid Retroactive Eligibility**

**Federal Requirements**

The Social Security Act provides requirements under which state Medicaid programs must operate. For most eligibility groups, federal law directs state Medicaid programs to make payment for Medicaid-covered services furnished in or after the third month before the month in which a Medicaid-eligible individual makes application to enroll in the program, if such individual would have been determined Medicaid-eligible at the time such services were furnished. However, the requirement for retroactive eligibility may be waived pursuant to federal waiver laws and regulations.

**Florida’s State Plan for Medicaid**

In compliance with the federal requirement for retroactive eligibility, the Florida Medicaid State Plan previously provided that “[c]overage is available beginning the first day of the third month before the date of application if individuals who are aged, blind or disabled, or who are AFDC-related, would have been eligible at any time during that month, had they applied.” These provisions had been applicable to the Florida Medicaid State Plan as state policy since at least October 1, 1991, until the 2018-2019 fiscal year.

**Florida’s 2018 Policy Change**

In 2018, the Legislature, via the General Appropriations Act (GAA) and the accompanying Implementing Bill, directed the AHCA to seek a waiver from federal CMS to limit the retroactive eligibility period for non-pregnant adults aged 21 and older. For these adults, eligibility would become retroactively effective on the first day of the month in which their Medicaid application was filed, instead of the first day of the third month prior to the date of application, if federal waiver authority to that effect were granted.

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2 42 U.S.C. s. 1396a(a)(34).
3 Under this latter aspect of retroactive eligibility, a newly-eligible Medicaid recipient must be deemed to have been eligible during the retroactive period in order for Medicaid to make payment for covered services provided during that period. A lack of eligibility during the retroactive period would result in no payments being made by Medicaid for such expenses, regardless of prospective eligibility.
4 Aid to Families with Dependent Children (AFDC) was a federal assistance program in effect from 1935 to 1996 created by the Social Security Act and administered by the United States Department of Health and Human Services that provided financial assistance to children whose families had low or no income.
As directed by the 2018 Legislature, the AHCA requested an amendment to the federal waiver for Florida’s section 1115 demonstration project, titled Managed Medical Assistance (MMA) Program (Project No. 11-W-00206/4). As a waiver amendment, there were comment periods at the state level prior to submission of the waiver request and at the federal level after submission of the waiver request. The waiver request that included the retroactive eligibility item was submitted to federal CMS by the AHCA on April 27, 2018, and was approved on November 30, 2018. The approval letter from federal CMS contained the following waiver authority:

[Effective February 1, 2019], to enable Florida to not provide medical assistance for any month prior to the month in which a beneficiary’s Medicaid application is filed, for adult beneficiaries who are not pregnant or within the 60-day period after the last day of the pregnancy, and are aged 21 and older. The waiver of retroactive eligibility does not apply to pregnant women (or during the 60-day period beginning on the last day of the pregnancy), infants under one year of age, or individuals under age 21. The state currently has state legislative authority for this waiver through June 30, 2019. The state must submit a letter to CMS by May 17, 2019, if it receives state legislative authority to continue the waiver past June 30, 2019. In the event the state does not receive legislative authority to continue this waiver through June 30, 2019 and timely submit a letter to CMS to this effect, this waiver authority ends June 30, 2019.8

This change in the state’s retroactive eligibility policy was implemented in February 2019 but was limited in duration under both federal authority and state law. In terms of state law, since the change was enacted via the Fiscal Year 2018-2019 Implementing Bill, it was applicable only in the fiscal year for which it was enacted and did not have ongoing applicability beyond June 30, 2019.

Continuation of Florida’s Policy in 2019

The 2019 Legislature renewed the 2018 Medicaid retroactive eligibility policy by enacting statutory language in the Fiscal Year 2019-2020 Implementing Bill, or SB 2502,9 which created s. 409.904(12), F.S., and required the AHCA, effective July 1, 2019, to make payments to Medicaid providers for Medicaid-covered services as follows:

- On behalf of eligible children and pregnant women, retroactive for a period of no more than 90 days before the month in which an application for Medicaid is submitted; or
- On behalf of eligible non-pregnant adults, retroactive to the first day of the month in which an application for Medicaid is submitted.

SB 2502 was passed by both chambers of the Florida Legislature on May 4, 2019. The AHCA notified federal CMS of the bill’s passage prior to the May 17, 2019, deadline imposed under the

waiver authority granted in November 2018, thereby enabling the waiver authority to continue for the 2019-2020 fiscal year.

However, s. 409.904(12), F.S., will expire under current law on July 1, 2020, consistent with the expiration of other statutory provisions in SB 2502. The AHCA needs both federal waiver authority, which is currently granted, and a continuation of authority under state law to continue the state’s current retroactive eligibility policy beyond June 30, 2020.

**Reports and Evaluations**

In addition to enacting the statutory language in s. 409.904(12), F.S., SB 2502 also directed the AHCA to compile and submit specified information relating to retroactive eligibility in a report to the Governor and the Legislature by January 10, 2020. In the report, the AHCA indicated the following:

- Federal CMS is working with states to standardize evaluation methodologies for waivers of retroactive eligibility so that it can better assess the impacts of changes to Medicaid retroactive eligibility policy. To this end, federal CMS provided detailed evaluation design guidance to be used as a basis for discussions with the evaluators.

- The AHCA used this guidance in its proposed evaluation design, which was submitted to federal CMS on July 24, 2019. The proposed evaluation design was included as an Appendix to the report submitted by the AHCA on January 10, 2020. The proposed evaluation design includes six specific research questions, three of which are key review questions, and three of which may be included contingent on results for one of the key questions. For each research question, the research design addresses outcome measures, sample populations, data sources, and analytic methods.

- The AHCA is awaiting federal CMS feedback on the draft evaluation design and must submit a revised draft within 60 days after receipt of any additional edits from federal CMS. Upon federal CMS approval of the draft Evaluation Design, the document will be included as an attachment to the Florida MMA 1115 waiver Special Terms and Conditions. The AHCA will publish the approved Evaluation Design within 30 days of federal CMS approval.

- The AHCA has contracted with the University of Florida to evaluate the Florida Medicaid 1115 waiver, including a segment on the change to retroactive eligibility policy. The evaluation of retroactive eligibility policy is anticipated to be completed in the Fall of 2020.

**Policy Objectives**

An objective of Florida’s current retroactive eligibility policy is to encourage Medicaid recipients to obtain and maintain health coverage even when they are healthy, as opposed to applying for Medicaid only after they need and have obtained health care services. Obtaining and maintaining coverage in advance of illness should increase continuity of care and reduce gaps in coverage when recipients “churn” on and off of Medicaid enrollment by enrolling only when

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11 The January 10, 2020, report, “Florida Medicaid Retroactive Eligibility Legislative Report,” was submitted by the AHCA on January 10, 2020 (on file with the Senate Committee on Health Policy).

sick. Recipients should remain healthier on an ongoing basis and expenditures for treating acute illnesses should be mitigated if recipients obtain and maintain coverage in a more continuous fashion.\(^\text{13}\)

**Medicaid Retroactive Eligibility in Other States**

When the Legislature considered changing Medicaid retroactive eligibility in 2018, several states had already reduced retroactive eligibility periods so that retroactive eligibility begins on the first day of the month in which application is made. Iowa, New Hampshire, Arkansas, and Indiana made such changes in conjunction with Medicaid program expansion under the federal Patient Protection and Affordable Care Act (PPACA). Several other states had already modified retroactive eligibility prior to the enactment of the PPACA, including Delaware, Massachusetts, Maryland, Tennessee, and Utah.\(^\text{14}\)

During the Florida Legislature’s 2019 Regular Session, Florida was one of a total of eight states that had eliminated or was proposing to eliminate or place limits on retroactive eligibility for one or more eligibility groups in 2018 or 2019. The states in addition to Florida were Arkansas, New Hampshire, Iowa, Kentucky, Maine, New Mexico, and Utah.\(^\text{15}\)

More recently, a few states other than Florida have obtained waivers to eliminate or reduce retroactive coverage. Effective July 1, 2019, Arizona eliminated retroactive coverage for most newly-eligible Medicaid recipients, excluding pregnant women and children. Although Maine received waiver approval (in December 2018) to eliminate retroactive eligibility, in January 2019, the incoming governor informed federal CMS that the state would not accept the terms of the approved waiver. Similarly, in New Mexico, a Section 1115 waiver amendment was approved in December 2018 that allowed the state to limit retroactive coverage to one month for most Medicaid managed care members; however, under the new governor, the state submitted an amendment in June 2019 to reinstate the full 90-day retroactive coverage period. Finally, as a result of litigation challenging Section 1115 waivers, retroactive coverage restrictions have been set aside in Arkansas, Kentucky, and New Hampshire.\(^\text{16}\)

**III. Effect of Proposed Changes:**

**Section 1** deletes the statutory expiration date of July 1, 2020, from s. 409.904(12), F.S., which was enacted in 2019 to limit retroactive Medicaid eligibility for non-pregnant adults to the first day of the month in which they apply for Medicaid.

\(^{13}\) *Supra*, note 8.


Section 2 establishes an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:
   None.

B. Private Sector Impact:

   Under SB 52, the retroactive eligibility policy that has been in effect since February 1, 2019, will remain in effect beyond the current the 2019-2020 fiscal year, meaning that Medicaid providers who provide covered services to newly-eligible, non-pregnant Medicaid recipients aged 21 or older, earlier than the first day of the month in which the recipient applies for Medicaid, will continue to receive no Medicaid reimbursement for those services.

C. Government Sector Impact:

   If the waiver authority for retroactive eligibility granted by federal CMS on November 30, 2018, and implemented on February 1, 2019, had not been continued for Fiscal Year 2019-2020, the AHCA estimated in 2019 that the Legislature would have needed to appropriate an additional $103.6 million in order to restore the reduction made
during the 2018 Regular Session. Of this total, $40.1 million would have been general revenue and $63.5 million would have been federal funding.\textsuperscript{17}

As part of its analysis of this bill, the AHCA provided the following fiscal impact statement:

SB 52 allows the State to continue the savings gained when the [current retroactive eligibility] policy was initially enacted. If the current retroactive policy expires July 1, 2020, Medicaid will revert to the prior policy of allowing all applicants with unreimbursed medical expenses to have up to 90 days of retroactive eligibility. This would have a fiscal impact to Medicaid.\textsuperscript{18}

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.904 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

\textsuperscript{17} Agency for Health Care Administration, \textit{Senate Bill 192 Analysis} (February 27, 2019) (on file with the Senate Committee on Health Policy).

\textsuperscript{18} Agency for Health Care Administration, \textit{Senate Bill 52 Analysis} (January 7, 2020) (on file with the Senate Committee on Health Policy).
Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (12) of section 409.904, Florida Statutes, is amended to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined 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.

(12) Effective July 1, 2019, the agency shall make payments for Medicaid-covered services:

(a) For eligible children and pregnant women, retroactive for a period of no more than 90 days before the month in which an application for Medicaid is submitted.

(b) For eligible nonpregnant adults, retroactive to the first day of the month in which an application for Medicaid is submitted.

This subsection expires July 1, 2020.

Section 2. This act shall take effect July 1, 2020.
I. **Summary:**

SB 82 makes operational changes to the Medicaid Home and Community-Based Services (HCBS) Waiver to improve the quality of services provided and to standardize agency processes by:
- Requiring support coordination services to be provided by qualified organizations who contract with the Agency for Persons with Disabilities (APD); and
- Requiring the Agency for Health Care Administration (AHCA) to contract with a qualified organization to perform medical necessity determinations.

The bill eliminates the criteria that APD must consider when authorizing supplemental funding for a significant additional needs request, and instead creates a standard definition of a ‘significant additional need.’ The bill requires APD to certify and document that a HCBS Waiver client has utilized all available resources prior to the submission of a significant additional needs request.

The bill requires all service providers to bill for services and submit all required documentation through the agency’s electronic client data management system.

The bill eliminates obsolete language from chapter 393 of the Florida Statutes. The bill also allows AHCA to seek federal approval to implement an increased rate for Medicaid intermediate care facilities that serve individuals with developmental disabilities who have severe behavioral or mental health needs.

The bill is not expected to have a fiscal impact on state expenditures. If the bill results in any cost savings, the savings would allow the agency to address the HCBS Waiver waitlist.

The bill takes effect on July 1, 2020.
II. Present Situation:

Agency for Persons with Disabilities

Florida obtained waivers of federal Medicaid requirements to enable the provision of home and community-based services to persons at risk of institutionalization. The Agency for Persons with Disabilities (APD) is responsible for the provision of services to individuals with developmental disabilities and for administering the Home and Community-Based Services (HCBS) Waiver. The HCBS Waiver provides services to individuals with developmental disabilities that allow them to continue to live in their home or home-like setting and avoid institutionalization. Eligible individuals must meet institutional level of care requirements.

Individuals who have a developmental disability and who meet Medicaid eligibility requirements, may receive services in the community through the state’s HCBS Waiver or in an institution, such as an intermediate care facility for the developmentally disabled (ICF/DD) through the state’s Medicaid program.

Home and Community-Based Services Waiver (iBudget Florida)

The HCBS Waiver for individuals with developmental disabilities, known as the iBudget, provides 26 supports and services including, but not limited to, residential habilitation, behavioral services, companion services, adult day training, employment services, and physical therapy. Services provided through the HCBS Waiver enable individuals to live in the community in their own home, a family home, or in a licensed residential setting, thereby avoiding institutionalization.

The iBudget Florida program was developed in response to legislative direction requiring a plan for an individual budgeting approach for improving the management of the HCBS waiver program. The iBudget involves the use of an algorithm to set individual allocation amounts for each client by allocating available funding based on an assessment of the needs of each client.

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1 Rule 59G-13.080(1), F.A.C.
2 A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid 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. See s. 393.0612(12), F.S.
3 See 65G-4.0213(2), F.A.C.
4 A full list of covered services offered under Florida’s HCBS Waiver can be found at: https://ahca.myflorida.com/Medicaid/hcbs_waivers/ibudget.shtml (last visited January 17, 2020).
5 Supra note 1.
6 The allocation algorithm is a mathematical formula based upon statistically validated relationships between individual characteristics (variables) and the individual’s level of need for services provided through the Waiver. See Rule 65G-4.0213(1), F.A.C.
7 The allocation algorithm amount is the result of the allocation algorithm apportioned according to available funding. See Rule 65G-4.0213(2), F.A.C.
The APD uses an assessment tool known as the Questionnaire for Situational Information (QSI) to determine a client’s needs in the areas of functional, behavioral, and physical status. All clients must have a QSI assessment completed prior to calculating the allocation amount. Clients can be reassessed any time there has been a significant change in the circumstance or condition that would impact any of the questions that are used as variables in the algorithm.

After a client’s initial allocation amount is determined, the client and their family meet with a Waiver Support Coordinator (WSC) to discuss their allocation and develop a cost plan. The cost plan is an annual document that lists all authorized services, the anticipated costs of each service and the approved provider of each service. The cost of all services within a client’s cost plan must be lower than the client’s allocation amount unless there is a significant additional need demonstrated. Every proposed cost plan is reviewed and approved by the APD.

If the client or the client’s representative feels that the needs of the client cannot be met within the allocation amount, the WSC must identify and document the additional service request and submit it to the APD. The APD is required to approve requests for increases to the allocation amount if the request meets the Significant Additional Needs criteria (see subsection below titled Significant Additional Needs Criteria). The APD is required to ensure that the sum of all clients’ proposed expenditures do not exceed the agency’s annual appropriation.

As of October 2019, 34,919 individuals were enrolled in the iBudget program. In Fiscal Year 2019-2020 the Legislature appropriated $1.2 billion for the iBudget program, including $462.8 million in general revenue funds and $733.6 million in federal trust funds.

Waiver Waitlist

The APD maintains a prioritized wait list for HCBS Waiver services. Currently, there are 21,433 people on the HCBS Waiver waitlist. Medicaid-eligible persons on the wait list can continue to receive Medicaid services offered through the Agency for Health Care Administration (AHCA).

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10 Rule 65G-4.0213(18), F.A.C.
11 Rule 65G-4.0214(1)(d), F.A.C.
12 Waiver support coordinators assist Waiver clients and their families in identifying, developing, coordinating and accessing supports and services in their communities. Supports and services can be provided through a variety of funding sources such as the iBudget, third-party payers and natural supports. See Rule 65G-4.0213(27), F.A.C.
13 Rule 65G-4.0213(4), F.A.C.
14 Rule 65G-4.0215(1)(c), F.A.C. A significant additional need represents a need for additional funding that if not provided would place the health and safety of the client, their caregiver, or public in serious jeopardy. See s. 393.0662(1)(b), F.S.
15 The APD conducts an individual review of information submitted by a WSC, to determine if the request meets significant additional needs criteria. See Rule 65G-4.0213(14), F.A.C.
16 Rule 65G-4.0216(3), F.A.C. Significant additional needs criteria can be found at Section 393.0662(1)(b), F.S. and Rule 65G-4.0218, F.A.C.
17 See s. 393.0662(1)(c), F.S., and Rules 65G-4.0216(5), and 65G-4.0218(2), F.A.C.
18 Attachment to e-mail from Jeff Ivey, Legislative Affairs Director, Agency for Persons with Disabilities. (Oct. 17, 2019) (on file with the Senate Committee on Children, Families and Elder Affairs).
20 Section 393.065(5), F.S.
21 Email from Jeff Ivey, Legislative Affairs Director, Agency for Persons with Disabilities, to Peter Delia, Senior Attorney, Senate Committee on Children, Families, and Elder Affairs (on file with the Appropriations Subcommittee on Health and Human Services).
**Significant Additional Needs Criteria**

Currently, clients can request supplemental funding, in addition to that allocated through the algorithm, that if not provided would place the health and safety of the client, the client’s caregiver, or public in serious jeopardy.\(^{22}\) This supplemental funding, known as a ‘Significant Additional Need,’ is categorized as an extraordinary need, a significant need for one time or temporary support or services, or a significant increase in the need for services after the beginning of the service plan year, and a significant need for transportation services.\(^{23}\)

An extraordinary need may include, but is not limited to:\(^{24}\)
- A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;
- A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;
- A chronic comorbid condition; or
- A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

A significant need for one-time or temporary support or services may include, but is not limited to:\(^{25}\)
- Environmental modifications;
- Durable medical equipment;
- Services to address the temporary loss of support from a caregiver; or
- Special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition.

A significant increase in the need for services after the beginning of the service plan year may include, but is not limited to:\(^{26}\)
- Permanent or long-term loss or incapacity of a caregiver;
- Loss of services authorized under the state Medicaid plan due to a change in age; or
- A significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client’s current iBudget.

If public transportation is not an option due to the unique needs of the client or other transportation resources are not reasonably available, supplemental funding may be approved for transportation services to a waiver-funded adult day training program or employment services.\(^{27}\)

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\(^{22}\) Section 393.0662(1)(b), F.S.

\(^{23}\) Rule 65G-4.0213(23), F.A.C.

\(^{24}\) Section 393.0662(1)(b)1., F.S.

\(^{25}\) Section 393.0662(1)(b)2., F.S.

\(^{26}\) Section 393.0662(1)(b)3., F.S.

\(^{27}\) Section 393.0662(1)(b)4., F.S.
The APD is required to approve requests for increases to the allocation amount if the request meets the Significant Additional Needs criteria.\textsuperscript{28} If a client’s allocation amount includes significant additional needs beyond what is determined by the algorithm and the APD determines that the service intensity, frequency or duration in no longer necessary, the APD is required to adjust the services to match the current need.\textsuperscript{29}

Currently, the APD is required to document the information necessary to evaluate significant additional needs requests. The documentation may include the following: \textsuperscript{30}

- Support plans;
- QSI results;
- Cost plans;
- Expenditure history;
- Current living situation;
- Interviews with the client or the clients caregiver;
- Prescriptions;
- Data regarding the results of previous therapies and interventions;
- Assessments; and
- Provider documentation.

Currently, no additional funding for significant additional needs can be provided if the need for additional funding is not premised upon a need that arises after the implementation of the initial iBudget amount,\textsuperscript{31} or is created by a client’s failure to ensure that funding remained sufficient to cover previously authorized services.\textsuperscript{32}

\textbf{Medical Necessity}

There is no federal definition of medical necessity. Instead, the federal government has left it up to each state to create its own definition of medical necessity and limit Medicaid services based on that definition.\textsuperscript{33} Any optional service provided under Medicaid, such as home and community-based services, must be provided only when medically necessary.\textsuperscript{34}

Medically necessary or medical necessity is defined in Florida as medical or allied care, goods, or services furnished or ordered that meet the following conditions:\textsuperscript{35}

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain,

\textsuperscript{28} Rule 65G-4.0216(3), F.A.C. Significant additional needs criteria can be found at Section 393.0662(1)(b), F.S. and Rule 65G-4.0218, F.A.C.
\textsuperscript{29} Rule 65G-4.0218(4), F.A.C.
\textsuperscript{30} Rule 65G-4.0218(5), F.A.C.
\textsuperscript{31} The iBudget amount is the total amount of funds approved by the APD. See Rules 65G-4.0213, F.A.C., and 65G-4.0216, F.A.C.
\textsuperscript{32} Rule 65G-4.0218(7), F.A.C.
\textsuperscript{33} Memorandum to Stuart Williams, General Counsel, Agency for Health Care Administration from Tracy George, Chief Appellate Counsel, Agency for Health Care Administration (January 8, 2013) (on file with the Senate Appropriations Subcommittee on Health and Human Services).
\textsuperscript{34} Section 409.906, F.S.
\textsuperscript{35} Rule 59G-1.1010, F.A.C.
• Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient’s needs,
• Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational,
• Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide, and
• Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient’s caretaker, or the provider.

The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary, or a medical necessity or a covered service.

Currently, the APD, with concurrence of the AHCA, may contract for the determination of medical necessity and establishment of individual budgets. Additionally, the AHCA may implement a utilization management program designed to prior authorize home and community-based services, preauthorize high-cost or highly utilized services, or make any other adjustments necessary to comply with the limitations or directions provided for in the General Appropriations Act.

iBudget Program Deficits

In Fiscal Year 2017-2018, the APD exceeded its legislative appropriation for the iBudget by $56.9 million. In Fiscal Year 2018-2019, the APD exceeded its legislative appropriation for the iBudget by $107.9 million, and the APD is projected to exceed its appropriation in Fiscal Year 2019-2020 by $134.3 million.

In 2019, the Florida Auditor General evaluated the APD’s administration of the iBudget, including the effectiveness of the allocation methodology and algorithm in achieving the legislative intent of the iBudget. The evaluation concluded that despite statistical validity underlying the algorithm, statutory allowances for significant additional needs have prevented APD from achieving the financial management goals of the iBudget and reducing the number of individuals on the waiting list.

As a result of continued deficits, the 2019 Legislature directed APD, in conjunction with AHCA, to develop a plan to redesign the iBudget program and submit the plan to the Legislature. The plan was required to address the following areas:

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36 Section 393.0661(1)(b), F.S.
37 Section 409.906(13), F.S.
39 The Legislature intended that the iBudget improve the financial management of the existing HCBS Waiver to avoid deficits that impeded the provision of services to individuals who are on the waiting list for enrollment in the program. See s. 393.0662, F.S.
40 Supra note 44.
42 Id.
• Specific steps to restrict spending to budgeted amounts based on alternatives to the iBudget and four-tiered Medicaid waiver models;
• Identification of core services that are essential to provide for client health and safety and recommend elimination of coverage for other services that are not affordable based on available resources;
• The redesign shall be responsive to individual needs and to the extent possible encourage client control over allocated resources for their needs; and
• The plan shall modify the manner of providing support coordination services to improve management of service utilization and increase accountability and responsiveness to agency priorities.

In response, the APD submitted a proposed redesign of the iBudget consisting of the following elements:43
• Inclusion of the iBudget waiver program in the Social Services Estimating Conference;
• Implementation of a behavioral health intermediate care facility service rate;
• Individual caps on the dollar amount of services for waiver clients;
• Budget transfers from the Medicaid State Plan to the iBudget waiver program for waiver clients turning 21;
• Expansion of the Medicaid Assistive Care Services program to include waiver group homes;
• Service limitations on Life Skills Development services;
• Centralization of the Significant Additional Needs approval process;
• Restructuring of support coordination services; and
• Implementation of a new client needs assessment tool, specifically the Next Generation Questionnaire for Situational Information.

Waiver Support Coordination

Waiver support coordination services are provided by waiver support coordinators (WSCs), who assist clients in gaining access to needed medical, social, educational and other services, regardless of funding source.44 All iBudget clients are required to receive a certain level of waiver support coordination services.45 WSCs are responsible for the ongoing monitoring of supports and services provided to clients and are tasked with ensuring that clients receive the level of services they are entitled to and need under the iBudget including:

• Locating, selecting and coordinating services and supports, whether paid with waiver funds or other resources;
• Documenting monthly progress of services rendered;

43 Agency for Persons with Disabilities; Agency for Health Care Administration: 2019 iBudget Waiver Redesign (on file with the Senate Children, Families, and Elder Affairs Committee).
44 Rule 59G-13.080(3)(e), F.A.C.
- A minimum of two monthly contacts with or on behalf of the Waiver client, or contact with another provider to discuss progress toward achieving goals identified in the client’s support plan (WSCs are expected to meet the needs of the individuals they serve regardless of the number of contacts it takes to meet those needs);
- Monitoring client’s health and safety and well-being and assist them in reaching desired outcomes; and
- Maintaining client’s current annual support plan, cost plan and supporting documents.

WSCs must pass a level-two background screen, meet provider qualifications and requirements, complete a Medicaid Provider Enrollment application, complete an APD provider application, and be assigned a Medicaid provider number.

WSCs enroll as either a solo or an agency Medicaid provider. For most services under the waiver, other than support coordination, agency providers can bill at an agency rate. Waiver support coordination services, however, are billed at one rate.

Support coordination agencies have additional responsibilities to:
- Have a comprehensive internal quality assurance management plan (which should include a systematic method of inspecting and reviewing all required documentation and activities) to actively monitor and supervise WSCs employed by their agency;
- Provide ongoing technical assistance and training to their employees in order to ensure that they are adequately fulfilling their job requirements as a WSC and Medicaid provider; and
- Maintain personnel files documenting the qualifications of all employees, completion of all required training, and background screening results.

The APD, the AHCA, or an authorized representative of the state monitor support coordinators on an annual basis. The quality assurance process includes both a provider performance review, which is a review of regulatory compliance, and a person-centered review that focuses on an interview with the client receiving services to assure outcomes are being met, adequate follow through is being done and services are satisfactory to the client.

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47 Qualifications include, but are not limited to, a bachelor’s degree, and, at a minimum, 2-years of paid, supervised experience in developmental disabilities, special education, mental health, counseling, guidance, social work or health and rehabilitative services.

48 Requirements include, but are not limited to, a minimum of 60 hours of pre-service training, including 34 hours of statewide pre-service training, and 26 hours of district-specific training, which includes orientation to the district, local resources and local operational procedures.

49 Supra note 46.

50 A solo or independent provider is a person who personally renders waiver services directly to recipients and does not employ others to render waiver services for which the rate is being paid. See Supra note 46 at pg. 1-10.

51 An agency provider is a business or organization enrolled to provider waiver services that has two or more employees to carry out the enrolled service, including the agency owner. An agency or group provider for rate purposes is a provider that employees staff to perform waiver services. A provider that hires only subcontractors to perform waiver services is not considered an agency provider for rate purposes. See Supra note 46 at pg. 1-2.

52 Id.

53 Rule 59G-13.081, F.A.C.

54 Supra note 46 at pg. 2-84.

55 Supra note 46 at pg. A-9.

56 Supra note 46.
HCBS Waiver services should be one element of the supports available to clients. Clients, families, legal representatives, WSCs, and providers are responsible for seeking non-waiver supports to augment and even replace HCBS waiver-paid services. The HCBS Waiver should be the payer of last resort.\(^{57}\)

**Client Data Management System (iConnect)**

The federal Centers for Medicare and Medicaid Services requires that all states that offer personal care and/or home health services through a waiver must utilize an electronic visit verification (EVV) system to verify when and where a service is being provided and the actual amount of time the provider spends with the customer.\(^{58}\) APD has contracted with a vendor to create a central client data management system, known as iConnect. The iConnect system will provide EVV functionality, as well as electronic billing and centralization of client records.

Currently, providers bill for services through the AHCA Florida Medicaid Management Information System (FMMIS).\(^{59}\)

**Agency for Health Care Administration**

Individuals who have a developmental disability and who meet Medicaid eligibility requirements may receive services in an institution, such as an intermediate care facility for the developmentally disabled (ICF/DD) through the state’s Medicaid program. The AHCA is responsible for licensing and oversight of ICF/DDs in Florida.\(^{60}\) ICF/DDs provide the following services: nursing services, activity services, dental services, dietary services, pharmacy services, physician services, rehabilitative care services, room/bed and maintenance services and social services.\(^{61}\)

While the majority of individuals who have a developmental disability live in the community, a small number live in ICF/DDs. In Florida, there are 88 privately owned ICF/DD facilities. As of April 2018, the ICF/DDs are 94.6 percent occupied, with 1,948 individuals in 2,060 possible slots.\(^{62}\)

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\(^{57}\) Supra note 46 at pg. 2-75.


\(^{59}\) Agency for Persons with Disabilities iConnect Proposed Redraft Analysis. On file with the Senate Children, Families, and Elder Affairs Committee.

\(^{60}\) See ss. 400.962 and 400.967, F.S.


\(^{62}\) Florida Medicaid ICF/IID Rate Study Report, prepared by Navigant for the Florida Agency for Health Care Administration, 2019 (on file with the Senate Children and Families and Elder Affairs Committee).
ICF/DDs are considered institutional placements and are reimbursed for care through the AHCA Medicaid program. ICF/DDs are reimbursed based on two levels of care, which are based on the client’s mobility:  

- **ICF Level of Reimbursement One** - A reimbursement level for recipients who are ambulatory or self-mobile using mechanical devices and are able to transfer themselves without human assistance, but may require assistance and oversight to ensure safe evacuation; and  
- **ICF Level of Reimbursement Two** - A reimbursement level for recipients who are capable of mobility only with human assistance or require human assistance to transfer to or from a mobility device or require continuous medical and nursing supervision.

ICF/DD providers in Florida have reported an increase in the number of recipients with severe behavioral needs that require significant resources to provide appropriate care beyond what is currently provided through the level one and level two-reimbursement methodology.

### III. Effect of Proposed Changes:

**Section 1** amends s. 393.063, F.S., defining ‘significant additional needs’ as medically necessary needs for service increases arising after the beginning of the service plan year which would place the health and safety of the client, their caregiver, or the public in serious jeopardy. The bill also redefines support coordinators as employees of a qualified organization contracted by the APD.

**Section 2** amends s. 393.066, F.S., requiring all HCBS Waiver service providers to bill for services through the iConnect system and requiring submission of documentation verifying services rendered prior to receiving payment.

**Section 3** repeals section 393.0661, F.S. This section contains outdated provisions relating to the waiver program design prior to the implementation of the iBudget. The bill also eliminates the existing review criteria for significant additional needs requests. Such criteria has not been effective in limiting the iBudget supplemental funding increases approved by APD. Other provisions are moved to s. 393.0662, F.S.

**Section 4** amends s. 393.0662, F.S., requiring that funding for significant additional needs, as defined in the bill, may be provided only after the determination of a client’s initial iBudget allocation amount is assigned and after the agency has certified and documented, in the client’s cost plan, the use of all available resources under the Medicaid state plan.

The bill also preserves language from current law in s. 393.0661, F.S., relating to premiums and cost sharing, rate adjustments, the ability of AHCA to seek federal approval to amend waivers as needed, and the responsibility of APD to submit certain reports to the Governor and the Legislature. The bill also provides rulemaking authority for both APD and AHCA regarding criteria and processes for clients to access funds for significant additional needs.

**Section 5** creates s. 393.0663, F.S., requiring APD to competitively procure two or more qualified organizations to provide all support coordination services to HCBS Waiver clients. The
The bill requires the agency to consider price, quality, and accessibility when awarding contracts, and it requires procurement to begin on October 1, 2020. The bill provides that the contracts must include provisions requiring:

- Compliance with existing agency cost-containment initiatives;
- Support coordinators to ensure client budgets are linked to respective levels of need;
- Support coordinators to avoid potential conflicts of interest; and
- WSC organizations to perform and meet all standards related to support coordination currently in statute and rule.

The bill requires that the contracts be three years in length and permits a contract to be renewed up to three times, but each renewal may not exceed one year in length. The bill also provides APD with discretion to choose whether support coordination services are provided statewide or by agency region.

Section 6 amends s. 409.906, F.S., requiring AHCA to competitively procure a qualified organization to perform medical necessity determinations of all significant additional needs requests. The bill directs AHCA to seek federal approval to implement an increased rate for Medicaid intermediate care facilities for the developmentally disabled that serve individuals with developmental disabilities who have severe behavioral and mental health needs.

Section 7 amends s. 409.968, F.S., to conform a cross-reference.

Section 8 amends s. 1002.385, F.S., to conform a cross-reference.

Section 9 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.
V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 82 will have a negative but indeterminate fiscal impact on current waiver support coordinators who do not successfully bid for support coordination contracts provided under the bill. Qualified organizations who successfully acquire contracts for support coordination and for medical necessity determinations will see a positive fiscal impact.

Service providers who do not have hardware/software that can potentially interface with the Agency for Persons with Disabilities (APD) iConnect billing system may be required to purchase new hardware/software that can interface with iConnect, and to train staff on the use of iConnect. Service providers may also incur costs associated with dual data entry if the provider utilizes a different IT system and must manually input data into iConnect. The fiscal impact of the iConnect billing requirements on private service providers is negative but indeterminate.

C. Government Sector Impact:

The bill’s requirement to centralize medical necessity determinations with a third party contractor may have a positive fiscal impact on state expenditures by decreasing the number of employees at APD that currently provide medical necessity determinations. However, this cost savings will be offset by the required increase in the contracted services category, under the Agency for Health Care Administration, to contract out this function. Any cost savings realized as a function of contracting medical necessity out to a third party would allow the agency to address the Home and Community-based Waiver waitlist.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.063, 393.066, 393.0662, 409.906, 409.968, and 1002.385.

This bill creates section 393.0663 of the Florida Statutes.
This bill repeals section 393.0661 of the Florida Statutes.

IX. Additional Information:

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

   None.

B. Amendments:

   None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
Appropriations Subcommittee on Health and Human Services (Bean) recommended the following:

**Senate Amendment (with title amendment)**

1. Delete everything after the enacting clause and insert:
2. Section 1. Present subsections (39) through (45) of section 393.063, Florida Statutes, are redesignated as subsections (40) through (46), respectively, a new subsection (39) is added to that section, and present subsection (41) of that section is amended, to read:
3. 393.063 Definitions.—For the purposes of this chapter, the
term:

(39) “Significant additional need” means an additional need for medically necessary services which would place the health and safety of the client, the client’s caregiver, or the public in serious jeopardy if it is not met. The agency may only provide additional funding after the determination of a client’s initial allocation amount and after the qualified organization has documented the availability of nonwaiver resources.

(42)(41) “Support coordinator” means an employee of a qualified organization pursuant to s. 393.0663 a person who is designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

Section 2. Subsection (2) of section 393.066, Florida Statutes, is amended to read:

393.066 Community services and treatment.—
(2) Necessary services shall be purchased, rather than provided directly by the agency, when the purchase of services is more cost-efficient than providing them directly. All purchased services must be approved by the agency. As a condition of payment, persons or entities under contract with the agency to provide services shall use agency data management systems to document service provision to clients before billing.
and must use the agency data management systems to bill for services. Contracted persons and entities shall meet the minimum hardware and software technical requirements established by the agency for the use of such systems. Such persons or entities shall also meet any requirements established by the agency for training and professional development of staff providing direct services to clients.

Section 3. Section 393.0661, Florida Statutes, is repealed.

Section 4. Section 393.0662, Florida Statutes, is amended to read:

393.0662 Individual budgets for delivery of home and community-based services; iBudget system established.—The Legislature finds that improved financial management of the existing home and community-based Medicaid waiver program is necessary to avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program. The Legislature further finds that clients and their families should have greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. Therefore, the Legislature intends that the agency, in consultation with the Agency for Health Care Administration, shall manage the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and community-based services Medicaid waiver program among eligible enrolled clients. The service delivery system that uses individual budgets shall be called the iBudget system.

(1) The agency shall administer an individual budget, referred to as an iBudget, for each individual served by the
home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with a developmental disability as defined in s. 393.063. The iBudget system shall provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a role for support coordinators that avoids potential conflicts of interest; a flexible and streamlined service review process; and the equitable allocation of available funds based on the client’s level of need, as determined by the allocation methodology.

(a) In developing each client’s iBudget, the agency shall use the allocation methodology as defined in s. 393.063(4), in conjunction with an assessment instrument that the agency deems to be reliable and valid, including, but not limited to, the agency’s Questionnaire for Situational Information. The allocation methodology shall determine the amount of funds allocated to a client’s iBudget.

(b) The agency may authorize additional funding based on a client having one or more significant additional needs of the following needs that cannot be accommodated within the funding determined by the algorithm and having no other resources, supports, or services available to meet the needs. Such additional funding may be provided only after the determination of a client’s initial allocation amount and after the qualified organization has documented the availability of all nonwaiver resources. Upon receipt of an incomplete request for significant
additional needs, the agency shall close the request.

(c) The agency shall centralize, within its headquarters office, medical necessity determinations of requested services made through the significant additional needs process. The process must ensure consistent application of medical necessity criteria. This process must provide opportunities for targeted training, quality assurance, and inter-rater reliability.

1. An extraordinary need that would place the health and safety of the client, the client’s caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant authorized funding by the agency. An extraordinary need may include, but is not limited to:

a. A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;

b. A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;

c. A chronic comorbid condition. As used in this subparagraph, the term “comorbid condition” means a medical condition existing simultaneously but independently with another medical condition in a patient; or

d. A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and
safety of the client, the client’s caregiver, or the public in serious jeopardy. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term “temporary” means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services in and of itself does not warrant authorized funding by the agency.

3. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client’s caregiver, or the public in serious jeopardy because of substantial changes in the client’s circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client’s current budget. As used in this subparagraph, the term “long-term” means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature in and of itself does not warrant authorized funding by the agency.

4. A significant need for transportation services to a waiver-funded adult day training program or to waiver-funded...
employment services when such need cannot be accommodated within a client’s iBudget as determined by the algorithm without affecting the health and safety of the client, if public transportation is not an option due to the unique needs of the client or other transportation resources are not reasonably available.

The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for adjustments required pursuant to this paragraph and may use the services of an independent actuary in determining the amount to be reserved.

(d)(c) A client’s annual expenditures for home and community-based Medicaid waiver services may not exceed the limits of his or her iBudget. The total of all clients’ projected annual iBudget expenditures may not exceed the agency’s appropriation for waiver services.

(2) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval to amend current waivers, request a new waiver, and amend contracts as necessary to manage the iBudget system, improve services for eligible and enrolled clients, and improve the delivery of services through the home and community-based services Medicaid waiver program and the Consumer-Directed Care Plus Program, including, but not limited to, enrollees with a dual diagnosis of a developmental disability and a mental health disorder.

(3) The agency must certify and document within each client’s cost plan that the a client has used must use all available services authorized under the state Medicaid plan,
school-based services, private insurance and other benefits, and any other resources that may be available to the client before using funds from his or her iBudget to pay for support and services.

(4) Rates for any or all services established under rules of the Agency for Health Care Administration must be designated as the maximum rather than a fixed amount for individuals who receive an iBudget, except for services specifically identified in those rules that the agency determines are not appropriate for negotiation, which may include, but are not limited to, residential habilitation services.

(5) The agency shall ensure that clients and caregivers have access to training and education that inform them about the iBudget system and enhance their ability for self-direction. Such training and education must be offered in a variety of formats and, at a minimum, must address the policies and processes of the iBudget system and the roles and responsibilities of consumers, caregivers, waiver support coordinators, providers, and the agency, and must provide information to help the client make decisions regarding the iBudget system and examples of support and resources available in the community.

(6) The agency shall collect data to evaluate the implementation and outcomes of the iBudget system.

(7) The Agency for Health Care Administration shall seek federal approval to provide a consumer-directed option for persons with developmental disabilities. The agency and the Agency for Health Care Administration may adopt rules necessary to administer this subsection.
(8) The Agency for Health Care Administration shall seek federal waivers and amend contracts as necessary to make changes to services defined in federal waiver programs as follows:

(a) Supported living coaching services may not exceed 20 hours per month for persons who also receive in-home support services.

(b) Limited support coordination services are the only support coordination services that may be provided to persons under the age of 18 who live in the family home.

(c) Personal care assistance services are limited to 180 hours per calendar month and may not include rate modifiers. Additional hours may be authorized for persons who have intensive physical, medical, or adaptive needs if such hours will prevent institutionalization.

(d) Residential habilitation services are limited to 8 hours per day. Additional hours may be authorized for persons who have intensive medical or adaptive needs and if such hours will prevent institutionalization, or for persons who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others.

(e) The agency shall conduct supplemental cost plan reviews to verify the medical necessity of authorized services for plans that have increased by more than 8 percent during either of the 2 preceding fiscal years.

(f) The agency shall implement a consolidated residential habilitation rate structure to increase savings to the state through a more cost-effective payment method and establish uniform rates for intensive behavioral residential habilitation.
services.

(g) The geographic differential for Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services must be 7.5 percent.

(h) The geographic differential for Monroe County for residential habilitation services must be 20 percent.

(9) The agency shall collect premiums or cost sharing pursuant to s. 409.906(13)(c).

(10) This section or any related rule does not prevent or limit the Agency for Health Care Administration, in consultation with the agency, from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or from limiting enrollment or making any other adjustment necessary to comply with the availability of moneys and any limitations or directions provided in the General Appropriations Act.

(11) A provider of services rendered to persons with developmental disabilities pursuant to a federally approved waiver shall be reimbursed according to a rate methodology based upon an analysis of the expenditure history and prospective costs of providers participating in the waiver program, or under any other methodology developed by the Agency for Health Care Administration in consultation with the agency and approved by the Federal Government in accordance with the waiver.

(12) The agency shall submit quarterly status reports to the Executive Office of the Governor, the chair of the Senate Appropriations Committee or its successor, and the chair of the House Appropriations Committee or its successor containing all of the following information:
(a) The financial status of home and community-based services, including the number of enrolled individuals receiving services through one or more programs.

(b) The number of individuals who have requested services and who are not enrolled but who are receiving services through one or more programs, with a description indicating the programs from which the individual is receiving services.

(c) The number of individuals who have refused an offer of services but who choose to remain on the list of individuals waiting for services.

(d) The number of individuals who have requested services but who are receiving no services.

(e) A frequency distribution indicating the length of time individuals have been waiting for services.

(f) Information concerning the actual and projected costs compared to the amount of the appropriation available to the program and any projected surpluses or deficits.

(13) If at any time an analysis by the agency, in consultation with the Agency for Health Care Administration, indicates that the cost of services is expected to exceed the amount appropriated, the agency shall submit a plan in accordance with subsection (10) to the Executive Office of the Governor, the chair of the Senate Appropriations Committee or its successor, and the chair of the House Appropriations Committee or its successor to remain within the amount appropriated. The agency shall work with the Agency for Health Care Administration to implement the plan so as to remain within the appropriation.

(14) The agency, in consultation with the Agency for Health
Care Administration, shall provide a quarterly reconciliation report of all home and community-based services waiver expenditures from the Agency for Health Care Administration’s claims management system with service utilization from the Agency for Persons with Disabilities Allocation, Budget, and Contract Control system. The reconciliation report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than 30 days after the close of each quarter.

The agency and the Agency for Health Care Administration may adopt rules specifying the allocation algorithm and methodology; criteria and processes for clients to access reserved funds for significant additional needs, extraordinary needs, temporarily or permanently changed needs, and one-time needs; and processes and requirements for selection and review of services, development of support and cost plans, and management of the iBudget system as needed to administer this section.

Section 5. Section 393.0663, Florida Statutes, is created to read:

393.0663 Support coordination; legislative intent; qualified organizations; agency duties; due process; rulemaking.—

(1) LEGISLATIVE INTENT.—To enable the state to provide a systematic approach to service oversight for persons providing care to individuals with developmental disabilities, it is the intent of the Legislature that the agency work in collaboration with relevant stakeholders to ensure that waiver support coordinators have the knowledge, skills, and abilities necessary
to competently provide services to individuals with developmental disabilities by requiring all support coordinators to be employees of a qualified organization.

(2) QUALIFIED ORGANIZATIONS.—

(a) As used in this section, the term “qualified organization” means an organization determined by the agency to meet the requirements of this section and of the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook.

(b) The agency shall use qualified organizations for the purpose of providing all support coordination services to iBudget clients in this state. A qualified organization must:

1. Employ four or more support coordinators;
2. Maintain a professional code of ethics and a disciplinary process that apply to all support coordinators within the organization;
3. Comply with the agency’s cost containment initiatives;
4. Require support coordinators to ensure client budgets are linked to levels of need;
5. Require support coordinators to perform all duties and meet all standards related to support coordination as provided in the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook;
6. Prohibit dual employment of a support coordinator which adversely impacts the support coordinator’s availability to clients;
7. Educate clients and families regarding identifying and preventing abuse, neglect, and exploitation;
8. Instruct clients and families on mandatory reporting
requirements for abuse, neglect, and exploitation;
9. Submit within established timeframes all required
documentation for requests for significant additional needs;
10. Require support coordinators to successfully complete
training and professional development approved by the agency;
11. Require support coordinators to pass a competency-based
assessment established by the agency; and
12. Implement a mentoring program approved by the agency
for support coordinators who have worked as a support
 coordinator for less than 12 months.

(3) DUTIES OF THE AGENCY.—The agency shall:
(a) Require all qualified organizations to report to the
agency any violation of ethical or professional conduct by
support coordinators employed by the organization;
(b) Maintain a publicly accessible registry of all support
coordinators, including any history of ethical or disciplinary
violations; and
(c) Impose an immediate moratorium on new client
assignments, impose an administrative fine, require plans of
remediation, and terminate the Medicaid Waiver Services
Agreement of any qualified organization that is noncompliant
with applicable laws or rules.

(4) DUE PROCESS.—Any decision by the agency to take action
against a qualified organization as described in paragraph
(3)(c) is reviewable by the agency. Upon receiving an adverse
determination, the qualified organization may request an
administrative hearing pursuant to ss. 120.569 and 120.57(1)
within 30 days after completing any appeals process established
by the agency.
(5) RULEMAKING.—The agency may adopt rules to implement this section.

Section 6. Subsection (6) is added to section 400.962, Florida Statutes, to read:

400.962 License required; license application.—

(6) An applicant that has been granted a certificate-of-need exemption under s. 408.036(3)(o) must also demonstrate and maintain compliance with the following criteria:

(a) The total number of beds per home within the facility may not exceed eight, with each resident having his or her own bedroom and bathroom. Each eight-bed home must be colocated on the same property with two other eight-bed homes and must serve individuals with severe maladaptive behaviors and co-occurring psychiatric diagnoses.

(b) A minimum of 16 beds within the facility must be designated for individuals with severe maladaptive behaviors who have been assessed using the Agency for Persons with Disabilities’ Global Behavioral Service Need Matrix with a score of at least Level 3 and up to Level 6, or assessed using the criteria deemed appropriate by the Agency for Health Care Administration regarding the need for a specialized placement in an intermediate care facility for the developmentally disabled.

(c) The applicant has not had a facility license denied, revoked, or suspended within the 36 months preceding the request for exemption.

(d) The applicant must have at least 10 years of experience serving individuals with severe maladaptive behaviors in this state.

(e) The applicant must implement a state-approved staff...
training curriculum and monitoring requirements specific to the
individuals whose behaviors require higher intensity, frequency,
and duration of services.

(f) The applicant must make available medical and nursing
services 24 hours per day, 7 days per week.

(g) The applicant must demonstrate a history of using
interventions that are least restrictive and that follow a
behavioral hierarchy.

(h) The applicant must maintain a policy prohibiting the
use of mechanical restraints.

Section 7. Paragraph (o) is added to subsection (3) of
section 408.036, Florida Statutes, to read:

408.036 Projects subject to review; exemptions.—
(3) EXEMPTIONS.—Upon request, the following projects are
subject to exemption from subsection (1):

(o) For a new intermediate care facility for the
developmentally disabled as defined in s. 408.032 which has a
total of 24 beds, comprising three eight-bed homes, for use by
individuals exhibiting severe maladaptive behaviors and co-
occurring psychiatric diagnoses requiring increased levels of
behavioral, medical, and therapeutic oversight. The facility
must not have had a license denied, revoked, or suspended within
the 36 months preceding the request for exemption and must have
at least 10 years of experience serving individuals with severe
maladaptive behaviors in this state. The agency may not grant an
additional exemption to a facility that has been granted an
exemption under this paragraph unless the facility has been
licensed and operational for a period of at least 2 years. The
exemption under this paragraph does not require a specific
Section 8. Subsection (15) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state’s systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as “Intermediate Care Facilities for the Developmentally Disabled.” Optional services may include:

(15) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED SERVICES.—The agency may pay for health-related care and services provided on a 24-hour-a-day basis by a facility licensed and certified as a Medicaid Intermediate Care Facility
for the Developmentally Disabled, for a recipient who needs such
care because of a developmental disability. Payment shall not
include bed-hold days except in facilities with occupancy rates
of 95 percent or greater. The agency is authorized to seek any
federal waiver approvals to implement this policy. The agency
shall seek federal approval to implement a payment rate for
Medicaid intermediate care facilities serving individuals with
developmental disabilities, severe maladaptive behaviors, severe
maladaptive behaviors and co-occurring complex medical
conditions, or a dual diagnosis of developmental disability and
mental illness.

Section 9. Paragraph (d) of subsection (2) of section
1002.385, Florida Statutes, is amended to read:

1002.385 The Gardiner Scholarship.—
(2) DEFINITIONS.—As used in this section, the term:
(d) "Disability" means, for a 3- or 4-year-old child or for
a student in kindergarten to grade 12, autism spectrum disorder,
as defined in the Diagnostic and Statistical Manual of Mental
Disorders, Fifth Edition, published by the American Psychiatric
Association; cerebral palsy, as defined in s. 393.063(6); Down
syndrome, as defined in s. 393.063(15); an intellectual
disability, as defined in s. 393.063(24); Phelan-McDermid
syndrome, as defined in s. 393.063(28); Prader-Willi syndrome,
as defined in s. 393.063(29); spina bifida, as defined in s.
393.063(41) s. 393.063(40); being a high-risk child, as defined
in s. 393.063(23)(a); muscular dystrophy; Williams syndrome;
rare diseases which affect patient populations of fewer than
200,000 individuals in the United States, as defined by the
National Organization for Rare Disorders; anaphylaxis; deaf;
visually impaired; traumatic brain injured; hospital or homebound; or identification as dual sensory impaired, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The term “hospital or homebound” includes a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the state board in rule, and who is confined to the home or hospital for more than 6 months.

Section 10. This act shall take effect January 1, 2021.

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled An act relating to individuals with disabilities; amending s. 393.063, F.S.; defining the term “significant additional need”; revising the definition of the term “support coordinator”; amending s. 393.066, F.S.; requiring persons and entities under contract with the Agency for Persons with Disabilities to use the agency data management systems to bill for services; repealing s. 393.0661, F.S., relating to the home and community-based services delivery system; amending s. 393.0662, F.S.; revising criteria used by the agency to develop a client’s iBudget; revising criteria used by the agency to authorize additional funding for certain clients; requiring the agency to centralize medical necessity determinations of certain
services; requiring the agency to certify and document the use of certain services before approving the expenditure of certain funds; requiring the Agency for Health Care Administration to seek federal approval to provide consumer-directed options; authorizing the Agency for Persons with Disabilities and the Agency for Health Care Administration to adopt rules; requiring the Agency for Health Care Administration to seek federal waivers and amend contracts under certain conditions; requiring the Agency for Persons with Disabilities to collect premiums or cost sharing; providing construction; providing for the reimbursement of certain providers of services; requiring the Agency for Persons with Disabilities to submit quarterly status reports to the Executive Office of the Governor, the chair of the Senate Appropriations Committee, and the chair of the House Appropriations Committee or their successors; providing requirements for such reports; requiring the Agency for Persons with Disabilities, in consultation with the Agency for Health Care Administration, to submit a certain plan to the Executive Office of the Governor, the chair of the Senate Appropriations Committee, and the chair of the House Appropriations Committee under certain conditions; requiring the agency to work with the Agency for Health Care Administration to implement such plan; requiring the Agency for Persons with Disabilities, in consultation with the Agency for Health Care Administration, to
provide quarterly reconciliation reports to the Governor and the Legislature within a specified timeframe; revising rulemaking authority of the Agency for Persons with Disabilities and the Agency for Health Care Administration; creating s. 393.0663, F.S.; providing legislative intent; defining the term “qualified organization”; requiring the Agency for Persons with Disabilities to use qualified organizations to provide support coordination services for certain clients; providing requirements for qualified organizations; providing agency duties; providing for the review and appeal of certain decisions made by the agency; authorizing the agency to adopt rules; amending s. 400.962, F.S.; requiring certain facilities that have been granted a certificate-of-need exemption to demonstrate and maintain compliance with specified criteria; amending s. 408.036, F.S.; providing an exemption from a certificate-of-need requirement for certain intermediate care facilities; prohibiting the Agency for Health Care Administration from granting an additional exemption to a facility unless a certain condition is met; providing that a specific legislative appropriation is not required for such exemption; amending s. 409.906, F.S.; requiring the agency to seek federal approval to implement certain payment rates; amending s. 1002.385, F.S.; conforming a cross-reference; providing an effective date.
A bill to be entitled

An act relating to individuals with disabilities;
amending s. 393.063, F.S.; defining the term
"significant additional need"; revising the definition
of the term "support coordinator"; amending s.
393.066, F.S.; requiring persons and entities under
contract with the Agency for Persons with Disabilities
to use the agency data management systems to bill for
services; repealing s. 393.0661, F.S., relating to the
home and community-based services delivery system;
amending s. 393.0662, F.S.; revising criteria used by
the agency to develop a client’s iBudget; revising
criteria used by the agency to authorize additional
funding for certain clients; requiring the agency to
certify and document the use of certain services
before approving the expenditure of certain funds;
requiring the Agency for Health Care Administration to
seek federal approval to provide consumer-directed
options; authorizing the Agency for Persons with Disabilities and the Agency for Health Care
Administration to adopt rules; requiring the Agency
for Health Care Administration to seek federal waivers
and amend contracts under certain conditions;
requiring the Agency for Persons with Disabilities to
collect premiums or cost sharing; providing
construction; providing for the reimbursement of
certain providers of services; requiring the Agency
for Persons with Disabilities to submit quarterly
status reports to the Governor, the chair of the
Senate Appropriations Committee, and the chair of the
House Appropriations Committee; requiring the Agency
for Persons with Disabilities, in consultation with
the agency for Health Care Administration, to submit a
certain plan to the Governor, the chair of the Senate
Appropriations Committee, and the chair of the House
Appropriations Committee under certain conditions;
requiring the Agency for Persons with Disabilities, in
consultation with the Agency for Health Care Administration, to provide quarterly reconciliation
reports to the Governor and the Legislature within a
specified timeframe; revising rulemaking authority of
the Agency for Persons with Disabilities and the
Agency for Health Care Administration; creating s.
393.0663, F.S.; requiring the Agency for Persons with Disabilities to competitively procure qualified
organizations to provide support coordination
services; requiring such procurement to be initiated
on a specified date; providing requirements for
contracts awarded by the agency; amending s. 409.906,
F.S.; requiring the Agency for Health Care Administration to contract with an external vendor for
certain medical necessity determinations; requiring
the Agency for Persons with Disabilities to seek
federal approval to implement certain payment rates;
amending ss. 409.968 and 1002.385, F.S.; conforming
cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Present subsections (39) through (45) of section 393.063, Florida Statutes, are redesignated as subsections (40) through (46), respectively, a new subsection (39) is added to that section, and present subsection (41) of that section is amended, to read:

393.063 Definitions.—For the purposes of this chapter, the term:

(39) "Significant additional need" means a medically necessary need for a service increase arising after the beginning of the service plan year which would place the health and safety of the client, the client’s caregiver, or the public in serious jeopardy.

(42) "Support coordinator" means an employee of a qualified organization pursuant to s. 393.0661 a person who is designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

Section 2. Subsection (2) of section 393.066, Florida Statutes, is amended to read:

393.066 Community services and treatment.—

(2) Necessary services shall be purchased, rather than provided directly by the agency, when the purchase of services is more cost-efficient than providing them directly. All purchased services must be approved by the agency. As a condition of payment, persons or entities under contract with the agency to provide services shall use agency data management systems to document service provision to clients before billing and must use the agency data management systems to bill for services. Contracted persons and entities shall meet the minimum hardware and software technical requirements established by the agency for the use of such systems. Such persons or entities shall also meet any requirements established by the agency for training and professional development of staff providing direct services to clients.

Section 3. Section 393.0661, Florida Statutes, is repealed.

Section 4. Section 393.0662, Florida Statutes, is amended to read:

393.0662 Individual budgets for delivery of home and community-based services; iBudget system established.—The Legislature finds that improved financial management of the existing home and community-based Medicaid waiver program is necessary to avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program. The Legislature further finds that clients and their families should have greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. Therefore, the Legislature intends that the agency, in consultation with the Agency for Health Care Administration, shall manage the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and community services and treatment.
community-based services Medicaid waiver program among eligible enrolled clients. The service delivery system that uses individual budgets shall be called the iBudget system.

(1) The agency shall administer an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with a developmental disability as defined in s. 393.063. The iBudget system shall provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a role for support coordinators that avoids potential conflicts of interest; a flexible and streamlined service review process; and the equitable allocation of available funds based on the client’s level of need, as determined by the allocation methodology.

(a) In developing each client’s iBudget, the agency shall use the allocation methodology as defined in s. 393.063(4), in conjunction with an assessment instrument that the agency deems to be reliable and valid, including, but not limited to, the agency’s Questionnaire for Situational Information. The allocation methodology shall determine the amount of funds allocated to a client’s iBudget.

(b) The agency may authorize additional funding based on a client having one or more significant additional needs of the following needs that cannot be accommodated within the funding determined by the algorithm and having no other resources, as determined by the agency:

1. An extraordinary need that would place the health and safety of the client, the client’s caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant authorized funding by the agency. An extraordinary need may include, but is not limited to:
   a. A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;
   b. A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;
   c. A chronic comorbid condition. As used in this subparagraph, the term “comorbid condition” means a medical condition existing simultaneously but independently with another medical condition in a patient, or
   d. A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene;

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client’s caregiver, or the public in

The agency shall administer an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with a developmental disability as defined in s. 393.063. The iBudget system shall provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a role for support coordinators that avoids potential conflicts of interest; a flexible and streamlined service review process; and the equitable allocation of available funds based on the client’s level of need, as determined by the allocation methodology.

(a) In developing each client’s iBudget, the agency shall use the allocation methodology as defined in s. 393.063(4), in conjunction with an assessment instrument that the agency deems to be reliable and valid, including, but not limited to, the agency’s Questionnaire for Situational Information. The allocation methodology shall determine the amount of funds allocated to a client’s iBudget.

(b) The agency may authorize additional funding based on a client having one or more significant additional needs of the following needs that cannot be accommodated within the funding determined by the algorithm and having no other resources, as determined by the agency:

1. An extraordinary need that would place the health and safety of the client, the client’s caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant authorized funding by the agency. An extraordinary need may include, but is not limited to:
   a. A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;
   b. A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;
   c. A chronic comorbid condition. As used in this subparagraph, the term “comorbid condition” means a medical condition existing simultaneously but independently with another medical condition in a patient, or
   d. A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene;

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client’s caregiver, or the public in
A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services in and of itself does not warrant authorized funding by the agency.

1. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature in and of itself does not warrant authorized funding by the agency.

4. A significant need for transportation services to a waiver-funded adult day training program or to waiver-funded employment services when such need cannot be accommodated within the client's cost plan that the client has used all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature in and of itself does not warrant authorized funding by the agency.
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any other resources that may be available to the client before
using funds from his or her iBudget to pay for support services and any significant additional needs as determined by
a qualified organization contracted pursuant to s. 409.906(13)(c).

(4) Rates for any or all services established under rules
of the Agency for Health Care Administration must be designated
as the maximum rather than a fixed amount for individuals who
receive an iBudget, except for services specifically identified
in those rules that the agency determines are not appropriate
for negotiation, which may include, but are not limited to,
residential habilitation services.

(5) The agency shall ensure that clients and caregivers
have access to training and education that inform them about the
iBudget system and enhance their ability for self-direction.
Such training and education must be offered in a variety of
formats and, at a minimum, must address the policies and
processes of the iBudget system and the roles and
responsibilities of consumers, caregivers, waiver support
coordinators, providers, and the agency, and must provide
information to help the client make decisions regarding the
iBudget system and examples of support and resources available
in the community.

(6) The agency shall collect data to evaluate the
implementation and outcomes of the iBudget system.

(7) The Agency for Health Care Administration shall seek
federal approval to provide a consumer-directed option for
persons with developmental disabilities. The agency and the
Agency for Health Care Administration may adopt rules necessary
to administer this subsection.

(8) The Agency for Health Care Administration shall seek
federal waivers and amend contracts as necessary to make changes
to services defined in federal waiver programs as follows:

(a) Supported living coaching services may not exceed 20
hours per month for persons who also receive in-home support
services.

(b) Limited support coordination services are the only type
of support coordination services which may be provided to
persons under the age of 18 who live in the family home.

(c) Personal care assistance services are limited to 180
hours per calendar month and may not include rate modifiers.
Additional hours may be authorized for persons who have
intensive physical, medical, or adaptive needs if such hours are
essential for avoiding institutionalization.

(d) Residential habilitation services are limited to 8
hours per day. Additional hours may be authorized for persons
who have intensive medical or adaptive needs and if such hours
are essential for avoiding institutionalization, or for persons
who possess behavioral problems that are exceptional in
intensity, duration, or frequency and present a substantial risk
of harming themselves or others.

(e) The agency shall conduct supplemental cost plan reviews
to verify the medical necessity of authorized services for plans
that have increased by more than 8 percent during either of the
2 preceding fiscal years.

(f) The agency shall implement a consolidated residential
habilitation rate structure to increase savings to the state
through a more cost-effective payment method and establish

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uniform rates for intensive behavioral residential habilitation services.

(g) The geographic differential for Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services must be 7.5 percent.

(h) The geographic differential for Monroe County for residential habilitation services must be 20 percent.

(9) The agency shall collect premiums or cost sharing pursuant to s. 409.906(13)(c).

(10) This section or any related rule does not prevent or limit the Agency for Health Care Administration, in consultation with the agency, from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or from limiting enrollment or making any other adjustment necessary to comply with the availability of moneys and any limitations or directions provided in the General Appropriations Act.

(11) A provider of services rendered to persons with developmental disabilities pursuant to a federally approved waiver shall be reimbursed according to a rate methodology based upon an analysis of the expenditure history and prospective costs of providers participating in the waiver program, or under any other methodology developed by the Agency for Health Care Administration, in consultation with the agency, and approved by the Federal Government in accordance with the waiver.

(12) The agency shall submit quarterly status reports to the Executive Office of the Governor, the chair of the Senate Appropriations Committee or its successor, and the chair of the House Appropriations Committee or its successor containing all of the following information:

(a) The financial status of home and community-based services, including the number of enrolled individuals who are receiving services through one or more programs.

(b) The number of individuals who have requested services who are not enrolled but who are receiving services through one or more programs, with a description indicating the programs from which the individual is receiving services.

(c) The number of individuals who have refused an offer of services but who choose to remain on the list of individuals waiting for services.

(d) The number of individuals who have requested services but who are receiving no services.

(e) A frequency distribution indicating the length of time individuals have been waiting for services.

(f) Information concerning the actual and projected costs compared to the amount of the appropriation available to the program and any projected surpluses or deficits.

(13) If at any time an analysis by the agency, in consultation with the Agency for Health Care Administration, indicates that the cost of services is expected to exceed the amount appropriated, the agency shall submit a plan in accordance with subsection (10) to the Executive Office of the Governor, the chair of the Senate Appropriations Committee or its successor, and the chair of the House Appropriations Committee or its successor to remain within the amount appropriated. The agency shall work with the Agency for Health Care Administration to implement the plan so as to remain within the appropriation.

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The contract must include provisions requiring compliance with agency cost-containment initiatives. The contract may provide for support coordination services as needed to administer support coordination as provided in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook.

(5) The contract shall be 3 years in duration. Following the initial 3-year period, the contract may be renewed annually for 3 consecutive years and may not exceed 1 year in duration.

(6) The contract may provide for support coordination services statewide or by agency region, at the discretion of the agency.

Section 5. Section 393.0663, Florida Statutes, is created to read:

393.0663 Waiver support coordination services.—The agency shall competitively procure two or more qualified organizations to provide support coordination services. In awarding a contract to a qualified organization, the agency shall take into account price, quality, and accessibility to these services. The agency shall initiate procurement on October 1, 2020.

(1) The contract must include provisions requiring compliance with agency cost-containment initiatives.
4-01661A-20

407 construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state’s systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as “Intermediate Care Facilities for the Developmentally Disabled.” Optional services may include:

(c) The agency shall competitively procure a qualified organization to perform medical necessity determinations of significant additional needs requests, as defined in s. 393.063.(13) HOME AND COMMUNITY-BASED SERVICES.—

(1) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED SERVICES.—The agency may pay for health-related care and services provided on a 24-hour-a-day basis by a facility licensed and certified as a Medicaid Intermediate Care Facility for the Developmentally Disabled, for a recipient who needs such care because of a developmental disability. Payment shall not include bed-hold days except in facilities with occupancy rates of 95 percent or greater. The agency is authorized to seek any federal waiver approvals to implement this policy. The agency shall seek federal approval to implement a payment rate for Medicaid intermediate care facilities serving individuals with developmental disabilities, severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness.

Section 7. Paragraph (a) of subsection (4) of section 409.968, Florida Statutes, is amended to read:

(4)(a) Subject to a specific appropriation and federal approval under s. 409.906(13)(e), the agency shall establish a payment methodology to fund managed care plans for flexible services for persons with severe mental illness and substance use disorders, including, but not limited to, temporary housing assistance. A managed care plan eligible for these payments must do all of the following:

1. Participate as a specialty plan for severe mental illness or substance use disorders or participate in counties designated by the General Appropriations Act;

2. Include providers of behavioral health services pursuant to chapters 394 and 397 in the managed care plan’s provider network; and

3. Document a capability to provide housing assistance through agreements with housing providers, relationships with local housing coalitions, and other appropriate arrangements.

Section 8. Paragraph (d) of subsection (2) of section 1002.385, Florida Statutes, is amended to read:

(d) “Disability” means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association.
465 Association; cerebral palsy, as defined in s. 393.063(6); Down syndrome, as defined in s. 393.063(15); an intellectual disability, as defined in s. 393.063(24); Phelan-McDermid syndrome, as defined in s. 393.063(28); Prader-Willi syndrome, as defined in s. 393.063(29); spina bifida, as defined in s. 393.063(40); being a high-risk child, as defined in s. 393.063(23)(a); muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; deaf; visually impaired; traumatic brain injured; hospital or homebound; or identification as dual sensory impaired, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The term "hospital or homebound" includes a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the state board in rule, and who is confined to the home or hospital for more than 6 months.

Section 9. This act shall take effect July 1, 2020.
I. Summary:

SB 1020 authorizes a nursing home facility to establish and implement an institutional formulary (a list of medicinal drugs) that a pharmacist may use as a therapeutic substitution to replace a resident’s prescribed medicinal drug with a chemically different drug listed in the formulary that is expected to have the same clinical effect.

The bill:

- Provides definitions, requirements, and operational parameters for a nursing home facility’s implementation of an institutional formulary and for participation by prescribers and pharmacists.
- Requires participating nursing home facilities to establish a committee to develop the institutional formulary and perform quarterly monitoring of clinical outcomes when a therapeutic substitution occurs.
- Requires each prescriber to annually approve, for his or her patients, the use of, and any subsequent changes made to, an institutional formulary and allows a prescriber to opt out of the institutional formulary with regard to a particular patient, medicinal drug, or class of medicinal drugs.
- Prohibits a nursing home facility from taking adverse action against a prescriber for not agreeing to use the facility’s institutional formulary.

The bill does not have a fiscal impact on state revenues or expenditures.

The bill takes effect on July 1, 2020.
II. Present Situation: Substitution of Drug Products

To contain drug costs, virtually every state has adopted laws and regulations that encourage the substitution of drug products.¹ These state laws generally require a substitution be limited to drugs on a specific list (the positive drug formulary approach) or that it be permitted for all drugs except those prohibited by a particular list (the negative drug formulary approach).² Florida law authorizes the negative drug formulary approach.

The negative drug formulary is composed of medicinal drugs that have been specifically determined by the Board of Pharmacy and the Board of Medicine to demonstrate clinically significant biological or therapeutic inequivalence and that, if substituted, could produce adverse clinical effects, or could otherwise pose a threat to the health and safety of patients receiving such prescription medications.³

Florida law requires pharmacists to substitute a less expensive generic medication for a prescribed brand name medication, unless otherwise indicated by the purchaser.⁴ Generic drugs are chemically very similar to their corresponding brand-name drugs. They contain the same active ingredient, have the same strength, use the same dosage form and route of administration, and meet the same quality standards as those of brand-name drugs.⁵

Florida law authorizes, but does not require, a pharmacist to substitute a biosimilar⁶ for a prescribed biological product⁷ if the biosimilar has been determined by the U.S. Food and Drug Administration to be interchangeable with the prescribed biological product and the prescriber does not express a preference against substitution in writing, orally, or electronically.⁸

For generic and biosimilar substitutions, the pharmacist must notify the patient and advise the patient of the right to reject the substitution and request the prescribed brand name medication or biologic.⁹

Without the express authorization of the prescriber, Florida law does not provide for the substitution of a medicinal drug that is therapeutically equivalent to, but chemically different from, the originally prescribed drug and that is expected to produce a similar patient outcome as

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² Id.
³ Section 465.025(6), F.S.; see also Rule 64B-16.27.500, F.A.C.
⁴ Section 465.025(2), F.S.
⁶ 42 U.S.C. s. 262 (i)(2) defines a “biosimilar” is a biological product that is highly similar to the licensed biological product or reference product, that has no clinically meaningful differences in terms of safety, purity, and potency of the product.
⁷ 42 U.S.C. s. 262 (i)(1) defines “biological product” as a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein, or analogous product, or arsphenamine or derivative of arsphenamine, applicable to the prevention, treatment, or cure of a disease or condition of human beings.
⁸ Section 465.0252(2), F.S.
⁹ Sections 465.025(3)(a) and 465.0252(2)(c), F.S., respectively.
the reference drug or treatment. Possible consequences of such therapeutic substitution may include different adverse effects and under- or over-treatment.\(^{10}\)

**Therapeutic Substitution in Other States**

There is little research available on the approaches to, and outcomes of, therapeutic substitution laws and regulations in other states. However, research that is available pertains to three states that authorize therapeutic substitution in community pharmacies.\(^{11}\)

In 2003, Kentucky was the first state to pass a law authorizing therapeutic substitution in community pharmacies. Arkansas followed suit in 2015, and Idaho’s legislation took effect on July 1, 2018.\(^{12}\) In all three states, a prescriber must opt in to allow the therapeutic substitution and the pharmacist must notify the prescriber if any therapeutic substitution is made to ensure a complete and accurate medical record.\(^{13, 14, 15}\) Arkansas and Kentucky require a pharmacist to notify the prescriber in the first 24 business hours after a therapeutic substitution.\(^{16}\) Idaho requires such notification within five days.\(^{17}\) In Idaho and Kentucky, but not in Kentucky, the patient is notified and has a right to refuse the therapeutic substitution.\(^{18}\)

Idaho and Kentucky require that the substitution be in compliance with the patient’s health plan formulary, such as changing from a nonpreferred drug to a preferred drug.\(^{19}\) Arkansas states that the substitution must be to a drug “that is at a lower cost to the patient.”\(^{20}\) Idaho adopts this lower cost language for patients who do not have health plan coverage.\(^{21}\)

Several states, including Idaho, have authorized therapeutic substitution in institutional settings.\(^{22}\) Additionally, Connecticut authorizes a medical director of a nursing home facility to make a substitution for a drug prescribed to a patient of the facility after obtaining authorization from the prescriber.\(^{23}\)


\(^{11}\) Section 465.003(11)(a)1., F.S., defines a community pharmacy as a location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.


\(^{14}\) Section 54-1768, Idaho Code, https://legislature.idaho.gov/statutesrules/idstat/Title54/T54CH17/SECT54-1768/ (last visited Jan 8, 2020).


\(^{16}\) *Supra* notes 13 and 15.

\(^{17}\) *Supra* note 14.

\(^{18}\) *Supra* notes 14 and 15.

\(^{19}\) *Supra* note 12.

\(^{20}\) *Id.*

\(^{21}\) *Id.*

\(^{22}\) *Supra* note 14.

nursing home patient if approved by the patient’s attending physician for the patient’s period of stay within the facility.24

Institutional Formulary Systems in Florida

Section 465.019, F.S., authorizes a Class II25 or Class III26 institutional pharmacy to adopt an institutional formulary system for use with approval of the medical staff for the purpose of identifying those medicinal drugs, proprietary preparations, biologics, biosimilars, and biosimilar interchangeable that may be dispensed by the pharmacists employed in such institution. The term “institutional formulary system” means “a method whereby the medical staff evaluates, appraises, and selects those medicinal drugs or proprietary preparations which in the medical staff’s clinical judgment are most useful in patient care, and which are available for dispensing by a practicing pharmacist in a Class II or Class III institutional pharmacy.”27

A facility that adopts an institutional formulary system under section 465.019, F.S., must establish policies and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and the American Society of Hospital Pharmacists (now known as the American Society of Health-System Pharmacists28) for the utilization of a hospital formulary system, which must be approved by the medical staff.

Nursing Homes and Residents’ Rights

Federal law requires nursing home facilities to provide routine and emergency drugs to residents, or to obtain them under an agreement.29 A nursing home facility must employ or obtain the services of a licensed pharmacist and provide pharmaceutical services to meet the needs of each resident.30 Florida law requires the Agency for Health Care Administration to license and regulate nursing homes pursuant to part II of chapter 408 and part II of chapter 400, F.S., respectively.

Section 400.022, F.S., requires a nursing home facility to adopt a statement of residents’ rights and to provide a copy of the statement to each resident or the resident’s legal representative at or before the resident’s admission to the facility. The statement must assure each resident the right to:
  * Civil and religious liberties, including knowledge of available choices and the right to independent personal decision, which will not be infringed upon, and the right to

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25 Section 465.019(2)(b), F.S. defines “class II institutional pharmacies” as those institutional pharmacies which employ the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution, for use on the premises of that institution.
26 Section 465.019(2)(d)1., F.S., defines “class III institutional pharmacies” as those institutional pharmacies, including central distribution facilities, affiliated with a hospital that provide the same services that are authorized by a Class II institutional pharmacy permit that may also dispense, distribute, compound, and fill prescriptions for medicinal drugs and prepare prepackaged drug products.
27 Section 465.003, F.S.
29 42 CFR § 483.45.
30 Id.
encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights.

- Be adequately informed of his or her medical condition and proposed treatment, unless the resident is determined to be unable to provide informed consent under Florida law, or the right to be fully informed in advance of any nonemergency changes in care or treatment that may affect the resident’s well-being; and, except with respect to a resident adjudged incompetent, the right to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident’s physician; and to know the consequences of such actions.
- Receive adequate and appropriate health care and protective and support services.
- Obtain pharmaceutical supplies and services from a pharmacy of the resident’s choice, at the resident’s own expense or through Medicaid.

A nursing home that violates the statement of resident’s rights set forth in s. 400.022, F.S., may be subject to administrative fines, emergency moratorium on admissions, or denial, suspension, or revocation of license if it violates a resident’s rights, depending on the nature of the violation and the gravity of its probable effect on clients.  

III. Effect of Proposed Changes:

Section 1 creates s. 400.143, F.S., to

- Add definitions for “institutional formulary,” “medicinal drug,” “prescriber,” and “therapeutic substitution.”
- Authorize a nursing home facility to establish and implement an institutional formulary that a pharmacist may use as a therapeutic substitution for a medicinal drug prescribed to a resident of the facility.
- Require a nursing home facility that implements an institutional formulary to:
  - Establish a committee to develop the institutional formulary, as well as written guidelines or procedures. The committee must consist of, at a minimum, the facility’s medical director and director of nursing, and a consultant pharmacist licensed by the Department of Health.
  - Establish methods and criteria for selecting and objectively evaluating all available pharmaceutical products that may be used as therapeutic substitutes.
  - Establish policies and procedures for developing and maintaining the formulary and for approving and notifying prescribers of the formulary.
  - Perform quarterly monitoring to ensure compliance of policies and procedures and monitor clinical outcomes when a therapeutic substitution occurs.
- Require the nursing home facility to maintain and make available all written policies and procedures for the institutional formulary.
- Require a prescriber to annually authorize, for his or her patients, the institutional formulary and opt into any subsequent changes made to the facility’s institutional formulary. The prescriber may opt out of the institutional formulary with regard to a specific patient, a particular drug, or a class of drugs. A prescriber may prevent a therapeutic substitution for a specific medication order by indicating verbally or electronically on the prescription “NO THERAPEUTIC SUBSTITUTION.”

31 Sections 400.022 and 408.813, F.S.
• Prohibit a nursing home facility from taking adverse action against a prescriber for not agreeing to use the facility’s institutional formulary.

Section 2 amends s. 465.025, F.S., to authorize, but not require, a pharmacist to therapeutically substitute medicinal drugs for a resident of a nursing home in accordance with the nursing home’s institutional formulary if the prescriber has agreed to the use of the institutional formulary and has not indicated “NO THERAPEUTIC SUBSTITUTION.”

Section 3 establishes an effective date of July 1, 2020.

IV. Constitutional Issues:
   A. Municipality/County Mandates Restrictions:
      None.
   B. Public Records/Open Meetings Issues:
      None.
   C. Trust Funds Restrictions:
      None.
   D. State Tax or Fee Increases:
      None.
   E. Other Constitutional Issues:
      None.

V. Fiscal Impact Statement:
   A. Tax/Fee Issues:
      None.
   B. Private Sector Impact:
      None.
   C. Government Sector Impact:
      None.

VI. Technical Deficiencies:
    None.
VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 400.143 of the Florida Statutes.

This bill substantially amends section 465.025 of the Florida Statutes.

IX. Additional Information:

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

   None.

B. Amendments:

   None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled An act relating to institutional formularies established by nursing home facilities; creating s. 400.143, F.S.; defining terms; authorizing a nursing home facility to establish and implement an institutional formulary; requiring such formulary to be developed by a committee established by the nursing home facility; providing for committee membership; providing requirements for the development and implementation of the institutional formulary; requiring a nursing home facility to maintain written policies and procedures for the institutional formulary; requiring a nursing home facility to make available such policies and procedures to the Agency for Health Care Administration, upon request; requiring a prescriber to annually authorize the use of the institutional formulary for certain patients; requiring the prescriber to opt into any changes made to the institutional formulary; authorizing a prescriber to opt out of use of the institutional formulary or to prevent a therapeutic substitution, under certain circumstances; prohibiting a nursing home facility from taking adverse action against a prescriber for refusing to agree to the use of the institutional formulary; amending s. 465.025, F.S.; authorizing a pharmacist to therapeutically substitute medicinal drugs under an institutional formulary established by a nursing home facility, under certain circumstances; prohibiting a pharmacist from therapeutically substituting a medicinal drug, under certain circumstances; providing an effective date.

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

Section 1. Section 400.143, Florida Statutes, is created to read:

400.143 Institutional formularies established by nursing home facilities.—

(1) For purposes of this section, the term:

(a) "Institutional formulary" means a list of medicinal drugs established by a nursing home facility under this section for which a pharmacist may use a therapeutic substitution for a medicinal drug prescribed to a resident of the facility.

(b) "Medicinal drug" has the same meaning as provided in s. 465.003(8).

(c) "Prescriber" has the same meaning as provided in s. 465.025(1).

(d) "Therapeutic substitution" means the practice of replacing a nursing home facility resident’s prescribed medicinal drug with another chemically different medicinal drug that is expected to have the same clinical effect.

(2) A nursing home facility may establish and implement an institutional formulary in accordance with the requirements of this section.

(3) A nursing home facility that implements an institutional formulary under this section shall:

(a) Establish a committee to develop the institutional formulary and written guidelines or procedures for such formulary and written guidelines or procedures for such
institutional formulary. The committee must consist of, at a minimum, all of the following:

1. The facility’s medical director.
2. The facility’s director of nursing services.
3. A consultant pharmacist licensed by the Department of Health and certified under s. 465.0125.

(b) Establish methods and criteria for selecting and objectively evaluating all available pharmaceutical products that may be used as therapeutic substitutes.

(c) Establish policies and procedures for developing and maintaining the institutional formulary and for approving, disseminating, and notifying prescribers of the institutional formulary.

(d) Perform quarterly monitoring to ensure compliance with the policies and procedures established under paragraph (c) and monitor the clinical outcomes in circumstances in which a therapeutic substitution has occurred.

(4) The nursing home facility shall maintain all written policies and procedures for the institutional formulary established under this section. Each nursing home facility shall make available such policies and procedures to the agency, upon request.

(5)(a) A prescriber shall annually authorize the institutional formulary for his or her patients and shall opt into any subsequent changes made to a nursing home facility’s institutional formulary.

(b) A prescriber may opt out of the nursing home facility’s institutional formulary with respect to a particular patient, medicinal drug, or class of medicinal drugs.

(c) A prescriber may prevent a therapeutic substitution for a specific medication order if such order is provided verbally or generated and transmitted electronically by indicating “NO THERAPEUTIC SUBSTITUTION” on the prescription.

(d) A nursing home facility may not take adverse action against a prescriber for refusing to agree to the use of the facility’s institutional formulary.

Section 2. Subsection (9) is added to section 465.025, Florida Statutes, to read:

465.025 Substitution of drugs.—
(9) A pharmacist may therapeutically substitute medicinal drugs in accordance with an institutional formulary established under s. 400.143 for the resident of a nursing home facility if the prescriber has agreed to the use of such institutional formulary. The pharmacist may not therapeutically substitute a medicinal drug pursuant to the facility’s institutional formulary if the prescriber indicates verbally or electronically on the prescription “NO THERAPEUTIC SUBSTITUTION,” as authorized under s. 400.143(5)(c).

Section 3. This act shall take effect July 1, 2020.
1-29-20
Meeting Date

Topic
NH Formularies

Name
Cliff Bauer

Job Title
VP.

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing
Miami Jewish Health

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 1/28/20

Topic: What We Can Do Today Can Improve

Name: David Sender

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City: Fort Lauderdale

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Email: sinder1955@earthlink.net

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against

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

Representing:

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

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

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

APPEARANCE RECORD

Meeting Date: 1-28-20

Bill Number (if applicable): SB 1020

Amendment Barcode (if applicable): 

Topic: NA Formularies

Name: CLIFF BAUCER

Job Title: VP - Miami Jewish Health

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Email: 

City: MIAMI

State: FL

Zip: 331

Speaking: ☑ For ☐ Against ☐ Information

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

Representing: MIAMI JEWISH HEALTH

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 1/28/20

Bill Number (if applicable) 10/20

Amendment Barcode (if applicable)

Topic

Name Barr Asztalos

Job Title Chief Lobbyist

Address 307 W Park Ave

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City State Zip

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Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(Chair will read this information into the record.)

Representing Florida Health Care Assoc

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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S-001 (10/14/14)
The Florida Senate

Appearance Record

Meeting Date: 1/25/20

Bill Number: SB 1020

Topic: Institutional Formularies

Name: GREG MILANICH

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          BRECKSVILLE, OH 44141

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Speaking: ☑ For ☐ Against ☐ Information

Representing: Pro Medica - HCR Manor Care

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

Appearing at request of Chair: ☑ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

1-28-2020

Meeting Date

Institutional Formularies

Topic

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Speaking: [ ] For [ ] Against [ ] Information

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

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Representing

Polaris Pharmacy Services

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

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

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

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

CS/SB 1324 makes a number of changes to the laws relating to child welfare designed to increase the accountability of parents with children in out-of-home care, encourage better communication between caregivers and birth parents, and shorten the length of time children spend in out-of-home care. Specifically, the bill:

- Requires circuit and county court judges for dependency cases to receive education relating to early childhood development, which includes the value of strong parent-child relationships, secure attachments, stable placements and the impact of trauma on children in out-of-home care.
- Codifies the creation and establishment of early childhood court (ECC) programs that serve the needs of children (typically under the age of three) in dependency court by using specialized dockets, multidisciplinary teams, evidence-based treatment and a nonadversarial approach.
- Requires that background screenings for prospective foster parents be completed within 14 business days after criminal history results are received by the Department of Children and Families (DCF), unless additional information is needed to complete processing.
- Requires the DCF to notify the court of any report to the central abuse hotline that involves a child under court jurisdiction.
- Allows the DCF to file a shelter or dependency petition without the need for a new child protective investigation or the concurrence of the child protective investigator if the department determines that the safety plan is no longer sufficient to keep the child safe or
that the parent or caregiver has not sufficiently increased his or her level of protective capacities to ensure the child’s safety.

- Provides factors for the court to consider when determining whether a change of legal custody or placement is in the child’s best interest.
- Provides circumstances under which a court may remove a child and place him or her in out-of-home care if a child was placed in the child’s own home with an in-home safety plan or was reunited with a parent with an in-home safety plan.
- Provides legislative findings and intent and codifies provisions and responsibilities for working partnerships between foster parents and birth parents in order to ensure that children in out-of-home care achieve permanency as soon as possible, to reduce the likelihood they will re-enter care, and to ensure that families are prepared to resume care of their children.
- Provides a process for a community-based care lead agency (CBC) to demonstrate the need to directly provide more than 35 percent of all child welfare services in the lead agency’s service area.
- Specifies timelines and steps in the process necessary for both foster parent licensing and approval of adoptive parents.
- Contingent upon an annual appropriation, requires the Office of the State Courts Administrator (OSCA) to establish a community coordinator position for each circuit to coordinate the ECC program and manage data collection between the participating ECC court teams.
- Authorizes OSCA to hire a statewide training specialist to provide training to the ECC court teams, contingent upon an annual appropriation.
- Contingent upon an annual appropriation, requires the DCF to contract with one or more university-based centers with expertise in mental health, requiring that the center(s) hire a clinical director to oversee the clinical training of ECC court teams.

The bill will have a significant, additional fiscal impact on state government. See Section V.

The bill takes effect on July 1, 2020.

II. Present Situation:

Judicial Education

The Florida Court Education Council was established in 1978 and charged with providing oversight of the development and maintenance of a comprehensive educational program for Florida judges and certain court support personnel. The Council’s responsibilities include making budgetary, programmatic, and policy recommendations to the Supreme Court regarding continuing education for Florida judges and certain court professionals.

All judges new to the bench are required to complete the Florida Judicial College program during their first year of judicial service following selection to the bench. Taught by faculty chosen from among the state’s most experienced trial and appellate court judges, the College’s curriculum includes:

- A comprehensive orientation program in January, including an in-depth trial skills workshop, a mock trial experience and other classes.
• Intensive substantive law courses in March, incorporating education for both new trial judges and those who are switching divisions.
• A separate program designed especially for new appellate judges.
• A mentor program providing new trial court judges regular one-to-one guidance from experienced judges.¹

All Florida county, circuit, and appellate judges and Florida supreme court justices are required to comply with the following judicial education requirements:
• Each judge and justice shall complete a minimum of 30 credit hours of approved judicial education programs every three years.
• Each judge or justice must complete four hours of training in the area of judicial ethics. Approved courses in fairness and diversity also can be used to fulfill the judicial ethics requirement.
• In addition to the 30-hour requirement, every judge new to a level of trial court must complete the Florida Judicial College program in that judge's first year of judicial service following selection to that level of court.
• Every new appellate court judge or justice must, within two years following selection to that level of court, complete an approved appellate-judge program. Every new appellate judge who has never been a trial judge or who has never attended Phase I of the Florida Judicial College as a magistrate must also attend Phase I of the Florida Judicial College in that judge's first year of judicial service following appointment.²

To help judges satisfy this educational requirement, Florida Judiciary Education currently presents a variety of educational programs for new judges, experienced judges, and some court staff. About 900 hours of instruction are offered each year through live presentations and distance learning formats. This education helps judges and staff to enhance their legal knowledge, administrative skills and ethical standards.

In addition, extensive information is available to judges handling dependency cases in the Dependency Benchbook. The book is a compilation of promising and science-informed practices as well as a legal resource guide. It is a comprehensive tool for judges, providing information regarding legal and non-legal considerations in dependency cases. Topics covered include the importance of a secure attachment with a primary caregiver, the advantages of stable placements and the effects of trauma on child development.³

Early Childhood Courts

Problem-Solving Courts

In 1989, Florida started problem-solving court initiatives by creating the first drug court in the

United States in Miami-Dade County. Other types of problem-solving court dockets subsequently followed using the drug court model and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, and child abuse and neglect.  

Florida's problem-solving courts address the root causes of an individual’s involvement with the justice system through specialized dockets, multidisciplinary teams, and a nonadversarial approach. Offering evidence-based treatment, judicial supervision, and accountability, problem-solving courts provide individualized interventions for participants, to reduce recidivism and promote confidence and satisfaction with the justice system process.

**Early Childhood Courts in Florida**

Early childhood courts (ECC) address child welfare cases involving children typically under the age of three. ECC is considered a "problem-solving court" that is coordinated by the Office of the State Courts Administrator with a goal of improving child safety and well-being, healing trauma and repairing the parent-child relationship, expediting permanency, preventing recurrence of maltreatment, and stopping the intergenerational cycle of abuse/neglect/violence.

Using the Miami Child Well-Being Court model and the National ZERO TO THREE organization’s Safe Babies Court Teams approach, Florida’s ECC program began a little more than four years ago. Currently, there are 24 ECC programs in Florida.

The Legislature appropriated $11.3 million in the State Courts in Fiscal Year 2019-2020 for problem-solving courts, including early childhood courts. The Trial Court Budget Commission determines the allocation of those funds to the circuits.

**The Miami Child Well-Being Court**

The development of the Miami Child Well-Being Court (CWBC) model began in the early 1990s out of an atypical collaboration that included a judge, a psychologist, and an early interventionist/education expert. The Miami CWBC model evolved over the course of more than a decade and is now widely recognized as one of the country’s leading court improvement efforts, with ties to the National Council for Juvenile and Family Court Judges and Office of Juvenile Justice and Delinquency Prevention Model Courts Project.

The Miami CWBC was unique due to the leadership of a judge who insisted that the court process should be informed by the science of early childhood development and who required the

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4 The most common problem-solving courts in Florida are drug courts, mental health courts, veterans courts and early childhood courts. Florida Courts, Office of Court Improvement, Problem-Solving Courts, available at: https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts (last visited October 2, 2019).

5 Id.


7 Id.


The Miami CWBC galvanized the long-term commitment and shared vision of decision-makers across the judiciary, child welfare, child mental health, and other child- and family-serving systems in Miami-Dade to create meaningful, lasting change for court involved children and their families. The Miami CWBC model is anchored by three essential principles:

- The needs of vulnerable children involved in dependency court will be best served through a problem-solving court approach led by a science informed judge. This approach is realized through a court team that is committed to collaboration in the interest of the child’s safety and emotional well-being. In addition to the judge, the court team includes the attorney representing the parent, the attorney for the state, the guardian ad litem (GAL) or court-appointed special advocate, child’s attorney, or both; and the child welfare caseworker.

- Young children exposed to maltreatment and other harmful experiences need evidence-based clinical intervention to restore their sense of safety and trust and ameliorate early emotional and behavioral problems. Such intervention must address the child-caregiver relationship and has the potential to catalyze the parent’s insight to address the risks to the child’s safety and well-being. The intervention employed in the Miami CWBC is Child-Parent Psychotherapy applied to the context of court-ordered treatment.

- The judicial decision-making process is improved when the treating clinician provides ongoing assessment of the child-parent relationship, the parent’s ability to protect and care for the child, and the child’s wellbeing. This is best accomplished by involving the clinician on the court team to collaborate with the other parties involved in the court proceeding. This unusual role for the clinician in the court process is actively supported by the judge.  

### Safe Babies Court Teams

The ZERO TO THREE program was founded in 1977 as the National Center for Clinical Infant Programs by internationally recognized professionals in the fields of medicine, mental health, social science research, child development and community leadership interested in advancing the healthy development of infants, toddlers, and families. ZERO TO THREE has a history of turning the science of early development into helpful resources, practical tools and responsive policies for millions of parents, professionals, and policymakers. The organization houses a number of programs including Safe Babies Court Teams.  

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11 In 1994, Dr. Joy Osofsky began developing a similar court in New Orleans, working through an “infant team” of judges, lawyers, therapists and others to provide interventions for abused and neglected babies. They had two goals: to achieve permanency more quickly, although not necessarily reunification, and to prevent further abuse and neglect.


13 ZERO TO THREE, Our History, available at: [https://www.zerotothree.org/about/our-history](https://www.zerotothree.org/about/our-history) (last visited September 30, 2019).
In 2003, in partnership with the National Council of Juvenile and Family Court Judges, Court Teams for Maltreated Infants and Toddlers were conceptualized and in 2005, the first court teams were established in Fort Bend, Texas; Hattiesburg, Mississippi; and Des Moines, Iowa. Currently, the initiative operates in multiple sites around the country.\footnote{\textsuperscript{14} ZERO TO THREE, The Safe Babies Court Team Approach: Championing Children, Encouraging Parents, Engaging Communities, \url{https://www.zerotothree.org/resources/528-the-safe-babies-court-team-approach-championingchildren-encouraging-parents-engaging-communities} (last visited September 30, 2019).}

Based on the Miami Child Well-Being Court and the New Orleans models,\footnote{\textsuperscript{15} ACES Too High, In Safe Babies Courts, 99% of kids don’t suffer more abuse — but less than 1% of U.S. family courts are Safe Babies Courts. February 23, 2015, \url{https://acestoohigh.com/2015/02/23/in-safe-babies-courts-99-of-kids-dont-suffer-more-abuse-but-less-than-1-of-us-family-courts-are-safe-babies-courts/} (last visited October 1, 2019).} the Safe Babies Court Teams Project is based on developmental science and aims to:

- Increase awareness among those who work with maltreated infants and toddlers about the negative impact of abuse and neglect on very young children; and,
- Change local systems to improve outcomes and prevent future court involvement in the lives of very young children.\footnote{\textsuperscript{16} Id. Safe Babies Courts differ from the other models by providing community coordinators who work with court personnel to keep the process on track.}

This approach is recognized by the California Evidence-Based Clearinghouse for Child Welfare as being highly relevant to the child welfare system and demonstrating promising research evidence.\footnote{\textsuperscript{17} ZERO TO THREE, Safe Babies Court Teams, \url{https://www.zerotothree.org/our-work/safe-babies-court-team} (last visited October 1, 2019).}

The following timeframes are based on data extracted from the Florida Dependency Court Information System (FDCIS) in December 2018, for children who were removed from their parents’ care due to allegations of abandonment, abuse, or neglect. These measures compare groups of children ages 0 to 3 at the time of removal who were in the Early Childhood Court (ECC) program to children ages 0 to 3 who were not in the ECC program.\footnote{\textsuperscript{18} The California Evidence-Based Clearinghouse for Child Welfare, \url{http://www.cebc4cw.org/program/safe-babies-court-teams-project} (last visited September 30, 2019).}

<table>
<thead>
<tr>
<th>Measure</th>
<th># For Children not in ECC</th>
<th># For Children in ECC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median number of days from removal to reunification closure</td>
<td>736.2</td>
<td>477.1</td>
</tr>
<tr>
<td>Median number of days from removal to adoption closure</td>
<td>699.0</td>
<td>687.3</td>
</tr>
<tr>
<td>Median number of days from removal to permanent guardianship</td>
<td>683.3</td>
<td>453.1</td>
</tr>
<tr>
<td>Average time to overall permanency in days</td>
<td>695.0</td>
<td>552.9</td>
</tr>
</tbody>
</table>

Children in ECC had a 40% reduction in recurrence of maltreatment compared to non-ECC children.\footnote{\textsuperscript{19} Florida Courts, Office of Court Improvement, Early Childhood Courts, \url{https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Early-Childhood-Courts} (last visited October 1, 2019).}

\footnotesize{\textsuperscript{14} ZERO TO THREE, The Safe Babies Court Team Approach: Championing Children, Encouraging Parents, Engaging Communities, \url{https://www.zerotothree.org/resources/528-the-safe-babies-court-team-approach-championingchildren-encouraging-parents-engaging-communities} (last visited September 30, 2019).}

\footnotesize{\textsuperscript{15} ACES Too High, In Safe Babies Courts, 99% of kids don’t suffer more abuse — but less than 1% of U.S. family courts are Safe Babies Courts. February 23, 2015, \url{https://acestoohigh.com/2015/02/23/in-safe-babies-courts-99-of-kids-dont-suffer-more-abuse-but-less-than-1-of-us-family-courts-are-safe-babies-courts/} (last visited October 1, 2019).}

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\footnotesize{\textsuperscript{19} Florida Courts, Office of Court Improvement, Early Childhood Courts, \url{https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Early-Childhood-Courts} (last visited October 1, 2019).}
Shortening the time children spend in out-of-home care should serve as a potential cost savings for the state due to the reduction in out-of-home care cost.

### Differences Between Early Childhood Courts and Regular Dependency Courts

<table>
<thead>
<tr>
<th>Services</th>
<th>Early Childhood Court</th>
<th>“Regular” Dependency Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court hearings</td>
<td>Monthly hearings assess progress and solve problems quickly.</td>
<td>Only a 6-month judicial review.</td>
</tr>
<tr>
<td>Community Coordinator</td>
<td>Coordinates monthly parent team meetings to prioritize family services, integrate fast track services to expedite permanency for the child.</td>
<td>No coordinator. Case plans may not address real family needs. Reviewed every 6 months; not fluid to changing family needs that impact permanency. Needed services often delayed or wait listed.</td>
</tr>
<tr>
<td>Integrated Multidisciplinary Team approach</td>
<td>Families encouraged and supported by multidisciplinary team including court staff, community-based care case managers, attorneys, GAL staff &amp; volunteers, and clinicians specializing in Child Parent Therapy.</td>
<td>No teams. Piecemeal services. Not integrated. Families struggle to get needed services timely and to complete case plan.</td>
</tr>
<tr>
<td>Visitation</td>
<td>Daily contact encouraged (3x week minimum) to strengthen parent child attachment &amp; promote reunification.</td>
<td>Only monthly visitation required in statute.</td>
</tr>
<tr>
<td>Evidence based Clinical services</td>
<td>Child Parent Therapy offered to all families in ECC to heal trauma, improve parenting &amp; optimize child/parent relationship. Clinician reports to court to inform decisions toward stable placement.</td>
<td>Therapies and evidence-based interventions not usually offered to children younger than age 5 and their families.</td>
</tr>
<tr>
<td>Time to permanency</td>
<td>Spent 112 days less in the system than non-ECC children to reach a permanent stable family (reunification or placed with relative or non-relative) in 2016.</td>
<td>Stayed in out-of-home care 112 days longer than ECC children in 2016.</td>
</tr>
<tr>
<td>Re-entry into child welfare</td>
<td>Only two ECC children re-entered the system in 2016 (3.39% compared to 3.86% for non-ECC children).</td>
<td>Statewide recurrence is 9.69%.</td>
</tr>
</tbody>
</table>

### Post Disposition Change of Custody

Currently, the court may change the temporary legal custody or the conditions of protective supervision at a post disposition hearing, without the necessity of another adjudicatory hearing. The standard for changing custody of the child is in the best interest of the child. When applying this standard, the court considers the continuity of the child’s placement in the same out-of-home residence as a factor when determining the best interests of the child. If the child is not placed in
foster care, then the new placement for the child must meet the home study criteria and court approval pursuant to this chapter.20

- In cases where the issue before the court is whether a child should be reunited with a parent, the court reviews the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the DCF will not be detrimental to the child’s safety, well-being, and physical, mental, and emotional health.21

- In cases where the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the DCF will not be detrimental to the child, the standard is that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.22

Adoption Home Study and Screening

- The adoption of a child from Florida’s foster care system is a process that the DCF estimates can usually be completed within nine months. The process typically includes an orientation session, an in-depth training program to help prospective parents determine if adoption is right for the family, a home study and a background check. Once the process has been completed, prospective parents are ready to be matched with a child available for adoption.23

- The prospective adoptive parents’ initial inquiry to the department or to the community-based care lead agency (CBC) or subcontractor staff, whether written or verbal, must receive a written response or a telephone call within seven business days. Prospective adoptive parents who indicate an interest in adopting children must be referred to a department approved adoptive parent training program, as prescribed in rule 65C-13.024, F.A.C.

- An application to adopt must be made on the “Adoptive Home Application.”

- An adoptive home study which includes observation, screening and evaluation of the child and adoptive applicants must be completed by a staff person with the CBC, subcontractor agency, or other licensed child-placing agency prior to the adoptive placement of the child. The aim of this evaluation is to select families who will be able to meet the physical, emotional, social, educational and financial needs of a child, while safeguarding the child from further loss and separation from siblings and significant adults. The adoptive home study is valid for 12 months from the approval date. An adoptive parent application file consists of the following documentation including, but not limited to:
  - The child’s choice, if the child is developmentally able to participate in the decision. The child’s consent to the adoption is required if the child is age 12 or older unless excused by the court;

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20 Section 39.522, F.S.
21 Id.
22 Id.
The ability and willingness of the adoptive family to adopt some or all of a sibling group, although no individual child shall be impeded or disadvantaged in receiving an adoptive family due to the inability of the adoptive family to adopt all siblings. The needs of each individual child must be considered, as well as the family’s demonstrated efforts to maintain the sibling connection;

- The commitment of the applicant to value, respect, appreciate, and educate the child regarding his or her racial and ethnic heritage and to permit the child the opportunity to know and appreciate that ethnic and racial heritage;

- The family’s child rearing experience;
- Marital status;
- Residence;
- Income;
- Housing;
- Health;
- Other children and household members;
- All adoptive applicants must complete the requirements for background screening as outlined in rule 65C-16.007, F.A.C. which includes abuse and neglect history checks on all adoptive applicants and other household members 12 years of age and older, pursuant to sections 39.0138 and 39.521, F.S.; and

- References.

The department approved adoptive parent training must be provided to and successfully completed by all prospective adoptive parents except licensed foster parents and relative and non-relative caregivers who previously attended the training within the last five years, as prescribed in rule 65C-13.024, F.A.C., or have the child currently placed in their home for six months or longer and been determined to understand the challenges and parenting skills needed to successfully parent the children available for adoption from foster care.

There are a number of factors that can affect the time necessary for the typical adoption home study process to be completed.

**Foster Care Licensing Home Study and Background Screening**

Current law provides for the establishment of licensing requirements for family foster homes, residential child-caring agencies, and child-placing agencies in order to protect the health, safety, and well-being of all children in the state who are cared for by these homes and agencies and provides procedures to determine adherence to these requirements.  

- Each applicant wishing to become a licensed out-of-home caregiver must complete the “Application for License to Provide Out-of-Home Care for Dependent Children.” Persons living together in a caretaking role must both sign the application.
- The child-placing agency completing the Unified Home Study must, at a minimum, conduct two visits to the applicant’s home, inspect the entire indoor and outdoor premises, document the conditions, and conduct face-to-face interviews with all household members. The dates, names of persons interviewed and summary of these interviews shall be documented in the Unified Home Study.

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24 Section 409.175, F.S.
• A staff person, certified pursuant to section 402.40, F.S., from the supervising agency must perform a thorough assessment of each prospective licensed out-of-home caregiver and document this assessment in the Unified Home Study section of Florida Safe Families Network (FSFN). The assessment must include an extensive and comprehensive list of information.

• The Unified Home Study must be reviewed and signed by the applicant, licensing counselor and his or her supervisor. A copy of the Unified Home Study shall be provided to the applicant. The complete application file must be submitted in accordance with the traditional or attestation model for licensure. A request for additional information shall be submitted by the Regional Licensing Authority within 10 business days of receipt of the file. A traditional licensing application file must consist of the following documentation including, but not limited to:
  o Application for license to provide out-of-home care for dependent children;
  o Unified home study;
  o Proof of income;
  o A “Partnership Plan for Children in Out-of-Home Care;”
  o Parent Preparation Pre-service Training certificate;
  o Verification of criminal history screening for applicant and all household members as specified in subsection 65C-13.023(2), F.A.C.;
  o Required references; and
  o Family documents.

A licensing specialist who has been trained by the DCF or other state entity, such as the local health department, in the areas of water supply, food holding temperature, plumbing, pest control, sewage, and garbage disposal, must complete the Foster Home Inspection Checklist, incorporated by reference in rule 65C-13025, F.A.C.

If the application file is approved, a license must be issued to the applicant. The license must include the name and address of the caregiver, the name of the supervising agency, the licensed capacity, and the dates for which the license is valid. The DCF Regional Managing Director or designee within upper level management shall sign the license. Any limitations must be displayed on the license. The CBC or supervising agency is responsible for ensuring the license is sent to the foster parent.\(^{25}\)

If the DCF determines that the application will be denied, the department must within 10 business days notify the applicant and supervising agency by certified mail, identifying the reasons for the denial of the license, the statutory authority for the denial of the license, and the applicant’s right of appeal pursuant to chapter 120, F.S.\(^{26}\)

**Parenting Partnerships**

*Quality Parenting Initiative (QPI)*

The Quality Parenting Initiative, a strategy of the Youth Law Center in California, is an approach to strengthening foster care, refocusing on excellent parenting for all children in the child welfare

\(^{25}\) 65C-13025, F.A.C.

\(^{26}\) *Id.*
system. It was launched in 2008 in Florida, and as of 2018, over 75 jurisdictions in 10 states
(California, Florida, Illinois, Louisiana, Minnesota, Nevada, Ohio, Pennsylvania, Texas and
Wisconsin) have adopted the QPI approach.\(^{27}\)

In order to thrive, all children need excellent parenting. When parents cannot care for their
children, the foster parent or other caregiver must be able to provide the loving, committed,
skilled care that the child needs, in partnership with the system, to ensure that children thrive.
Both the caregiver’s parenting skills and the system’s policies and practices should be based on
child development research, information and tools. QPI is based on five core principles:
- Excellent parenting is the most important service we can provide to children in out-of-home
care. Children need families, not beds;
- Child development and trauma research indicates that children need constant, consistent,
effective parenting to grow and reach their full potential;
- Each community must define excellent parenting for itself;
- Policy and practice must be changed to align with that definition; and
- Participants in the system are in the best position to recommend and implement that
change.\(^{28}\)

QPI is an approach, a philosophy and a network of sites that share information and ideas about
how to improve parenting as well as recruit and retain excellent families. It is an effort to rebrand
foster care, not simply by changing a logo or an advertisement, but by changing the expectations
of and support for caregivers. The child welfare system commits to fully supporting excellent
parenting by putting the needs of the child first. QPI was developed to ensure that every child
removed from the home because of abandonment, abuse or neglect is cared for by a foster family
who provides skilled, nurturing parenting while helping the child maintain connections with his
or her family.\(^{29}\)

When QPI is successful, caregivers have a voice. They work as a team with agency staff, case
workers, birth parents, courts, attorneys and others to protect the child’s best interests.
Caregivers receive the support and training they need to work with children and families,
understand what is expected of them, and know what to expect from the system. Systems are
then able to select and retain enough excellent caregivers to meet the needs of each child for a
home and family. When these changes are accomplished, outcomes for children and their
families will improve.\(^{30}\)

In 2013, the legislature enacted some of the basic principles of quality parenting including, but
not limited to, roles and responsibilities for caregivers, the DCF, CBC and other agency staff,
transitions for children changing placements and information sharing.\(^{31}\)

\(^{28}\) Id.
\(^{29}\) Id.
\(^{30}\) Id.
\(^{31}\) Section 409.145, F.S.
III. **Effect of Proposed Changes:**

**Section 1** amends s. 25.385, F.S., relating to standards for instruction of circuit and county court judges, to require circuit and county court judges for dependency cases to receive education relating to the value of secure attachments, stable placements and the impact of trauma on children in out-of-home care.

**Section 2** creates s. 39.01304, F.S., relating to early childhood courts, to codify the creation and establishment of early childhood court programs that serve cases involving children typically under the age of three by using specialized dockets, multidisciplinary teams, evidence-based treatment and a nonadversarial approach.

**Section 3** amends s. 39.0138, F.S., relating to criminal history and other records checks, to require that background screenings for prospective foster parents be completed within 14 business days after criminal history results are received by the Department of Children and Families (DCF), unless additional information regarding the criminal history is required to complete processing.

**Section 4** amends s. 39.301, F.S., relating to protective investigations, to require the DCF to notify the court of any report to the central abuse hotline that involves a child under court jurisdiction. The amendments to s. 39.301, F.S., also allow the department to file a shelter or dependency petition without the need for a new child protective investigation or the concurrence of the child protective investigator if the department determines that the safety plan is no longer sufficient to keep the child safe or that the parent or caregiver has not sufficiently increased his or her level of protective capacities to ensure the child’s safety.

**Section 5** amends s. 39.522, F.S., relating to post disposition change of custody, to provide factors for the court to consider when determining whether a change of legal custody or placement is in the child’s best interest. Those factors include:

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

The amendments to s. 39.522, F.S., also provide circumstances under which a court may remove a child and place a child in out-of-home care if such child was placed in his or her own home
with an in-home safety plan or was reunited with a parent with an in-home safety plan. Those circumstances include:

- The child is abused, neglected, or abandoned by the parent or caregiver, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment.
- The parent or caregiver has materially violated a condition of placement imposed by the court, including, but not limited to, not complying with the in-home safety plan or case plan.
- The parent or caregiver is unlikely within a reasonable amount of time to achieve the full protective capacities needed to keep the child safe without an in-home safety plan.

If a child meets the above criteria for removal and placement in out-of-home care, the court must consider all of the following in making its determination to remove the child and place the child in out-of-home care:

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

**Section 6** amends s. 39.6011, F.S., relating to case plan development, to include in provisions required in a case plan the responsibility of the parents and caregivers to work together to successfully implement the case plan. The case plan must specify how the case manager will assist the parents and caregivers in developing a productive relationship, including meaningful communication and mutual support.

**Section 7** amends s. 39.701, F.S., relating to judicial reviews, to require the court to retain jurisdiction over a child placed in a home with a parent or caregiver with an in-home safety plan and update language related to service providers. It also requires the case plan assessment made before every judicial review to include a statement related to the working relationship between the parents of a child and the caregivers.

**Section 8** amends s. 63.092, F.S., relating to preliminary home studies, to require that preliminary home studies for identified prospective adoptive minors that are in the custody of the DCF be completed within 30 days of initiation.

**Section 9** creates s. 63.093, F.S., relating to the adoption of a child from the child welfare system to specify the requirements in the process.

**Section 10** creates s. 409.1415, F.S., relating to parenting partnerships, to provide legislative findings and intent and codify provisions and responsibilities for working partnerships between foster parents and birth parents in order to ensure that children in out-of-home care achieve permanency as soon as possible, to reduce the likelihood they will re-enter care and to ensure that families are prepared to resume care of their children.

**Section 11** amends s. 409.145, F.S., relating to care of children and quality parenting, to remove similar provisions being relocated to newly created s. 409.1415, F.S.
Section 12 amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies, to require that a licensing study of a family foster home must be completed by the DCF or an authorized licensed child-placing agency within 30 days of initiation. It also sets timelines and requirements for the entire licensure process.

Section 13 amends s. 409.988, F.S., relating to duties of community-based care lead agencies, to provide a process for a lead agency to demonstrate the need to provide more than 35 percent of all child welfare services in the lead agency’s service area. Currently, a lead agency is prohibited from directly providing more than 35 percent of all child welfare services in the lead agency’s service area.

Section 14 amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, to conform to changes made by the act.

Section 15 amends s. 39.6225, F.S., relating to the Guardianship Assistance Program, to conform to changes made by the act.

Section 16 amends s. 393.065, F.S., relating to application and eligibility determination for developmental disability services, to conform to changes made by the act.

Section 17 amends s. 409.1451, F.S., relating to independent living services, to conform to changes made by the act.

Section 18 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.
V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 1324 is expected to have a significant fiscal impact on the expenditures of the State Courts and Department of Children and Families (DCF) due to the need for additional staffing, training and contracted services. However, CS/SB 1324 provides that funding is “contingent upon an annual appropriation by the Legislature, and subject to available resources.”

State Courts

Judicial Time and Workload

The total fiscal impact of the bill cannot be accurately determined due to the unavailability of data needed to quantifiably establish the increase in judicial time and workload resulting from increased time or quantity of early childhood court (ECC) hearings as well as the actual number of staff required to meet the requirements of the bill.\(^{32}\)

Trial court judicial workload is measured using a case weighting system that calculates the amount of time that it takes for a judge to dispose of a case. Passage of this bill may impact the case weighting system. The number of case filings using the case weighting system is used to determine the needs for additional judicial resources each year. Any judicial workload increases in the future as a result of this bill will be reflected in the Supreme Court’s annual opinion In re: Certification of Need for Additional Judges.\(^{33}\)

Additional Positions and Training

The bill will also have a fiscal impact on the state by requiring specialized staff and support services. Each circuit with an early childhood court would need a community coordinator. In addition, the bill would require training for judges, magistrates and staff. The Office of State Courts Administrator estimates the additional costs of the bill as follows:


\(^{33}\) Id.
<table>
<thead>
<tr>
<th>FTE and Other Costs</th>
<th>Number of FTE</th>
<th>Recurring Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statewide training specialist</td>
<td>1</td>
<td>$101,442</td>
</tr>
<tr>
<td>Court community coordinators and oversight positions</td>
<td>20</td>
<td>$1,912,128</td>
</tr>
<tr>
<td>Training requirements</td>
<td></td>
<td>$100,000</td>
</tr>
<tr>
<td>Total FTE/Costs for State Courts</td>
<td>21</td>
<td><strong>$2,113,570</strong></td>
</tr>
</tbody>
</table>

Potentially, a cost savings from the use of an ECC program might be realized in the future when the federal Families First Prevention Services Act is implemented during federal Fiscal Year 2021-2022. The ECC program and its use of some model of parent-child therapy might be eligible for federal funding for prevention services.

**Department of Children and Families**

The bill requires the department to contract with one or more university-based centers with an expertise in infant mental health, and the center(s) must hire a statewide clinical director. The statewide clinical director is responsible for ensuring the quality, accountability, and fidelity of the ECC program’s evidence-based treatment, training, and technical assistance related to clinical services. The clinical director is also responsible for ongoing clinical training for ECC court teams. The projected annual recurring cost for the DCF to contract with a university-based center is $136,120.\(^{34}\)

Any additional judicial and state agency workload may be offset to the extent the ECC program and services reduce recidivism. Shortening the time children spend in out-of-home care may reduce costs to the state due to the reduction in out-of-home care costs as well as court time and resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 25.385, 39.0138, 39.301, 39.302, 39.522, 39.6011, 39.6225, 39.701, 63.092, 393.065, 409.145, 409.1451, 409.175, and 409.988.

This bill creates the following sections of the Florida Statutes: 39.01304, 63.093, and 409.1415.

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\(^{34}\) Department of Children and Families, 2020 Bill Analysis, SB 236, September 30, 2019.
IX. Additional Information:

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

   CS by Children, Families, and Elder Affairs on January 15, 2020:
   • Makes changes to provisions relating to the timeframes relating to the completion of
     background screenings and home or licensing studies to reflect the steps in the
     approval of adoptive parents and the licensure of foster homes.

B. Amendments:

   None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
By the Committee on Children, Families, and Elder Affairs; and Senator Simpson

An act relating to child welfare; amending s. 25.385, F.S.; requiring the Florida Court Educational Council to establish certain standards for instruction of circuit and county court judges for dependency cases; requiring the council to provide such instruction on a periodic and timely basis; creating s. 39.01304, F.S.; providing legislative intent; providing a purpose; authorizing circuit courts to create early childhood court programs; requiring that early childhood court programs have certain components; defining the term "therapeutic jurisprudence"; providing requirements and guidelines for the Office of the State Courts Administrator when hiring community coordinators and a statewide training specialist; requiring the Department of Children and Families to contract with certain university-based centers; requiring the university-based centers to hire a clinical director; amending s. 39.0138, F.S.; requiring the department to complete background screenings within a specified timeframe; providing an exception; amending s. 39.301, F.S.; requiring the department to notify the court of certain reports; authorizing the department to file specified petitions under certain circumstances; amending s. 39.522, F.S.; requiring the court to consider specified factors when making a certain determination; authorizing the court or any party to the case to file a petition to place a child in out-of-home care under certain circumstances; requiring the court to consider specified factors when placing a child in out-of-home care; requiring the court to evaluate and change a child's permanency goal under certain circumstances; amending s. 39.6011, F.S.; revising and providing requirements for case plan descriptions; amending s. 39.701, F.S.; requiring the court to retain jurisdiction over a child under certain circumstances; requiring specified parties to disclose certain information to the court; providing for certain caregiver recommendations to the court; requiring the court and citizen review panel to determine whether certain parties have developed a productive relationship; amending s. 63.092, F.S.; providing a deadline for completion of a preliminary home study; creating s. 63.093, F.S.; providing requirements and processes for the adoption of children from the child welfare system; creating s. 409.1415, F.S.; providing legislative findings and intent; requiring the department and community-based care lead agencies to develop and support relationships between certain foster families and legal parents of children; providing responsibilities for foster parents, birth parents, the department, community-based care lead agency staff, and other agency staff; defining the term "excellent parenting"; requiring caregivers employed by residential group homes to meet specified requirements; requiring the department to adopt rules; amending s. 409.145, F.S.;
conforming provisions to changes made by the act;

amending s. 409.175, F.S.; revising requirements for
the licensure of family foster homes; requiring the
department to issue determinations for family foster
home licenses within a specified timeframe; providing
an exception; amending s. 409.988, F.S.; authorizing a
lead agency to provide more than 35 percent of all
child welfare services under certain conditions;
requiring a specified local community alliance, or
specified representatives in certain circumstances, to
review and recommend approval or denial of the lead
agency’s request for a specified exemption; amending
ss. 39.302, 39.6225, 393.065, and 409.1451, F.S.;
conforming cross-references; providing an effective
date.

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

Section 1. Section 25.385, Florida Statutes, is amended to
read:

25.385 Standards for instruction of circuit and county
court judges in handling domestic violence cases.—
(1) The Florida Court Educational Council shall establish
standards for instruction of circuit and county court judges who
have responsibility for domestic violence cases, and the council
shall provide such instruction on a periodic and timely basis.

As used in this subsection, section: 85
(a) the term “domestic violence” has the meaning set forth
in s. 741.28. 87

(b) “Family or household member” has the meaning set forth
in s. 741.28.
(2) The Florida Court Educational Council shall establish
standards for instruction of circuit and county court judges who
have responsibility for dependency cases regarding the benefits
of a secure attachment with a primary caregiver, the importance
of a stable placement, and the impact of trauma on child
development. The council shall provide such instruction to the
circuit and county court judges handling dependency cases on a
periodic and timely basis.

Section 2. Section 39.01304, Florida Statutes, is created
to read:

39.01304 Early childhood court programs.—
(1) It is the intent of the Legislature to encourage the
department, the Department of Health, the Association of Early
Learning Coalitions, and other such agencies; local governments;
interested public or private entities; and individuals to
support the creation and establishment of early childhood court
programs. The purpose of an early childhood court program is to
address the root cause of court involvement through specialized
dockets, multidisciplinary teams, evidence-based treatment, and
the use of a nonadversarial approach. Such programs depend on
the leadership of a judge or magistrate who is educated about
the science of early childhood development and who requires
rigorous efforts to heal children physically and emotionally in
the context of a broad collaboration among professionals from
different systems working directly in the court as a team,
recognizing that the parent-child relationship is the foundation
of child well-being.
(2) A circuit court may create an early childhood court program to serve the needs of infants and toddlers in dependency court. An early childhood court program must have all of the following components:

(a) Therapeutic jurisprudence, which must drive every aspect of judicial practice. The judge or magistrate must support the therapeutic needs of the parent and child in a nonadversarial manner. As used in this paragraph, the term “therapeutic jurisprudence” means the study of how the law may be used as a therapeutic agent and focuses on how laws impact emotional and psychological well-being.

(b) A procedure for coordinating services and resources for families who have a case on the court docket. To meet this requirement, the court may create and fill at least one community coordinator position pursuant to paragraph (3)(a).

(c) A multidisciplinary team made up of key community stakeholders who commit to work with the judge or magistrate to restructure the way the community responds to the needs of maltreated children. The team may include, but is not limited to, early intervention specialists; mental health and infant mental health professionals; attorneys representing children, parents, and the child welfare system; children’s advocates; early learning coalitions and child care providers; substance abuse program providers; primary health care providers; domestic violence advocates; and guardians ad litem. The multidisciplinary team must address the need for children in an early childhood court program to receive medical care in a medical home, a screening for developmental delays conducted by the local agency responsible for complying with part C of the federal Individuals with Disabilities Education Act, and quality child care.

(d) A continuum of mental health services which includes a focus on the parent-child relationship and is appropriate for each child and family served.

(3) Contingent upon an annual appropriation by the Legislature, and subject to available resources:

(a) The Office of the State Courts Administrator shall coordinate with each participating circuit court to create and fill at least one community coordinator position for the circuit’s early childhood court program. Each community coordinator shall provide direct support to the program by coordinating between the multidisciplinary team and the judiciary, coordinating the responsibilities of the participating agencies and service providers, and managing the collection of data for program evaluation and accountability. The Office of State Courts Administrator may hire a statewide training specialist to provide training to the participating court teams.

(b) The department shall contract with one or more university-based centers that have expertise in infant mental health, and such university-based centers shall hire a clinical director charged with ensuring the quality, accountability, and fidelity of the program’s evidence-based treatment, including, but not limited to, training and technical assistance related to clinical services, clinical consultation and guidance for difficult cases, and ongoing clinical training for court teams.

Section 3. Subsection (1) of section 39.0138, Florida Statutes, is amended to read...
Section 39.301, Florida Statutes, are amended to read:

> 39.301 Initiation of protective investigations.—

(1) The department shall conduct a records check through the State Automated Child Welfare Information System (SACWIS) and a local and statewide criminal history records check on all persons, including parents, being considered by the department for placement of a child under this chapter, including all nonrelative placement decisions, and all members of the household, 12 years of age and older, of the person being considered. For purposes of this section, a criminal history records check may include, but is not limited to, submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information, and local criminal records checks through local law enforcement agencies of all household members 18 years of age and older and other visitors to the home. Background screenings must be completed within 14 business days after the department receives the criminal history results, unless additional information regarding the criminal history is required to complete processing. An out-of-state criminal history records check must be initiated for any person 18 years of age or older who resided in another state if that state allows the release of such records. The department shall establish by rule standards for evaluating any information contained in the automated system relating to a person who must be screened for purposes of making a placement decision.

Section 4. Subsection (1) and paragraph (a) of subsection (9) of section 39.301, Florida Statutes, are amended to read:

> 39.301 Initiation of protective investigations.—

(1) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department’s designated district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department’s designated district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification, the central abuse hotline shall also provide information to district staff on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(b) The department shall promptly notify the court of any report to the central abuse hotline that is accepted for a protective investigation and involves a child over whom the court has jurisdiction.

(9) For each report received from the central abuse hotline and accepted for investigation, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following child protective investigation activities to determine child safety:

1. Conduct a review of all relevant, available information...
specific to the child and family and alleged maltreatment;
family child welfare history; local, state, and federal criminal
records checks; and requests for law enforcement assistance
provided by the abuse hotline. Based on a review of available
information, including the allegations in the current report, a
determination shall be made as to whether immediate consultation
should occur with law enforcement, the Child Protection Team, a
domestic violence shelter or advocate, or a substance abuse or
mental health professional. Such consultations should include
discussion as to whether a joint response is necessary and
feasible. A determination shall be made as to whether the person
making the report should be contacted before the face-to-face
interviews with the child and family members.

2. Conduct face-to-face interviews with the child; other
siblings, if any; and the parents, legal custodians, or
caregivers.

3. Assess the child’s residence, including a determination
of the composition of the family and household, including the
name, address, date of birth, social security number, sex, and
race of each child named in the report; any siblings or other
children in the same household or in the care of the same
adults; the parents, legal custodians, or caregivers; and any
other adults in the same household.

4. Determine whether there is any indication that any child
in the family or household has been abused, abandoned, or
neglected; the nature and extent of present or prior injuries,
abuse, or neglect, and any evidence thereof; and a determination
as to the person or persons apparently responsible for the
abuse, abandonment, or neglect, including the name, address,
date of birth, social security number, sex, and race of each
such person.

5. Complete assessment of immediate child safety for each
child based on available records, interviews, and observations
with all persons named in subparagraph 2. and appropriate
collateral contacts, which may include other professionals. The
department’s child protection investigators are hereby
designated a criminal justice agency for the purpose of
accessing criminal justice information to be used for enforcing
this state’s laws concerning the crimes of child abuse,
abandonment, and neglect. This information shall be used solely
for purposes supporting the detection, apprehension,
prosecution, pretrial release, posttrial release, or
rehabilitation of criminal offenders or persons accused of the
crimes of child abuse, abandonment, or neglect and may not be
further disseminated or used for any other purpose.

6. Document the present and impending dangers to each child
based on the identification of inadequate protective capacity
through utilization of a standardized safety assessment
instrument. If present or impending danger is identified, the
child protective investigator must implement a safety plan or
take the child into custody. If present danger is identified and
the child is not removed, the child protective investigator
shall create and implement a safety plan before leaving the home
or the location where there is present danger. If impending
danger is identified, the child protective investigator shall
create and implement a safety plan as soon as necessary to
protect the safety of the child. The child protective
investigator may modify the safety plan if he or she identifies
additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may include tasks or responsibilities for a parent, caregiver, or legal custodian. However, a safety plan may not rely on promissory commitments by the parent, caregiver, or legal custodian who is currently not able to protect the child or on services that are not available or will not result in the safety of the child. A safety plan may not be implemented if for any reason the parents, guardian, or legal custodian lacks the capacity or ability to comply with the plan. If the department is not able to develop a plan that is specific, sufficient, feasible, and sustainable, the department shall file a shelter petition. A child protective investigator shall implement separate safety plans for the perpetrator of domestic violence, if the investigator, using reasonable efforts, can locate the perpetrator to implement a safety plan, and for the parent who is a victim of domestic violence as defined in s. 741.28.

Reasonable efforts to locate a perpetrator include, but are not limited to, a diligent search pursuant to the same requirements as in s. 39.503. If the perpetrator of domestic violence is not the parent, guardian, or legal custodian of any child in the home and if the department does not intend to file a shelter petition or dependency petition that will assert allegations against the perpetrator as a parent of a child in the home, the child protective investigator shall seek issuance of an

injunction authorized by s. 39.504 to implement a safety plan for the perpetrator and impose any other conditions to protect the child. The safety plan for the parent who is a victim of domestic violence may not be shared with the perpetrator. If any party to a safety plan fails to comply with the safety plan resulting in the child being unsafe, the department shall file a shelter petition.

b. The child protective investigator shall collaborate with the community-based care lead agency in the development of the safety plan as necessary to ensure that the safety plan is specific, sufficient, feasible, and sustainable. The child protective investigator shall identify services necessary for the successful implementation of the safety plan. The child protective investigator and the community-based care lead agency shall mobilize service resources to assist all parties in complying with the safety plan. The community-based care lead agency shall prioritize safety plan services to families who have multiple risk factors, including, but not limited to, two or more of the following:

(I) The parent or legal custodian is of young age;

(II) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has a history of substance abuse, mental illness, or domestic violence;

(III) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has been previously found to have physically or sexually abused a child;

(IV) The parent or legal custodian or an adult currently living in or frequently visiting the home has been the subject of multiple allegations by reputable reports of abuse or
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The department may file a petition for shelter or placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interests of the child. When determining whether a change of legal custody or placement is in the best interests of the child, the court shall consider:

1. The child’s age.
2. The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.
3. The stability and longevity of the child’s current placement.
4. The established bonded relationship between the child and the current or proposed caregiver.
5. The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.
6. The recommendation of the child’s current caregiver.
7. The recommendation of the child’s guardian ad litem, if one has been appointed.
8. The child’s previous and current relationship with a sibling, if the change of legal custody or placement will

CODING: Words <del>stricken</del> are deletions; words <undertype>underlined</undertype> are additions.
9. The likelihood of the child attaining permanency in the current or proposed placement.
10. Any other relevant factors.

(b) If the child is not placed in foster care, then the new placement for the child must meet the home study criteria and court approval under this chapter.

(4) The court or any party to the case may file a petition to place a child in out-of-home care after the child was placed in the child’s own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan if:

1. The child has again been abused, neglected, or abandoned by the parent or caregiver, or is suffering from or in imminent danger of illness or injury as a result of abuse, neglect, or abandonment that has recurred or;
2. The parent or caregiver has materially violated a condition of placement imposed by the court, including, but not limited to, not complying with the in-home safety plan or case plan.

(b) If a child meets the criteria in paragraph (a) to be removed and placed in out-of-home care, the court must consider, at a minimum, the following in making its determination to remove the child and place the child in out-of-home care:
1. The circumstances that caused the child’s dependency and other subsequently identified issues.
2. The length of time the child has been placed in the home with an in-home safety plan.
3. The parent’s or caregiver’s current level of protective capacities.

4. The level of increase, if any, in the parent’s or caregiver’s protective capacities since the child’s placement in the home based on the length of time the child has been placed in the home.

(c) The court shall evaluate the child’s permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child.

Section 6. Subsection (5) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(5) The case plan must describe all of the following:
(a) The role of the foster parents or caregivers legal custodians when developing the services that are to be provided to the child, foster parents, or caregivers. legal custodians.
(b) The responsibility of the parents and caregivers to work together to successfully implement the case plan, how the case manager will assist the parents and caregivers in developing a productive relationship that includes meaningful communication and mutual support, and the ability of the parents or caregivers to notify the court or the case manager if ineffective communication takes place that negatively impacts the child.

(c) The responsibility of the case manager to forward a relative’s request to receive notification of all proceedings and hearings submitted under section 39.301(14)(b) to the attorney for the department.

(d) The minimum number of face-to-face meetings to be held each month between the parents and the department’s family case manager will assist the parents and caregivers in work together to successfully implement the case plan, how the case manager will assist the parents and caregivers in developing a productive relationship that includes meaningful communication and mutual support, and the ability of the parents or caregivers to notify the court or the case manager if ineffective communication takes place that negatively impacts the child.

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services counselors to review the progress of the plan, to
eliminate barriers to progress, and to resolve conflicts or
disagreements between parents and caregivers, service providers,
or any other professional assisting the parents in the
completion of the case plan. and

(e) The parent’s responsibility for financial support of
the child, including, but not limited to, health insurance and
child support. The case plan must list the costs associated with
any services or treatment that the parent and child are expected
to receive which are the financial responsibility of the parent.
The determination of child support and other financial support
shall be made independently of any determination of indigency
under s. 39.013.

Section 7. Paragraph (b) of subsection (1) and paragraphs
(a) and (c) of subsection (2) of section 39.701, Florida
Statutes, are amended to read:

39.701 Judicial review.—
(1) GENERAL PROVISIONS.—
(b) 1. The court shall retain jurisdiction over a child
returned to his or her parents for a minimum period of 6 months
following the reunification, but, at that time, based on a
report of the social service agency and the guardian ad litem,
if one has been appointed, and any other relevant factors, the
court shall make a determination as to whether supervision by
the department and the court’s jurisdiction shall continue or be
terminated.

2. Notwithstanding subparagraph 1., the court must retain
jurisdiction over a child if the child is placed in the home
with a parent or caregiver with an in-home safety plan and such

CODING: Words deleted are deletions; words underlined are additions.
(c) Review determinations.—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 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:

1. 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.

2. 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.

3. 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.

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the...
The placement of the child takes into account the child’s best interests and special needs, and 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 lead agency provider that:

a. The placement of the child takes into account the child’s best interests and special needs, and including 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 educational setting and the appropriateness of the current educational setting and the

b. The community-based care lead 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.

c. A projected date likely for the child’s return home or other permanent placement.

d. 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.

e. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child’s preparation for adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

f. If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

g. If the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.
(3) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring agency registered under s. 409.176, a licensed professional, or an agency described in s. 61.20(2), unless the adoptee is an adult or the petitioner is a stepparent or a relative. If the adoptee is an adult or the petitioner is a stepparent or a relative, a preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, child-caring agency registered under s. 409.176, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive minor. Preliminary home studies initiated for identified prospective adoptive minors that are in the custody of the department must be completed within 30 days of initiation. A favorable preliminary home study is valid for 1 year after the date of its completion. Upon its completion, a signed copy of the home study must be provided to the intended adoptive parents who were the subject of the home study. A minor may not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents;
(b) Records checks of the department’s central abuse registry, which the department shall provide to the entity conducting the preliminary home study, and criminal records correspondence checks under s. 39.0138 through the Department of Law Enforcement on the intended adoptive parents;
(c) An assessment of the physical environment of the home;
(d) A determination of the financial security of the intended adoptive parents;
(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting, as determined by the entity conducting the preliminary home study. The training specified in s. 409.175(14) shall only be required for persons who adopt children from the department;
(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;
(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; and
(h) A copy of each signed acknowledgment of receipt of disclosure required by s. 63.085.

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the adoption entity may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final determination as to suitability under this subsection does not act as a presumption of suitability at the final
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hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home. A minor may not be placed in a home in which there resides any person determined by the court to be a sexual predator as defined in s. 775.21 or to have been convicted of an offense listed in s. 63.089(4)(b)2.

Section 9. Section 63.093, Florida Statutes, is created to read:

63.093 Adoption of a child from the child welfare system.—
The adoption of a child from Florida’s foster care system is a process that typically includes an orientation session, an in-depth training program to help prospective parents determine if adoption is right for the family, a home study, and a background check. Once the process has been completed, prospective parents are ready to be matched with a child available for adoption.

(1) The prospective adoptive parents’ initial inquiry to the department or to the community-based care lead agency or subcontractor staff, whether written or verbal, must receive a written response or a telephone call from the department or agency or subcontractor staff, as applicable, within 7 business days after receipt of the inquiry. Prospective adoptive parents who indicate an interest in adopting children in the custody of the department must be referred by the department or agency or subcontractor staff to a department-approved adoptive parent training program as prescribed in rule.

(2) An application to adopt must be made on the “Adoptive Home Application” published by the department.

(3) An adoptive home study that includes observation, screening, and evaluation of the child and adoptive applicants must be completed by a staff person with the community-based care lead agency, the subcontractor agency, or another licensed child-placing agency prior to the adoptive placement of the child. The purpose of this evaluation is to select families who will be able to meet the physical, emotional, social, educational, and financial needs of a child, while safeguarding the child from further loss and separation from siblings and significant adults. The adoptive home study is valid for 12 months from the approval date.

(4) In addition to other required documentation, an adoptive parent application file must include the adoptive home study and verification that all background screening requirements have been met.

(5) The department-approved adoptive parent training must be provided to and successfully completed by all prospective adoptive parents except licensed foster parents and relative and nonrelative caregivers who previously attended the training within the last 5 years, as prescribed in rule, or have the child currently placed in their home for 6 months or longer, and been determined to understand the challenges and parenting skills needed to successfully parent the children available for adoption from foster care.

(6) At the conclusion of the preparation and study process, the counselor and supervisor shall make a decision about the family’s appropriateness to adopt. The decision to approve or not to approve will be reflected in the final recommendation included in the home study. If the recommendation is for approval, the adoptive parent application file must be submitted to the community-based lead agency or subcontractor agency for
Section 10. Section 409.1415, Florida Statutes, is created to read:

409.1415 Parenting partnerships for children in out-of-home care.

(1) LEGISLATIVE FINDINGS AND INTENT.—
   (a) The Legislature finds that reunification is the most common outcome for children in out-of-home care and that foster parents are one of the most important resources to help children reunify with their families.
   (b) The Legislature further finds that the most successful foster parents understand that their role goes beyond supporting the children in their care to supporting the children’s families, as a whole, and that children and their families benefit when foster and birth parents are supported by an agency culture that encourages a meaningful partnership between them and provides quality support.
   (c) Therefore, in keeping with national trends, it is the intent of the Legislature to bring birth parents and foster parents together in order to build strong relationships that lead to more successful reunifications and more stability for children being fostered in out-of-home care.

(2) PARENTING PARTNERSHIPS.—
   (a) General provisions.—In order to ensure that children in out-of-home care achieve legal permanency as soon as possible, to reduce the likelihood that they will re-enter care or that other children in the family are abused or neglected or enter out-of-home care, and to ensure that families are fully prepared to resume custody of their children, the department and community-based care lead agencies shall develop and support relationships between foster families and the legal parents of children in out-of-home care to the extent that it is safe and in the child’s best interest, by:
   1. Facilitating telephone communication between the foster parent and the birth or legal parent as soon as possible after the child is placed in the home,
   2. Facilitating and attending an in-person meeting between the foster parent and the birth or legal parent within 2 weeks after placement,
   3. Developing and supporting a plan for birth or legal parents to participate in medical appointments, educational and extracurricular activities, and other events involving the child,
   4. Facilitating participation by the foster parent in visitation between the birth parent and the child,
   5. Involving the foster parent in planning meetings with the birth parent,
   6. Developing and implementing effective transition plans for the child’s return home or placement in any other living environment,
   7. Supporting continued contact between the foster family and the child after the child returns home or moves to another permanent living arrangement,
   8. Supporting continued connection with the birth parent after adoption.
   (b) Responsibilities.—To ensure that a child in out-of-home care receives support for healthy development which gives him or her the best possible opportunity for success, foster parents,
7. Once a family accepts the responsibility of caring for a child and the child's safety and well-being are a priority, the family must be able to provide quality care for the child. Once a family accepts the responsibility of caring for a child, they must provide, and the department, community-based care lead agency staff, and other agencies must provide caregivers with the services and support they need to enable them to provide quality care for the child.

4. Children in out-of-home care may be placed only with a caregiver who has the ability to care for the child; is willing to accept responsibility for providing care; and is willing and able to learn about and be respectful of the child's culture, religion, and ethnicity, his or her special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies must provide a caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

5. A caregiver must have access to and take advantage of all training that he or she needs to improve his or her skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home; to meet the child's special needs; and to work effectively with child welfare agencies, the courts, the schools, and other community and governmental agencies.

6. The department, community-based care lead agency staff, and other agency staff must provide caregivers with the services and support they need to enable them to provide quality care for the child.

7. Once a family accepts the responsibility of caring for a child in family life; involving the child within his or her community; and a commitment to enable the child to lead a normal life.

Excellent parenting is a reasonable expectation of caregivers. Caregivers must provide, and the department, community-based care lead agency staff, and other agency staff must support, excellent parenting. As used in this subparagraph, the term “excellent parenting” means a loving commitment to the child and the child’s safety and well-being; appropriate supervision and positive methods of discipline; encouragement of the child’s strengths; respect for the child’s individuality and likes and dislikes; providing opportunities for the child to develop interests and skills; being aware of the impact of trauma on behavior; facilitating equal participation of the child in family life; involving the child within his or her community; and a commitment to enable the child to lead a normal life.
A caregiver must work in partnership with the department, community-based care lead agency staff, and other agency staff. Caregivers, the department, community-based care lead agency staff, and other agency staff must support a caregiver in effectively advocating for a child and may not retaliate against the caregiver as a result of this advocacy.

13. A caregiver must be as fully involved in the child’s medical, psychological, and dental care as he or she would be for his or her biological child. Agency staff must support and facilitate such participation. Caregivers, the department, community-based care lead agency staff, and other agency staff must share information with each other about the child’s health and well-being.

14. A caregiver must support a child’s school success, including, when possible, maintaining school stability by participating in school activities and meetings, including individual education plan meetings; assisting with school assignments; supporting tutoring programs; meeting with teachers and working with an educational surrogate, if one has been appointed; and encouraging the child’s participation in extracurricular activities. Agency staff must facilitate this participation and must be kept informed of the child’s progress and needs.
15. Caseworkers and caseworker supervisors must mediate disagreements that occur between foster parents and birth parents.

(c) Residential group homes.—All caregivers employed by residential group homes must meet the same education, training, and background and other screening requirements as foster parents and must adhere to the requirements in paragraph (b).

(3) RULEMAKING.—The department shall adopt by rule procedures to administer this section.

Section 11. Section 409.145, Florida Statutes, is amended to read:

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

(1) SYSTEM OF CARE.—The department shall develop, implement, and administer a coordinated community-based system of care for children who are found to be dependent and their families. This system of care must be directed toward the following goals:

(a) Prevention of separation of children from their families.

(b) Intervention to allow children to remain safely in their own homes.

(c) Reunification of families who have had children removed from their care.

(d) Safety for children who are separated from their families by providing alternative emergency or longer-term parenting arrangements.

(e) Focus on the well-being of children through emphasis on maintaining educational stability and providing timely health care.

(f) Permanency for children for whom reunification with their families is not possible or is not in the best interest of the child.

(g) The transition to independence and self-sufficiency for older children who remain in foster care through adolescence.

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

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

1. Participate in developing the care plan for the child and his or her family and work with others involved in his or her care to implement this plan. This participation includes the caregiver’s involvement in all team meetings or court hearings.
out-of-home care is the first priority, unless not in the best interest of the child.  
1. Include a caregiver in the development and delivery of the child's educational plan, ensuring that the child in the caregiver's care is aware of the requirements and benefits of the Road to Independence Program. 
2. Support the child's educational success by participating in activities and meetings associated with the child's school or other educational setting, including Individual Education Plan meetings and meetings with an educational surrogate if one has been appointed. 
3. Ensure that the child in the caregiver's care is aware of the requirements and benefits of the Road to Independence Program. 
4. Work to enable the child in the caregiver's care to establish and maintain naturally occurring mentoring relationships. 
5. Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication. 
6. Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication. 
7. Educate the caregiver about the child's educational needs, and to work effectively with child welfare agencies, the court, the schools, and other community and governmental agencies. 
8. Provide support and guidance to the caregiver in the development and delivery of the child's educational plan, ensuring that the child in the caregiver's care is aware of the requirements and benefits of the Road to Independence Program. 
9. Support the child's educational success by participating in activities and meetings associated with the child's school or other educational setting, including Individual Education Plan meetings and meetings with an educational surrogate if one has been appointed. 
10. Include a caregiver in the development and delivery of the child's educational plan, ensuring that the child in the caregiver's care is aware of the requirements and benefits of the Road to Independence Program. 
11. Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication. 
12. Support the child's educational success by participating in activities and meetings associated with the child's school or other educational setting, including Individual Education Plan meetings and meetings with an educational surrogate if one has been appointed. 
13. Include a caregiver in the development and delivery of the child's educational plan, ensuring that the child in the caregiver's care is aware of the requirements and benefits of the Road to Independence Program.
implementation of the case plan for the child and his or her family. The caregiver shall be authorized to participate in all team meetings or court hearings related to the child’s care and future plans. The caregiver’s participation shall be facilitated through timely notification, an inclusive process, and alternative methods for participation for a caregiver who cannot be physically present.

2. Develop and make available to the caregiver the information, services, training, and support that the caregiver needs to improve his or her skills in parenting children who have experienced trauma due to neglect, abuse, or separation from home, to meet these children’s special needs, and to educate effectively with child welfare agencies, the courts, schools, and other community and governmental agencies.

3. Provide the caregiver with all information related to services and other benefits that are available to the child.

4. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

(d) Transitions.

1. Once a caregiver accepts the responsibility of caring for a child, the child will be removed from the home of that caregiver only if:

   a. The caregiver is clearly unable to safely or legally care for the child;

   b. The child and his or her biological family are reunified;

   c. The child is being placed in a legally permanent home pursuant to the case plan or a court order; or

   d. The removal is demonstrably in the child’s best interest.

2. In the absence of an emergency, if a child leaves the caregiver’s home for a reason provided under subparagraph 1., the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child’s developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a gradual transition from the caregiver’s home and, if possible, for continued contact with the caregiver after the child leaves.

4. Information sharing. Whenever a foster home or residential group home assumes responsibility for the care of a child, the department and any additional providers shall make available to the caregiver as soon as is practicable all relevant information concerning the child. Records and information that are required to be shared with caregivers include, but are not limited to:

   1. Medical, dental, psychological, psychiatric, and behavioral history, as well as ongoing evaluation or treatment needs;

   2. School records;

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

   4. Consents signed by parent;

   5. Comprehensive behavioral assessments and other social assessments;

   6. Court orders;

   7. Visitation and case plans.
REASONABLE AND PRUDENT PARENT STANDARD.—

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

1. “Age-appropriate” means an activity or item that is generally accepted as suitable for a child of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity which is typical for an age or age group.

2. “Caregiver” means a person with whom the child is placed in out-of-home care, or a designated official for a group care facility licensed by the department under s. 409.175.

3. “Reasonable and prudent parent” standard means the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in extracurricular, enrichment, and social activities. This standard is characterized by careful and thoughtful parental decisionmaking that is intended to maintain a child’s health, safety, and best interest while encouraging the child’s emotional and developmental growth.

(b) Application of standard of care.—
family foster homes, as defined in s. 409.175(5)(a) shall receive a room and board rate of $333.

Section 12. Paragraph (d) of subsection (6) of section 409.175, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

Foster Care Room and Board Rates.

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

<table>
<thead>
<tr>
<th>Age</th>
<th>Monthly Foster Care Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5 Years</td>
<td>$457.95</td>
</tr>
<tr>
<td>6-12 Years</td>
<td>$469.68</td>
</tr>
<tr>
<td>13-21 Years</td>
<td>$549.74</td>
</tr>
</tbody>
</table>

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

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

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

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

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

(g) From July 1, 2018, through June 30, 2019, community-based care lead agencies providing care under contract with the department shall pay a supplemental room and board payment to foster care parents of all family foster homes, on a per-child basis, for providing independent life skills and normalcy supports to children who are 13 through 17 years of age placed in their care. The supplemental payment shall be paid monthly to the foster care parents in addition to the current monthly room and board rate payment. The supplemental monthly payment shall be based on 10 percent of the monthly room and board rate for children 13 through 21 years of age as provided under this section and adjusted annually. Effective July 1, 2019, such supplemental payments shall only be paid to foster parents of level II through level V family foster homes.

(4) RULEMAKING.—The department shall adopt by rule procedures to administer this section.
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409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.—

(6) Upon application for licensure, the department shall conduct a licensing study based on its licensing rules; shall inspect the home or the agency and the records, including financial records, of the applicant or agency; and shall interview the applicant. The department may authorize a licensed child-placing agency to conduct the licensing study of a family foster home to be used exclusively by that agency and to verify to the department that the home meets the licensing requirements established by the department. A licensing study of a family foster home must be completed by the department or an authorized licensed child-placing agency within 30 days of initiation. The department shall post on its website a list of the agencies authorized to conduct such studies.

1. The complete application file shall be submitted in accordance with the traditional or attestation model for licensure as prescribed in rule. In addition to other required documentation, a traditional licensing application file must include a completed licensing study and verification of background screening requirements.

2. The department regional licensing authority shall ensure that the licensing application file is complete and that all licensing requirements are met for the issuance of the license. If the child-placing agency is contracted with a community-based care lead agency, the licensing application file must contain documentation of a review by the community-based care lead agency and the regional licensing authority and a recommendation for approval or denial by the community-based care lead agency.

Upon certification by a licensed child-placing agency that a family foster home meets the licensing requirements and upon receipt of a letter from a community-based care lead agency in the service area where the home will be licensed which indicates that the family foster home meets the criteria established by the lead agency, the department shall issue the license. A letter from the lead agency is not required if the lead agency, where the proposed home is located is directly supervising foster homes in the same service area.

3. An application file must be approved or denied within 10 business days after receipt by the regional licensing authority. If the application file is approved, a license must be issued to the applicant. The must shall include the name and address of the caregiver, the name of the supervising agency, the licensed capacity, and the dates for which the license is valid. The department regional managing director or designee within upper level management shall sign the license. Any limitations must be displayed on the license.

4. The regional licensing authority shall provide a copy of the license to the community-based care lead agency or supervising agency. The community-based care lead agency or supervising agency shall ensure that the license is sent to the foster parent.

(d) The department shall issue a determination regarding an application for a family foster home license within 100 days of completion of orientation as provided in s. 409.175(14)(b)1. Licenses that require additional certifications pursuant to s.
1. The department.
2. The county government.
3. The school district.
guardianship assistance payments based on the following

d) The department shall provide guardianship assistance
payments in the amount of $4,000 annually, paid on a monthly
basis, or in an amount other than $4,000 annually as determined
by the guardian and the department and memorialized in a written
agreement between the guardian and the department. The agreement
shall take into consideration the circumstances of the guardian
and the needs of the child. Changes may not be made without the
concurrence of the guardian. However, in no case shall the
amount of the monthly payment exceed the foster care maintenance
payment that would have been paid during the same period if the
child had been in licensed care at his or her designated level
of care at the rate established in s. 409.145(3).
Section 16. Paragraph (b) of subsection (5) of section
393.065, Florida Statutes, is amended to read:
393.065 Application and eligibility determination.—
(5) The agency shall assign and provide priority to clients
waiting for waiver services in the following order:
(b) Category 2, which includes individuals on the waiting
list who are:
1. From the child welfare system with an open case in the
Department of Children and Families' statewide automated child
welfare information system and who are either:
a. Transitioning out of the child welfare system at the
finalization of an adoption, a reunification with family
members, a permanent placement with a relative, or a
guardianship with a nonrelative; or
b. At least 18 years but not yet 22 years of age and who
would have been in licensed care at his or her designated level
of care at the rate established in s. 409.145(3).
2. At least 18 years but not yet 22 years of age and who
withdrew consent pursuant to s. 39.6251(5)(c) to remain in the
extended foster care system.
3. For individuals who are at least 18 years but not yet 22 years
of age and who are eligible under sub-subparagraph 1.b., the
agency shall provide waiver services, including residential
habilitation, and the community-based care lead agency shall
fund room and board at the rate established in s. 409.145(3)
and provide case management and related services as
defined in s. 409.986(3)(e). Individuals may receive both waiver
services and services under s. 39.6251. Services may not
duplicate services available through the Medicaid state plan.
Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
waiting list of clients placed in the order of the date that the
client is determined eligible for waiver services.
Section 17. Paragraph (b) of subsection (2) of section
409.1451, Florida Statutes, is amended to read:
409.1451 The Road-to-Independence Program.—
(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—
(b) The amount of the financial assistance shall be as
follows:
1. For a young adult who does not remain in foster care and
is attending a postsecondary school as provided in s. 1009.533,
the amount is $1,256 monthly.
2. For a young adult who remains in foster care, is
attending a postsecondary school, as provided in s. 1009.533,
and continues to reside in a licensed foster home, the amount is
the established room and board rate for foster parents. This
takes the place of the payment provided for in s. 409.145(3) and
s. 409.145(4).

3. For a young adult who remains in foster care, but
temporarily resides away from a licensed foster home for
purposes of attending a postsecondary school as provided in s.
1009.533, the amount is $1,256 monthly. This takes the place of
the payment provided for in s. 409.145(3) and s. 409.145(4).

4. For a young adult who remains in foster care, is
attending a postsecondary school as provided in s. 1009.533, and
continues to reside in a licensed group home, the amount is
negotiated between the community-based care lead agency and the
licensed group home provider.

5. For a young adult who remains in foster care, but
temporarily resides away from a licensed group home for purposes
of attending a postsecondary school as provided in s. 1009.533,
the amount is $1,256 monthly. This takes the place of a
negotiated room and board rate.

6. A young adult is eligible to receive financial
assistance during the months when he or she is enrolled in a
postsecondary educational institution.

Section 18. This act shall take effect July 1, 2020.
SB 1326 makes a number of changes to the child welfare and behavioral health programs administered by the Department of Children and Families (the department) to promote accountability and improve program performance. The bill establishes an Office of Quality Assurance and Improvement within the department to measure and monitor the performance of internal and contracted operations of the department. The bill revises the current child welfare and behavioral health accountability reporting requirements. The department will assign a letter grade to contracted entities based on whether they meet performance standards. Those contracted entities that receive poor grades will be offered technical assistance. If improvements are not made, the department will terminate contracts with low performing contracted entities.

The bill requires community based care lead agencies (CBCs), Sheriff’s Offices that investigate child abuse, and contracted attorneys to use the Florida Child Welfare Practice Model. The bill allows the department to investigate certain child abuse reports within 72 hours as opposed to the current requirement of 24 hours, based on certain safety factors. The bill establishes a new funding formula for allocating funds to the CBCs. The bill requires increased funding for CBCs over a four year period based on historical funding inequities and CBC performance.

The bill has a significant fiscal impact on state government. See Section V.

The bill takes effect on July 1, 2020.
II. **Present Situation:**

**Child Abuse and Child Welfare**

A child protective investigation begins with a report by any person to the Florida Abuse Hotline. The state is required to maintain a 24-hour, 7-day capacity for receiving reports of maltreatments. The reports are sent out to child protective investigators (CPIs) across the state to investigate.

The CPI receiving the report is most commonly a department employee, but in seven counties the local sheriff’s office performs the investigative function. There are currently 1,789 positions within the department and Sheriff’s Offices to conduct child abuse investigations.¹

Court hearings are required whenever a child is removed from his or her home. The attorneys in these cases are either department employees or employees of the Attorney General’s Office under contract to the department or, in one case, the state attorney’s office in the 6th circuit (Pinellas and Pasco Counties).

The lead agencies and their subcontractors are the primary providers of services to children and families in the child welfare system. There are currently 17 CBCs with contracts covering all 20 judicial circuits.² The CBCs and their subcontractors employ case managers to oversee the provision of services to children in the child welfare system. Many of the services are not directly provided by the CBCs or the case management subcontractors, but are provided by health care, substance abuse, mental health, and other specialized community based providers.

**Child Welfare Accountability**

Section 409.996 (18), F.S., requires the department, in consultation with the CBCs, to establish a quality assurance program for contracted services to dependent children. The quality assurance program must be based on standards established by federal and state law and national accrediting organizations.

Section 409.997, F.S., established the Child Welfare Results-Oriented Accountability Program. The law states that the department, the CBCs, and the CBC’s subcontractors share the responsibility for achieving the outcome goals specified in s. 409.986(2), F.S. The purpose of the results-oriented accountability program is to monitor and measure the use of resources, the quality and amount of services provided, and child and family outcomes. The program includes data analysis, research review, and evaluation. The program is to produce an assessment of individual entities’ performance, as well as the performance of groups of entities working together on a local, regional, and statewide basis to provide an integrated system of care. Data analyzed and communicated through the accountability program is to inform the department’s development and maintenance of an inclusive, interactive, and evidence-supported program of quality improvement which promotes individual skill building as well as organizational learning.

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¹ Department of Children and Families SB 1326 Bill Analysis, dated January 14, 2020. On file with the Senate Committee on Children, Families and Elder Affairs.

Behavioral Health Managing Entities

In 2008, the Legislature required the department to implement a system of behavioral health managing entities that would serve as regional agencies to manage and pay for mental health and substance abuse services. Prior to this time, the department, through its regional offices, contracted directly with behavioral health service providers. The Legislature found that a management structure that places the responsibility for publicly-financed behavioral health treatment and prevention services within a single private, nonprofit entity at the local level, would promote improved access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. These entities do not provide direct services; rather, they allow the department’s funding to be tailored to the specific behavioral health needs in the various regions of the State. There are currently seven managing entities across the state.

Community Based Care Funding Formula

Section 409.991, F.S., provides the basis for allocating funds for CBCs and defines the differences between “core services” and other specific appropriations that may be provided to CBCs. The core services funds are currently allocated through the equity allocation model. The law defines the three components of the model: proportion of children in the population, proportion of Hotline workload, and proportion of children in care. This method supports per child funding inequities by establishing that 100 percent of recurring core funding is based upon the fiscal year 2014-2015 recurring base of core funding. The equity allocation model is only applied to new funding that is appropriated to the system of care. The statute further establishes that 70 percent of any new funding for the system of care is shared by all CBCs and 30 percent of any new funds will be allocated among CBCs funded below their equitable share.

Because the core services funding for each CBC was established based upon the total expenditure by the Department when the CBCs were created, significant core funding inequities have been institutionalized into the system of care. Since 2006, the “per child in care funding” varies as much as 2:1, from the highest to lowest funded CBC. The lack of equitable funding has led to the creation of risk pool funding, contract amendments, and specific mid-year appropriations to address current year deficits in multiple CBCs. Over the last five fiscal years, the Legislature has appropriated an additional $95 million in nonrecurring funds, or about $19 million annually, to address these operational shortfalls. Additionally, when the Department has reprocured services in these districts, more than half of the markets are essentially non-competitive. According to the department, in eight of the last 19 solicitations, only one provider bid on services for a service area. These districts represent 52 percent of the population of Florida. The perceived underfunding of CBCs has constrained the department’s efforts to hold CBCs accountable for performance and improvement, and to competitively procure for the best providers available.

3 See s. 394.9082, F.S., as created by Chapter 2008-243, Laws of Fla.
III. Effect of Proposed Changes:

Section 1 provides a short title for the bill of the “DCF Accountability Act.”

Section 2 amends s. 20.19, F.S., relating to the organizational structure of the Department of Children and Families, to create the Office of Quality Assurance and Improvement. The secretary of the department shall appoint a Chief Quality Officer to ensure the department and its contracted providers meet the highest level of performance. The bureau-level position is directed to:

- Analyze and monitor the implementation of federal and state laws, rules and policies;
- Develop and implement performance standards and metrics to determine the departments compliance with federal and state laws, rules and policies;
- Identify strengths and weaknesses in the department’s data and its analytic capabilities;
- Identify performance standards and metrics for the department and its service providers, including law enforcement agencies, behavioral health managing entities, CBCs and attorneys;
- Recommend initiatives to correct program and system deficiencies;
- Collaborate with the department’s partners to improve quality, efficiency and effectiveness;
- Report any persistent failures by the department to meet performance standards and recommend corrective actions provided under the bill; and
- Prepare an annual report of all contractual performance metrics for the Secretary of the department.

Section 3 creates s. 39.0012, F.S., entitled child welfare accountability. The bill provides intent language that the Legislature finds that:

- The child welfare system must be accountable for providing exemplary service in a transparent manner;
- The department must be accountable to the Governor and Legislature for carrying out its responsibilities and that the department must only contract with entities that carry out the purposes of the department;
- The department, other agencies, the state court system, law enforcement agencies, local communities and contracted child welfare providers be held to the highest standards;
- When the department delegates child welfare duties to other agencies, law enforcement agencies, local communities and contracted child welfare providers, the department retains responsibility for quality assurance;
- The department, in consultation with child welfare providers, must set performance levels and metrics for any entity providing child welfare services that contracts with the department;
- The department must offer increasing levels of support for child welfare providers with performance deficiencies. The department may not continue to contract with child welfare providers that persistently fail to meet performance standards for three or more years.

The bill requires the department to report to the Governor and Legislature, all performance levels for contracted entities by November 1st of each year. The report must be published on the department’s website and contain:
• Performance metrics for the child welfare system, including letter grades for the community based care lead agencies;
• Performance metrics by region and type of child welfare provider;
• A list of child welfare providers not meeting performance metrics; and
• Detailed corrective action taken to bring child welfare providers into compliance with performance metrics.

Section 4 amends s. 39.01, F.S., regarding definitions. “Best practices” is defined as a method or program that the department recognizes as successful in meeting performance standards. “Child welfare service provider” is defined as public or private agencies, and private individuals that the department contracts with to meet its responsibilities. “Florida’s Child Welfare Practice Model” is defined as the methodology the department uses to ensure the permanency, safety and well-being of children. “Performance standards and metrics” is defined as the quantifiable measures the department uses to track and assess performance.

Section 5 amends s. 39.201, F.S., relating to reporting of child abuse, abandonment or neglect. The bill allows the department to begin the investigation of certain child abuse reports within 72 hours rather than the current requirement that such investigations begin within 24 hours. The bill provides factors to consider when determining the timeframe for investigations. These factors include:
• Whether the abuse is alleged to have occurred more than 30 days prior to the report;
• Whether the alleged perpetrator will have access to the child in the next 72 hours following the report; and
• Whether the alleged victim still resides in the home or facility where the abuse was alleged to have happened.

The bill requires that investigations of alleged sexual abuse, human trafficking, or alleged victims under 1 year of age begin within 24 hours. The bill allows the department to contact families of alleged victims when the report does not meet the criteria for abuse, abandonment or neglect to offer services.

Section 6 amends s. 39.301, F.S., regarding the initiation of child abuse investigations. The bill requires the department to notify the regional offices of abuse reports that require a 24 hour investigation, a 72 hour investigation or an offer for services. Contacts with families of children where an abuse report did not meet criteria for an abuse investigation to offer services shall be announced in advance when possible.

Section 7 amends s. 39.3065, F.S., relating to those Sheriff’s Offices responsible for providing child protective investigations. The bill states that it is the intent of the Legislature that these sheriffs adopt the department’s Florida Child Welfare Practice Model and implement a plan to prevent child abuse. The bill requires these Sheriff’s Offices operate in accordance with federal performance standards and metrics for child welfare. The bill requires the department and these Sheriff’s Offices to collaborate on program performance evaluations and meet quarterly to work on quality assurance and quality improvement initiatives. The bill requires program performance evaluations be based on a random sample of cases selected by the department. The department’s annual report on the performance of the Sheriff’s Offices that investigate child abuse is due
November 1st. These Sheriff’s Offices that are responsible for conducting child protective investigations must submit to the department, for its approval, a prevention plan by June 30th each year. The bill allows the Secretary of the department to offer resources to any Sheriff’s Office that investigates child abuse and has demonstrated performance deficiencies.

Section 8 amends s. 394.67, F.S., relating to mental health, to add new definitions. “Performance standards and metrics” is defined as the quantifiable measures the department uses to track and assess performance.

Section 9 amends s. 394.9082, F.S., relating to behavioral health managing entities. The bill states that the Legislature intends that:

- The department contract only with managing entities that carry out the responsibilities assigned by law;
- The department and managing entities be held to the highest standards. The Legislature also finds that when the department delegates duties to managing entities, the department retains responsibility for quality assurance;
- The department, in consultation with managing entities, will set performance levels and metrics for services provided by the managing entities. Such performance standards must address the tasks in the department’s contract with a managing entity; and
- The department offer increasing levels of support for managing entities with performance deficiencies. The department may not continue to contract with managing entities that persistently fail to meet performance standards for three or more years.

The bill requires the department to report to the Governor and Legislature, all performance levels for managing entities each November 1st. The report must be published on the department’s website and contain:

- Performance metrics, including letter grades, for the managing entities;
- Performance metrics by region and type of managing entity;
- A list of managing entities not meeting performance metrics; and
- Detailed corrective action taken to bring managing entities into compliance with performance metrics.

The bill requires the department to develop a grading system to assess the performance of managing entities using letter grades. A managing entity will earn a grade of “A” if it has a weighted score of 4.0. The bill does not prescribe which performance metrics will be used for grading or how they will be weighted. A managing entity will earn a grade of “B” if it has a weighted score of 3.0, or “C” if it has a weighted score of 2.0, or “D” if it has a weighted score of 1.0, or “F” if it has a weighted score of less than 1.0.

The bill requires the department to renew managing entity contracts with renewal options for those that receive a grade of “A” for the two years preceding the end of the contract. The bill requires the department to develop support and improvement strategies for low performing managing entities. The department may provide assistance, including adoption of best practices and corrective action plans, to such managing entities. If a managing entity receives a “D” or “F” letter grade, the department must work with stakeholders to develop a turnaround option plan. Such a plan may include adoption of best practices and corrective action plans. Turnaround
option plans must be approved by the department before implementation by the managing entity. If a managing entity receives a “D” or “F” for three years in a row, the department must terminate the contract. The secretary of the department may offer resources to a managing entity with poor performance. The department may also terminate a contract with a managing entity that receives a “F” grade on its performance. The state may not be able to terminate an existing contract as envisioned in the bill. See section IV on Constitutional Issues of this analysis for more information.

The bill requires managing entities to pay any federal fines that result from a managing entity’s failure to meet performance standards. In addition, the managing entity shall retain responsibility for performance failures even if the service was subcontracted to another provider by the managing entity.

The bill requires the department to conduct onsite program performance evaluations of managing entities each year. The evaluation shall be based on a review of a random sample of cases selected by the department.

The bill strikes existing law directing the department to evaluate managing entities based on:

- The extent to which persons receive services, including services to parents of children in the child welfare system;
- The improvement in the overall behavioral health of the community served;
- The improvement in functioning and recovery of persons in the community;
- The success in diverting admissions to hospitals, jails, prisons, and forensic facilities by persons with behavioral health needs who have multiple admissions to such facilities;
- The integration of behavioral health services with the child welfare system;
- The extent to which managing entities address the housing needs of individuals released from facilities that are likely to become homeless;
- Consumer and family satisfaction with behavioral health care services; and
- The extent to which managing entities work with local community partners such as law enforcement agencies, CBCs, juvenile justice agencies, the state court system, school districts, local governments, and hospitals.

Section 10 amends s. 409.986, F.S., providing definitions and intent for community based child welfare agencies. The bill defines “Best practices” as a method or program that the department recognizes as successful in meeting performance standards. “Florida’s Child Welfare Practice Model” is defined as the methodology the department uses to ensure the permanency, safety and well-being of children. “Performance standards and metrics” is defined as the quantifiable measures the department uses to track and assess performance.

Section 11 amends s. 409.991, F.S., relating to the allocation of certain funds to the CBCs. Currently, the funding formula is used to distribute additional funding provided over the base budget for core services. The bill states that it is the intent of the Legislature that there is a need for accountability in the child welfare system and that equitable funding is needed to ensure quality services to all persons served.

The bill establishes a new funding formula based on the following factors in each CBC:
• Area cost differential – this is defined as the district cost differential used in the s. 1011.62, F.S., for the Florida Education Finance Program. The education funding formula uses average wage data for persons in each county as a way of estimating the cost of living.

• Caseload – this is defined using 7 different components. These include: caseload data for case managers, the amount of foster homes, the number of new foster homes needed, the number of foster homes relicensed, data on the number of child removed from their homes, the number of adoptions, and data on the number of children in foster homes, group homes and residential treatment facilities.

• Core plus funds – this is based on the funding for community based care and the funding for community based care to provide for behavioral health services.

• Florida funding for children model – this is based on prevention services, client services, licensed out-of-home care, and staffing. These terms are not further defined.

• Group home ceiling – this is the based on the usage of group homes.

• Optimal funding amount – this means 100 percent of the Florida funding for children model.

• Prevention services – these are the services or costs for preventing children from entering or re-entering foster care.

The allocation of core plus funds is based on the total of prevention services, client services, licensed out-of-home care, and staffing and a comparison of the total optimal funding and the allocated funding.

The bill provides additional definitions and calculations to be used to calculate the funding for each community based care lead agency.

The bill provides for a transition to implement the new funding formula over the beginning in fiscal year 2020-2021 and with full implementation in fiscal year 2023-2024.

Section 12 amends s. 409.996, F.S., relating to the duties of the department in the community based care system for child welfare. The bill adds language authorizing the department to terminate contracts for CBCs that fail to meet performance standards and metrics. At a minimum, the bill lists 12 performance metrics used by the state and federal government to evaluate child welfare services. Metrics include such things as the number of children who achieve permanency within a year and the number of children who are abused while in out-of-home care.

The bill requires the department to develop a grading system to assess the performance of CBCs using letter grades. A CBC will earn a grade of “A” if it has a weighted score of 4.0. The bill does not prescribe how the performance metrics will be weighted. A CBC will earn a grade of “B” if it has a weighted score of 3.0; “C” if it has a weighted score of 2.0; “D” if it has a weighted score of 1.0; or “F” if it has a weighted score of less than 1.0.

The bill requires the department to renew contracts with a renewal option for CBCs with an “A” grade for the two years preceding the end of the contract. The bill also requires the department to develop support and improvement strategies for low performing CBCs. The department may provide assistance, including adoption of best practices and corrective action plans, to such lead agencies. If a CBC receives a “D” or “F” grade, the department must work with stakeholders to
develop a turnaround option plan. Such a plan may include adoption of best practices and corrective action plans. Turnaround option plans must be approved by the department before implementation by the CBC. If a CBC receives a “D” or “F” for three years in a row, the department must terminate the contract. The secretary of the department may offer resources to a lead agency with poor performance. The bill requires the department to terminate a contract with a CBC that receives an “F” grade on its performance. In some cases, the state may not be able to terminate an existing contract. See section IV of this analysis on Constitutional Issues for more information.

The bill requires CBCs to pay any federal fines that result from an agency’s failure to meet performance standards. In addition, the lead agency shall retain responsibility for performance failures even if the service was subcontracted to another provider by the lead agency.

The bill requires the department to conduct onsite program performance evaluations of CBCs each year. The evaluation shall be based on a review of a random sample of cases selected by the department. The agency is authorized to adopt rules to implement the requirements of this section.

In the areas of the state where the department contracts for legal services for child welfare, the bill provides new accountability measures. The bill requires the contracted attorneys to use the Florida’s Child Welfare Practice Model. Program performance evaluations are to be conducted on an ongoing basis using criteria developed by the department. The evaluation must be conducted by a team of peer reviewers and use a random sample of cases. The department must report each November 1st to the Governor and Legislature on the performance of contracted attorneys providing children’s legal services on behalf of the department. The secretary may offer resources to contracted attorneys when there are performance deficiencies.

Section 13 amends s. 409.997, F.S., relating to Child Welfare Results-Oriented Accountability Program. The bill requires that department data from the accountability system be provided to the department’s Office of Quality Assurance and Improvement. The bill requires the department to conduct onsite program performance evaluations of each community based care lead agency annually using a random sample of cases.

Section 14 amends s. 39.202, F.S., relating to confidentiality of abuse reports to correct a cross reference.

Section 15 amends s. 39.502, F.S., relating to notice to parents in dependency proceedings to correct cross references.

Section 16 amends 39.521, F.S., relating to disposition hearings in dependency cases to correct a cross reference.

Section 17 amends s. 39.6011, F.S., relating to case plan development, to correct cross references.

Section 18 amends s. 39.6012, F.S., relating to case plan tasks, to correct a cross reference.
Section 19 amends s. 39.701, F.S., relating to judicial reviews for dependency cases, to correct a cross reference.

Section 20 amends s. 39.823, F.S., relating to guardian advocates for drug dependent newborns, to correct a cross reference.

Section 21 amends s. 322.09, F.S., relating to driver’s licenses for dependent children, to correct a cross reference.

Section 22 amends s. 393.065, F.S., relating to the children in the child welfare system that qualify for the Agency for Persons with Disabilities’ Home and Community Based Services Medicaid Waiver to correct a cross reference.

Section 23 amends s. 394.495, F.S., relating to child mental health, to correct a cross reference.

Section 24 amends s. 394.674, F.S., relating to eligibility for substance abuse and mental health services, to correct a cross reference.

Section 25 amends s. 409.987, F.S., relating to the procurement of CBCs, to correct a cross reference.

Section 26 amends s. 409.988, F.S., relating to duties of CBCs, to correct a cross reference.

Section 27 amends s. 627.746, F.S., relating to insurance coverage for minor drivers, to correct a cross reference.

Section 28 amends s. 934.255, F.S., relating to subpoenas in investigations of sexual offenses, to correct a cross reference.

Section 29 amends s. 960.065, F.S., relating to eligibility of crime victim awards, to correct a cross reference.

Section 30 reenacts and amends s. 39.302 (1), F.S., relating to child abuse investigations in institutions, to correct a cross reference and reenact the subsection.

Section 31 reenacts s. 409.988 (1) (b) to incorporate amendments made to s. 409.997, F.S.

Section 32 reenacts s. 409.996 (1) (a) to incorporate amendments made to s. 409.997, F.S.

Section 33 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.
B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Section 10 of the Florida Constitution states that “No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.” Sections 9 and 12 of the bill would allow the department to cancel contracts with behavioral health managing entities and CBCs. Department contracts with both CBCs and managing entities are in effect for five years and staggered so that they do not expire at the same time. The department would need to incorporate the accountability system in the bill in future contracts in order to provide for termination based on performance. Otherwise, the bill could be considered to impair the obligation of an existing contract.

A new law which affects either past legal relationships or decisions made by private parties in reliance on prior law may result in a legal challenge. If the new law is to apply retroactively, it may affect previously-established rights or legal relationships, such as those contained in a contractual agreement. Retroactive application of a new law may attach legal consequences to decisions made by private parties who did not anticipate these consequences at the time the decision was made.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Community based care lead agencies (CBCs) and behavioral health managing entities (MEs) could see their contracts with the department terminated based on poor performance.

C. Government Sector Impact:

The department estimates the annual cost of the bill as follows. The department has included the cost of the bill in their Legislative Budget Request.

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<th>Initiatives</th>
<th>Recurring Cost</th>
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<td>Quality Assurance and Performance Monitoring</td>
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<tr>
<td>24-Hour and 72-Hour Child Abuse Investigations</td>
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<td>CBC Funding Formula</td>
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<tr>
<td>Total</td>
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VI. **Technical Deficiencies:**

Section 3 of the bill states that the department may not continue to contract with child welfare providers that persistently fail to meet performance standards for three or more years. This substantive language is in the intent section of the bill and would not have the force of law.

Section 9 of the bill states that the department may not continue to contract with behavioral health managing entities that persistently fail to meet performance standards for three or more years. This substantive language is in the intent section of the bill and would not have the force of law.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**


This bill creates section 39.0012 of the Florida Statutes.

IX. **Additional Information:**

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

   None.

B. **Amendments:**

   None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
Appropriations Subcommittee on Health and Human Services (Harrell) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 532 and 533

insert:

Section 8. Section 39.820, Florida Statutes, is amended to read:

39.820 Definitions.—As used in this chapter part, the term:

(1) “Guardian ad litem” as referred to in any civil or criminal proceeding includes the following: The Statewide Guardian Ad Litem Office, which includes circuit a certified
guardian ad litem programs; program, a duly certified volunteer,
a staff member, a staff attorney, contract attorney, or
certified pro bono attorney working on behalf of a guardian ad
litem or the program, staff members of a program office; a
court-appointed attorney; or a responsible adult who is
appointed by the court to represent the best interests of a
child in a proceeding as provided for by law, including, but not
limited to, this chapter, who is a party to any judicial
proceeding as a representative of the child, and who serves
until discharged by the court.

(2) “Guardian advocate” means a person appointed by the
court to act on behalf of a drug dependent newborn pursuant to
the provisions of this part.

================= T I T L E A M E N D M E N T =================
And the title is amended as follows:

 Delete line 50
and insert:

certain purposes; amending s. 39.820, F.S.; revising
the definition of the term “guardian ad litem”;
amending s. 394.67, F.S.; defining
By Senator Simpson

A bill to be entitled

An act relating to the Department of Children and Families; providing a short title; amending s. 20.19, F.S.; providing for the creation of the Office of Quality Assurance and Improvement in the Department of Children and Families; requiring the Secretary of Children and Families to appoint a chief quality officer; providing duties of the chief quality officer; creating s. 39.0012, F.S.; providing legislative intent; requiring the department to annually report certain information to the Governor and the Legislature by a specified date; requiring the department to publish such report on its website; providing requirements for such report; requiring the department to grade each managing entity based on onsite investigation visits must be unannounced unless a certain finding is made; requiring that contacts made involving preventive services be announced unless there is no reasonable means to do so; amending s. 39.3065, F.S.; providing legislative intent; requiring certain sheriffs to adopt Florida’s Child Welfare Practice Model and operate under certain provisions of law; requiring the department and sheriffs to collaborate and conduct program performance evaluations; requiring the department and sheriffs, or their designees, to meet at least quarterly for a specified purpose; providing that program performance evaluations be based on criteria developed by the department; requiring such evaluations to be standardized using a random sample of cases; revising the date by which the department is required to submit an annual report to the Governor and the Legislature; requiring certain sheriffs to annually submit to the department a prevention plan; providing requirements for such prevention plans; authorizing the secretary of the department to offer resources to sheriffs for certain purposes; amending s. 394.67, F.S.; defining the term “performance standards and metrics”; amending s. 394.9082, F.S.; providing legislative intent; requiring the department to annually provide a report containing certain information to the Governor and the Legislature by a specified date; requiring the department to publish such report on its website; providing requirements for such report; requiring the department to grade each managing entity based on

CODING: Words [stricken] are deletions; words [underlined] are additions.
specified criteria; requiring the department to renew contracts with managing entities that receive a specified grade; requiring the department to develop a system of support and improvement strategies for certain managing entities; authorizing the department to provide assistance to certain managing entities; requiring the department to take certain actions in response to managing entities that receive a grade of "D" or "F"; authorizing the department to competitively procure and contract under certain circumstances; authorizing the secretary of the department to direct resources to managing entities for certain purposes and to terminate contracts with certain entities; requiring managing entities to pay certain fines incurred by the department; requiring managing entities to retain responsibility for any failures of compliance if the managing entity subcontracts its duties or services; requiring the department to conduct program performance evaluations of managing entities at least annually; requiring managing entities to allow the department access to make onsite visits to contracted providers; requiring the department to adopt rules; deleting provisions relating to a requirement for the department to establish performance standards for managing entities; amending s. 409.986, F.S.; defining terms; amending s. 409.991, F.S.; providing legislative findings and intent; defining terms; providing for the calculation of the allocation of core plus funds; prohibiting the department from reducing or redistributing the allocation budget for certain lead agencies before the 2023-2024 fiscal year; providing for funding of lead agencies; providing for the distribution of additional funding to lead agencies; amending s. 409.996, F.S.; revising requirements for contracts entered into by the department with lead agencies; requiring the department to provide grades for lead agencies based on specified criteria; requiring the department to renew contracts with lead agencies that receive a specified grade; requiring the department to develop a system of support and improvement strategies for certain lead agencies; authorizing the department to provide assistance to certain lead agencies; requiring the department to take certain actions in response to lead agencies that receive a grade of "D" or "F"; authorizing the department to competitively procure and contract under certain circumstances; authorizing the secretary of the department to offer resources to lead agencies for certain purposes and to terminate contracts with certain entities; requiring lead agencies to pay certain fines incurred by the department; requiring lead agencies to retain responsibility for any failures of compliance if the lead agency subcontracts its duties or services; requiring the department to adopt rules; requiring attorneys contracted by the department to adopt Florida’s Child Welfare Practice Model and to operate in accordance with specified provisions of law;
requiring the department and contracted attorneys to collaborate and conduct program performance evaluations; requiring the department and attorneys or their designees to meet at least quarterly for a specified purpose; providing requirements for annual program performance evaluations; requiring the department to annually submit a report containing certain information to the Governor and the Legislature by a specified date; authorizing the secretary of the department to offer resources to contracted attorneys for certain purposes; amending s. 409.997, F.S.; requiring certain data to be provided to the Office of Quality Assurance and Improvement; requiring the department to conduct certain evaluations of lead agencies at least annually; requiring lead agencies to allow the department access to make onsite visits to contracted providers; amending ss. 39.202, 39.502, 39.521, 39.6011, 39.6012, 39.701, 39.823, 322.09, 393.065, 394.495, 394.674, 409.987, 409.988, 627.746, 934.255, and 960.065, F.S.; conforming cross-references; reenacting and amending s. 39.302(1), F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect, to incorporate the amendments made to s. 39.201, F.S.; reenacting ss. 409.988(1)(b) and 409.996(1)(a), F.S., relating to lead agency duties and duties of the department, respectively, to incorporate the amendment made to s. 409.997, F.S., in references thereto; providing an effective date.

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

Section 1. This act may be cited as the "DCF Accountability Act."

Section 2. Present subsections (5) and (6) of section 20.19, Florida Statutes, are redesignated as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

20.19 Department of Children and Families.—There is created a Department of Children and Families.

(5) There is created in the department an Office of Quality Assurance and Improvement.

(a) The secretary shall appoint a chief quality officer to lead the office and ensure that the department and its service providers meet the highest level of performance standards. The chief quality officer shall serve at the pleasure of the secretary.

(b) The chief quality officer shall:

1. Analyze and monitor the development and implementation of federal and state laws, rules, and regulations and other governmental policies and actions that pertain to persons being served by the department.

2. Develop and implement performance standards and metrics for determining the department’s compliance with federal and state laws, rules, and regulations and other governmental policies and actions.

3. Strengthen the department’s data and analytic capabilities to identify systemic strengths and deficiencies.
4. Identify performance standards and metrics for the department and all other service providers, including, but not limited to, law enforcement agencies, managing entities, lead agencies, and attorney services.

5. Recommend unique and varied initiatives to correct programmatic and systemic deficiencies.

6. Collaborate and engage partners of the department to improve quality, efficiency, and effectiveness.

7. Report any persistent failure by the department to meet performance standards and recommend to the secretary corrective courses prescribed by statute.

8. Prepare an annual report of all contractual performance metrics, including the most current status of such metrics, to the secretary.

Section 3. Section 39.0012, Florida Statutes, is created to read:

39.0012 Child welfare accountability.—

(a) It is the intent of the Legislature that:

(b) The department be held accountable to the Governor and the Legislature for carrying out the purposes of, and the responsibilities established in, this chapter. It is further the intent of the Legislature that the department only contract with entities that carry out the purposes of, and the responsibilities established in, this chapter.

(c) The department, other agencies, the courts, law enforcement agencies, local communities, and other contracted child welfare service providers are all held accountable to the highest standards.

(d) While the department has been directed to delegate the duties of child welfare to other entities, law enforcement agencies, local communities, and other contracted child welfare service providers, the department retains direct responsibility for quality assurance.

(e) The department, in consultation with child welfare service providers, establish overall performance levels and metrics for any entity that the department contracts with to provide child welfare services.

(f) The department acts to offer increasing levels of support for child welfare service providers with performance deficiencies. However, the department may not continue to contract with child welfare service providers that persistently fail to meet performance standards and metrics for three or more consecutive annual performance reviews.

(2) By November 1 of each year, the department shall report on all performance levels and contractual performance metrics, including the most current status of such levels and metrics, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The department must annually publish the report on its website. The report must contain the following information:

(a) Performance metrics for the entire child welfare system, including grades for the lead agencies.

(b) Performance metrics by region and type of child welfare service provider, including performance levels.
(c) A list of the child welfare service providers not in compliance with performance metrics.

(d) Detailed corrective action taken, if any, to bring child welfare service providers back into compliance with performance metrics.

Section 4. Present subsections (10) through (12), (13) through (29), (30) through (58), and (59) through (87) of section 39.01, Florida Statutes, are redesignated as subsections (11) through (13), (15) through (31), (33) through (61), and (63) through (91), respectively, new subsections (10), (14), (32), and (62) are added to that section, and present subsections (10) and (37) of that section are amended, to read:

(10) “Best practices” means a method or program that has been recognized by the department and has been found to be successful for compliance with performance standards and metrics.

(11) “Caregiver” means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child’s welfare as defined in subsection (57).

(12) “Child welfare service provider” means county and municipal governments and agencies, public and private agencies, and private individuals and entities with which the department has a contract or agreement to carry out the purposes of, and responsibilities established in, this chapter.

(13) “Florida’s Child Welfare Practice Model” means the methodology developed by the department, based on child welfare

Definitions.

Mandatory reports of child abuse, abandonment, or neglect; central abuse hotline.—

(5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(a) If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night.

(b) In all other child abuse, abandonment, or neglect situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child’s welfare as defined in subsection (57).

(62) “Performance standards and metrics” means quantifiable measures used to track and assess performance, as determined by the department.

Section 5. Subsection (5) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

(a) If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night.

(b) In all other child abuse, abandonment, or neglect situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child’s welfare as defined in subsection (57).
cases, a child protective investigation shall be commenced within either 24 or 72 hours after receipt of the report, depending upon the severity of the alleged abuse, abandonment, or neglect and assessed risk to the child.

1. Factors to be considered in the assessed severity and risk to the child include, but are not limited to:
   a. Whether the alleged abuse, abandonment, or neglect incident is alleged to have occurred more than 30 days prior to the reporter’s contact with the central abuse hotline.
   b. Whether there is credible information to support a finding that the alleged perpetrator will not have access to the alleged child victim for at least 72 hours following the reporter’s contact with the central abuse hotline.
   c. Whether the alleged child victim no longer resides at or attends the facility where the abuse, abandonment, or neglect is alleged to have occurred.

2. A child protective investigation must be commenced within 24 hours if the incident involves any of the following:
   a. Sexual abuse allegations.
   b. Human trafficking allegations.
   c. The alleged victim is under 1 year of age.
   (c) For reports that do not meet the statutory criteria for abuse, abandonment, or neglect, but the circumstances surrounding a family are precrisis in nature, the department may contact and attempt to engage the family in preventive services to prevent the need for more intrusive interventions in the future.
   (d) In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

Section 6. Present subsections (14) through (23) of section 39.301, Florida Statutes, are redesignated as subsections (15) through (24), respectively, a new subsection (14) is added to that section, and subsections (1), (10), (11), and (13) of that section are amended, to read:

39.301 Initiation of protective investigations.—
(1) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department’s designated regional district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not
requiring an immediate onsite protective investigation, the
central abuse hotline shall determine whether the report meets
criteria for a 24- or 72-hour investigation, or preventive
services, and notify the department’s designated regional
district staff responsible for protective investigations in
sufficient time to allow for an investigation. At the time of
notification, the central abuse hotline shall also provide
information to regional district staff on any previous report
concerning a subject of the present report or any pertinent
information relative to the present report or any noted earlier
reports.

(10)(a) The department’s training program for staff
responsible for responding to reports accepted by the central
abuse hotline must also ensure that child protective responders:
1. Know how to fully inform parents or legal custodians of
their rights and options, including opportunities for audio or
video recording of child protective responder interviews with
parents or legal custodians or children.
2. Know how and when to use the injunction process under s.
39,504 or s. 741.30 to remove a perpetrator of domestic violence
from the home as an intervention to protect the child.
3. Know how to explain to the parent, legal custodian, or
person who is alleged to have caused the abuse, neglect, or
abandonment the results of the investigation and to provide
information about his or her right to access confidential
reports in accordance with s. 39.202, prior to closing the case.
(b) To enhance the skills of individual staff members and
to improve the region’s and district’s overall child protection
system, the department’s training program at the regional level

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(1) It is the intent of the Legislature that each sheriff
providing child protective investigative services under this
section, in consultation with the Department of Children and
Families, adopt Florida’s Child Welfare Practice Model and
implement a prevention plan for his or her county.

(2) As described in this section, the Department of
Children and Families shall, by the end of fiscal year 1999-
2000, transfer all responsibility for child protective
investigations for Pinellas County, Manatee County, Broward
County, and Pasco County to the sheriff of that county in which
the child abuse, neglect, or abandonment is alleged to have
occurred. Each sheriff is responsible for the provision of all
child protective investigations in his or her county. Each
individual who provides these services must complete the
training provided to and required of protective investigators
employed by the Department of Children and Families.

(3) During fiscal year 1998-1999, the Department of
Children and Families and each sheriff’s office shall enter into
a contract for the provision of these services. Funding for the
services will be appropriated to the Department of Children and
Families, and the department shall transfer to the respective
sheriffs for the duration of fiscal year 1998-1999, funding for
the investigative responsibilities assumed by the sheriffs,
including federal funds that the provider is eligible for and
agrees to earn and that portion of general revenue funds which
is currently associated with the services that are being
furnished under contract, and including, but not limited to,
funding for all investigative, supervisory, and clerical
positions; training; all associated equipment; furnishings; and
funding for all investigative, supervisory, and clerical
positions; training; all associated equipment; furnishings; and

CODING: Words **stricken** are deletions; words **underlined** are additions.
(a) Beginning in fiscal year 1999-2000, the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County have the responsibility to provide all child protective investigations in their respective counties. Beginning in fiscal year 2000-2001, the Department of Children and Families is authorized to enter into grant agreements with sheriffs of other counties to perform child protective investigations in their respective counties.

(b) The sheriffs shall adopt Florida’s Child Welfare Practice Model and operate in accordance with the same federal performance standards and metrics regarding child welfare and protective investigations imposed on the Department of Children and Families. Each individual who provides these services must complete, at a minimum, the training provided to and required of protective investigators employed by the Department of Children and Families.

(c) Funds for providing child protective investigations must be identified in the annual appropriation made to the Department of Children and Families, which shall award grants for the full amount identified to the respective sheriffs’ offices. Notwithstanding the provisions of ss. 216.181(16)(b) and 216.351, the Department of Children and Families may advance payments to the sheriffs for child protective investigations. Funds for the child protective investigations may not be integrated into the sheriffs’ regular budgets. Budgetary data and other data relating to the performance of child protective investigations must be maintained separately from all other records of the sheriffs’ offices and reported to the Department of Children and Families as specified in the grant agreement.

(d) The Department of Children and Families and each sheriff shall collaborate and conduct program performance evaluations on an ongoing basis. The department and each sheriff or their designees shall meet at least quarterly to collaborate on federal and state quality assurance and continuous quality improvement initiatives.

(e) The annual program performance evaluation shall be based on criteria developed by mutually agreed upon by the respective sheriffs and the Department of Children and Families for use with all child protective investigators statewide. The program performance evaluation shall be conducted by a team of peer reviewers from the respective sheriffs’ offices that perform child protective investigations and representatives from the department. The program performance evaluation shall be standardized using a random sample of cases selected by the department. The Department of Children and Families shall submit an annual report regarding quality performance, outcome-measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, and the Governor no later than November 1 (January 1) of each year the sheriffs are receiving general appropriations to provide child protective investigations.
Section 8. Present subsections (17) through (24) of section 394.67, Florida Statutes, are redesignated as subsections (18) through (25), respectively, a new subsection (17) is added to that section, and subsection (3) of that section is amended, to read:

394.67 Definitions.—As used in this part, the term:

(3) "Crisis services" means short-term evaluation, stabilization, and brief intervention services provided to a person who is experiencing an acute mental or emotional crisis, as defined in subsection (18), or an acute substance abuse crisis, as defined in subsection (19), to prevent further deterioration of the person's mental health. Crisis services are provided in settings such as a crisis stabilization unit, an inpatient unit, a short-term residential treatment program, a detoxification facility, or an addictions receiving facility; at the site of the crisis by a mobile crisis response team; or at a hospital on an outpatient basis.

(17) "Performance standards and metrics" means quantifiable measures used to track and assess performance, as determined by the department.

(f) By June 30 of each year, each sheriff shall submit to the department for approval a prevention plan that details his or her approach to prevention within his or her community. The plan must include provisions for engaging prevention services at the earliest point practicable and for using community resources.

(g) At any time, the secretary may offer resources to sheriffs to address any performance deficiencies that directly impact the safety of children in this state.

Section 9. Subsections (1) and (7) of section 394.9082, Florida Statutes, are amended, and paragraph (m) is added to subsection (3) of that section, to read:

394.9082 Behavioral health managing entities.—

(1) INTENT AND PURPOSE.—

(a) The Legislature finds that untreated behavioral health disorders constitute major health problems for residents of this state, are a major economic burden to the citizens of this state, and substantially increase demands on the state’s juvenile and adult criminal justice systems, the child welfare system, and health care systems. The Legislature finds that behavioral health disorders respond to appropriate treatment, rehabilitation, and supportive intervention. The Legislature finds that local communities have also made substantial investments in behavioral health services, contracting with safety net providers who by mandate and mission provide specialized services to vulnerable and hard-to-serve populations and have strong ties to local public health and public safety agencies. The Legislature finds that a regional management structure that facilitates a comprehensive and cohesive system of coordinated care for behavioral health treatment and prevention services will improve access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. It is the intent of the Legislature that managing entities work to create linkages among various services and systems, including juvenile justice and adult criminal justice, child welfare, housing services, homeless systems of care, and health care.
(b) The purpose of the behavioral health managing entities is to plan, coordinate, and contract for the delivery of community mental health and substance abuse services, to improve access to care, to promote service continuity, to purchase services, and to support efficient and effective delivery of services. 

(c) It is the further intent of the Legislature that:

1. The department only contract with managing entities that carry out the purposes of, and the responsibilities established in, this chapter.

2. The department and the contracted managing entities are all held accountable to the highest standards. While the department may delegate the duties of specific services to managing entities, the department retains responsibility for quality assurance.

3. The department, in consultation with the contracted managing entities, establish overall performance levels and metrics for the services provided by the managing entities. The performance standards set by the department for the contracted managing entities must, at a minimum, address the tasks contained in the managing entity’s contract with the department.

4. The department offers increasing levels of support for managing entities with performance deficiencies. However, the department may not continue to contract with managing entities that consistently fail to meet performance standards and metrics for three or more consecutive annual performance reviews.

(m) By November 1 of each year, provide a report on all performance levels and contractual performance metrics, and the most current status of such levels and metrics, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The department must annually publish the report on its website. The report must contain the following information:

1. Performance metrics, including grades, for the managing entities.

2. Performance metrics by region and type of managing entity, including performance levels.

3. A list of the managing entities not in compliance with performance metrics.

4. Detailed corrective action taken, if any, to bring managing entities back into compliance with performance metrics.

(7) PERFORMANCE MEASUREMENT AND ACCOUNTABILITY.—Managing entities shall collect and submit data to the department regarding persons served, outcomes of persons served, costs of services provided through the department’s contract, and other data as required by the department. The department shall evaluate managing entity performance and the overall progress made by the managing entity:

(a) The department shall provide a grade to each managing entity based on the department’s annual review of the entity’s compliance with performance standards and metrics.

(b) A managing entity’s performance shall be graded based on a weighted score of the entity’s compliance with performance standards and metrics using one of the following grades:

1. “A,” managing entities with a weighted score of 4.0 or higher.

2. “B,” managing entities with a weighted score of 3.0 to
(c) If the current contract has a renewal option, the department shall renew the contract of a managing entity that has received an “A” grade for the 2 years immediately preceding the renewal date of the contract.

(d) The department shall develop a multitiered system of support and improvement strategies designed to address low performance of managing entities.

(e) The department may provide assistance to any managing entity for the purpose of meeting performance standards and metrics. Assistance may include, but is not limited to, recommendations for best practices and implementation of a corrective action plan.

(f) The department shall provide assistance to a managing entity that receives a “C” grade or lower on its annual review until it has improved to at least a “B” grade.

(g) For any managing entity that has received a grade of “D” or “F,” the department shall take immediate action to engage stakeholders in a needs assessment to develop a turnaround option plan. The turnaround option plan may include, but is not limited to, the implementation of corrective actions and best practices designed to improve performance. The department must review and approve the plan before implementation by the

(h) Upon a managing entity’s receipt of a third consecutive “D” grade or lower, the department shall initiate proceedings to terminate any contract with the managing entity.

(i) If cancellation of a contract with a managing entity occurs in a manner that threatens a lapse in services, the department may procure and contract pursuant to s. 287.057(3)(a).

(j) At any time, the secretary may offer resources to a managing entity to address any deficiencies in meeting performance standards and metrics which directly impact the safety of persons receiving services from the managing entity.

(k) Notwithstanding paragraphs (d) through (j), the secretary, at his or her discretion, may terminate a contract with a managing entity that has received an “F” grade or upon the occurrence of an egregious act or omission by the managing entity or its subcontractor.

(l) The managing entity shall pay any federal fines incurred by the department as the result of that managing entity’s failure to comply with the performance standards and metrics.

(m) If the managing entity subcontracts any of its duties or services, the managing entity shall retain responsibility for its failure to comply with performance standards and metrics.

(n) The department shall conduct an onsite program performance evaluation of each managing entity at least once per year. Each managing entity must allow the department access to make onsite visits at its discretion to any contracted provider. The onsite evaluation shall consist of a review of a random

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and oversight of community-based services.

(e) "Community-based care lead agency" or "lead agency" means a single entity with which the department has a contract for the provision of care for children in the child protection and child welfare system in a community that is no smaller than a county and no larger than two contiguous judicial circuits.

The secretary of the department may authorize more than one eligible lead agency within a single county if doing so will result in more effective delivery of services to children.

(f) "Florida’s Child Welfare Practice Model" means the methodology developed by the department based on child welfare statutes and rules to ensure the permanency, safety, and well-being of children.

(g) "Performance standards and metrics" means quantifiable measures used to track and assess performance as determined by the department.

(h) "Related services" includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, postplacement supervision, permanent foster care, and family reunification.

Section 11. Section 409.991, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.991, F.S., for present text.)

409.991 Allocation of funds for community-based care lead agencies.—

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For purposes of this paragraph:

(a) “Optimal funding amount” means 100 percent of the Florida funding for children model amount as calculated by the department.

(b) “Prevention services” means any services or costs incurred to prevent children from entering or re-entering foster care, or any services provided to the child or the child’s family or caregiver.

(c) “Core plus funds” means:

1. All funds made available in the community-based care lead agency category of the General Appropriations Act for the applicable fiscal year. The term does not include funds appropriated in the community-based care lead agency category of the General Appropriations Act for the applicable fiscal year for independent living.

2. All funds allocated by contract with the department to the lead agency for substance abuse and mental health, or any funds directly contracted by the department for the sole benefit of the lead agency.

(d) “Florida funding for children model” means an allocation model that uses the following factors:

1. Prevention services;
2. Client services;
3. Licensed out-of-home care; and
4. Staffing.

(e) “Group home ceiling” means the difference between the actual group home average census and the expected group home census times 50 percent of the average group home board payment.

(f) “Expected group home census” means the total number of removals for the prior 12 months times 1.4 times the ceiling percentage. The ceiling percentage is 10 percent for the 2021-2022 fiscal year, 9 percent for the 2022-2023 fiscal year, and 8 percent for the 2023-2024 fiscal year and all subsequent years.

(g) “Florida funding for children model amount” means:

1. “Actual group home average” means the monthly average number of children in group care and residential treatment facilities for the prior 12 months.
2. “Expected group home census” means the total number of removals for the prior 12 months times 1.4 times the ceiling percentage. The ceiling percentage is 10 percent for the 2021-2022 fiscal year, 9 percent for the 2022-2023 fiscal year, and 8 percent for the 2023-2024 fiscal year and all subsequent years.

(h) “Optimal funding amount” means 100 percent of the Florida funding for children model amount as calculated by the department.

(i) “Prevention services” means any services or costs incurred to prevent children from entering or re-entering foster care, or any services provided to the child or the child’s family or caregiver.

(j) “Core plus funds” means:

1. All funds made available in the community-based care lead agency category of the General Appropriations Act for the applicable fiscal year. The term does not include funds appropriated in the community-based care lead agency category of the General Appropriations Act for the applicable fiscal year for independent living.

2. All funds allocated by contract with the department to the lead agency for substance abuse and mental health, or any funds directly contracted by the department for the sole benefit of the lead agency.

(k) “Florida funding for children model” means an allocation model that uses the following factors:

1. Prevention services;
2. Client services;
3. Licensed out-of-home care; and
4. Staffing.

(l) “Group home ceiling” means the difference between the actual group home average census and the expected group home census times 50 percent of the average group home board payment.

For purposes of this paragraph:

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2. If a lead agency’s board costs from the previous year are reduced, the savings in board costs may be transferred to prevention services in the following year and counted towards prevention spending by the lead agency.

(b) Client services shall be calculated as an average amount per caseload as determined by the department then multiplied by the area cost differential. Caseload is determined by adding together the following:

1. The most recent month-end average of in-home and out-of-home children using counts from the department’s child welfare information system for the most recent 24 months; and

2. The average annual number of adoption finalizations calculated based on the most recent 24 months.

(c) Licensed out-of-home care is calculated based on board costs.

1. Board costs are calculated by multiplying the annual licensed care caseload times the average board rate plus the number of annual removals times initial clothing allowance as determined by the department.

2. The annual licensed care caseload is determined by adding together the following:

a. The month-end average of foster home, group home and residential treatment facility using counts from the department’s child welfare information system for the most recent 12 months.

b. The estimated number of Level 1 foster homes as determined by calculating 40 percent of the total relative and nonrelative placements for the most recent 12 months.

c. The average board rate is the most recent total amount per caseload as determined by the department.

The estimated number of Level 1 foster homes is based on the most recent 24 months.

The ratio for case managers as follows:

(I) One case manager per 17 children for the 2020-2021 fiscal year.

(II) One case manager per 15 children for the 2021-2022 fiscal year.

(III) One case manager per 14 children for the 2022-2023 fiscal year.

(IV) One case manager per 13 children for the 2023-2024 fiscal year and all subsequent years.

b. One case manager supervisor per five case managers.

c. One paraprofessional per four case managers.

d. One safety practice expert per lead agency.

e. One other professional staff per lead agency plus 1 per every 100 case managers, rounded to the nearest whole number.

f. One service coordinator per 20 case managers.

g. One service coordination supervisor per five service coordinators.

h. One foster home recruiter per every 50 homes needed.

i. One licensing staff;

(II) Per every 16 new homes needed;

(III) Per every 20 homes relicensed; and

(III) Per every 50 Level 1 homes licensed.
j. One placement staff per every 168 removals.

k. One out-of-home care supervisor per every five of the total number of foster home recruiters and all licensing staff and placement staff.

l. One adoption staff per every 51.33 adoptions.

m. One adoption supervisor per five adoption staff.

n. One director staff per every five of the total number of case manager supervisors, service coordination supervisors, out-of-home care supervisors, and adoption supervisors, rounded to the nearest whole number.

c. One administrative support staff per every four of the total number of case manager supervisors, service coordination supervisors, out-of-home care supervisors, and adoption supervisors.

2. Program support is calculated by multiplying the average caseload times the Florida average cost per caseload, determined by the department annually. The caseload is determined by adding together the following:

a. The most recent month-end average of in-home and out-of-home children using counts from the department’s child welfare information system for the most recent 24 months.

b. The average annual number of adoption finalizations calculated based on the most recent 24 months.

3. Area cost differential.

4. Per position costs for all noted staff positions, as determined by the department annually.

5. General and administrative costs of 10 percent multiplied by the total staff costs including all items above.

(4) Before full implementation in the 2023-2024 fiscal year, the department may not reduce or redistribute the allocation budget for a lead agency that is funded at more than 110 percent of its optimal funding amount.

(5) Unless otherwise specified in the General Appropriations Act, any new core plus funds shall be allocated based on the Florida funding for children model to achieve 90 percent or more of optimal funding for all lead agencies.

(6) Unless otherwise specified in the General Appropriations Act, any new funds for core services shall be allocated based on the Florida funding for children model.

(7) Beginning with the 2020-2021 fiscal year, any additional funding provided to lead agencies must be distributed following the establishment of performance standards and metrics in accordance with rules adopted by the department. For subsequent years, any additional funding provided to lead agencies by the Legislature must be distributed by the department as follows:

(a) On July 1, 50 percent of the total additional funding allocated to the lead agency must be distributed.

(b) By January 1, the department must evaluate specified performance standards and metrics for the lead agency to determine whether the lead agency’s performance has improved since the initial funding was distributed on July 1. If the Office of Quality Assurance and Improvement determines that the lead agency has improved in performance standards and metrics, then the remaining funding must be distributed by February 1. If the lead agency fails to improve performance, then the remaining funding must be redistributed to other lead agencies as determined by the Florida funding for children model.
Section 12. Present subsections (2) through (23) of section 409.996, Florida Statutes, are redesignated as subsections (16) through (37), respectively, new subsections (2) through (15) are added to that section, and subsection (1) and present subsections (17) and (21) are amended, to read:

409.996 Duties of the Department of Children and Families.—

The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(i) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies pursuant to s. 409.988. At a minimum, the contracts must:

(a) Provide for the services needed to accomplish the duties established in s. 409.988 and provide information to the department which is necessary to meet the requirements for a quality assurance program pursuant to subsection (32) (40) and the child welfare results-oriented accountability system pursuant to s. 409.997.

(b) Provide for graduated penalties for failure to comply with contract terms, including the department terminating the contract for failure to meet the performance standards and metrics set by the department. The performance standards set by the department for the lead agencies must, at a minimum, address the following areas:

1. Abuse per 100,000 days in out-of-home care;
2. Abuse during in-home services;
3. Children entering care and achieving permanency within 12 months;
4. Children in care 12 to 23 months achieving permanency within 12 months;
5. Abuse within 6 months of closure of services;
6. Children receiving dental services;
7. Children receiving medical services;
8. Children under supervision who are seen every 30 days;
9. Children who do not reenter care within 12 months of moving to a permanent home;
10. Placement moves per 1,000 days in out-of-home care;
11. Sibling groups where all siblings are placed together; and
12. Young adults aging out and educational achievement.

Such penalties may include financial penalties, enhanced monitoring and reporting, corrective action plans, and early termination of contracts or other appropriate action to ensure contract compliance. The financial penalties shall require a lead agency to reallocate funds from administrative costs to direct care for children.

(c) Ensure that the lead agency shall furnish current and accurate information on its activities in all cases in client case records in the state’s statewide automated child welfare information system.

(d) Specify the procedures to be used by the parties to resolve differences in interpreting the contract or to resolve disputes as to the adequacy of the parties’ compliance with
their respective obligations under the contract.

(2) The department shall provide a grade for each lead agency based on the department’s annual review of the agency’s compliance with performance standards and metrics.

(3) A lead agency’s performance shall be graded based on its weighted score of its compliance with performance standards and metrics using one of the following grades:

(a) "A," lead agencies with a weighted score of 4.0 or higher.
(b) "B," lead agencies with a weighted score of 3.0 to 3.99.
(c) "C," lead agencies with a weighted score of 2.0 to 2.99.
(d) "D," lead agencies with a weighted score of 1.0 to 1.99.
(e) "F," lead agencies with a weighted score of less than 1.0.

(4) If the current contract has a renewal option, the department shall renew the contract of a lead agency that has received an "A" grade for the 2 years immediately preceding the renewal date of the contract.

(5) The department shall develop a tiered system of support and improvement strategies designed to address the low performance of a lead agency.

(6) The department may provide assistance to a lead agency for the purpose of meeting performance standards and metrics. Assistance may include, but is not limited to, recommendations for best practices and implementation of a corrective action plan.

(7) The department shall provide assistance to a lead agency that receives a "C" grade or lower on its annual review until such time that it has improved to at least a "B" grade.

(8) For any lead agency that has received a "D" or "F" grade, the department shall take immediate action to engage stakeholders in a needs assessment to develop a turnaround option plan. The turnaround option plan may include, but is not limited to, the implementation of corrective actions and best practices designed to improve performance. The department must review and approve the plan before implementation by the lead agency.

(9) If cancellation of a contract with a lead agency occurs in a manner that threatens a lapse in services, the department may procure and contract pursuant to s. 287.057(3)(a).

(10) Upon a lead agency’s receipt of a third consecutive "D" grade or lower, the department shall initiate proceedings to terminate any contract with the lead agency.

(11) At any time, the secretary may offer resources to a lead agency to address any deficiencies in meeting performance standards and metrics which directly impact the safety of children.

(12) Notwithstanding subsections (5) through (11), the secretary, at his or her discretion, may terminate a contract with a lead agency that has received an "F" grade or upon the occurrence of an egregious act or omission by the lead agency or its subcontractor.

(13) The lead agency shall pay any federal fines incurred by the department as the result of that lead agency’s failure to comply with the performance standards and metrics.
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(14) If the lead agency chooses to subcontract any duties or services, the lead agency shall retain responsibility for its failure to comply with performance standards and metrics.

(15) The department shall adopt rules to administer subsections (2) through (14).

(31) Subsection (2) of that section is republished, to read:

409.997 Child welfare results-oriented accountability

The department shall periodically, and before procuring a lead agency, solicit comments and recommendations from the community alliance established in s. 20.19(6)-(35), any other community groups, or public hearings. The recommendations must include, but are not limited to:

(a) The current and past performance of a lead agency.

(b) The relationship between a lead agency and its community partners.

(c) Any local conditions or service needs in child protection and child welfare.

Section 13. Subsection (4) is added to section 409.997, Florida Statutes, and subsection (2) of that section is republished, to read:

409.997 Child welfare results-oriented accountability...
Effectiveness evaluation is intended to determine the validity of a causal relationship between an intervention and an outcome. Effectiveness evaluation is intended to determine the extent to which programming and performance incentives if funds for such payments are made available through the General Appropriations Act. The analysis must include longitudinal studies to evaluate longer term outcomes, such as continued safety, family permanence, and transition to self-sufficiency. The analysis may also include qualitative research methods to provide insight into statistical patterns.

(a) Valid and reliable outcome measures for each of the goals specified in this subsection. The outcome data set must consist of a limited number of understandable measures using available data to quantify outcomes as children move through the system of care. Such measures may aggregate multiple variables that affect the overall achievement of the outcome goals. Valid and reliable measures must be based on adequate sample sizes, be gathered over suitable time periods, and reflect authentic rather than spurious results, and may not be susceptible to manipulation.

(b) Regular and periodic monitoring activities that track the identified outcome measures on a statewide, regional, and provider-specific basis. Monitoring reports must identify trends and chart progress toward achievement of the goals specified in this subsection. The accountability program may not rank or compare performance among community-based care regions unless adequate and specific adjustments are adopted which account for the diversity in regions’ demographics, resources, and other relevant characteristics. The requirements of the monitoring program may be incorporated into the department’s quality assurance program.

(c) An analytical framework that builds on the results of the outcomes monitoring procedures and assesses the statistical validity of observed associations between child welfare interventions and the measured outcomes. The analysis must use quantitative methods to adjust for variations in demographic or other conditions. The analysis must include longitudinal studies to evaluate longer term outcomes, such as continued safety, family permanence, and transition to self-sufficiency. The analysis may also include qualitative research methods to provide insight into statistical patterns.

(d) A program of research review to identify interventions that are supported by evidence as causally linked to improved outcomes.

(e) An ongoing process of evaluation to determine the efficacy and effectiveness of various interventions. Efficacy evaluation is intended to determine the validity of a causal relationship between an intervention and an outcome. Effectiveness evaluation is intended to determine the extent to
The onsite evaluation must consist of a review using a random sample of cases selected by the department. The presentation of the data shall provide a comprehensible, visual report card for the state and each community-based care region, indicating the current status of the outcomes relative to each goal and trends in that status over time. The presentation shall identify and report outcome measures that assess the performance of the department, the community-based care lead agencies, and their subcontractors working together to provide an integrated system of care.

(g) An annual performance report that is provided to interested parties including the dependency judge or judges in the community-based care service area. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year.

(4) Data generated in accordance with this section shall be provided directly to the department’s Office of Quality Assurance and Improvement in a manner dictated by the department. The department shall conduct an onsite program performance evaluation of each lead agency at least once per year. The department must also have access to make onsite visits at its discretion to any provider contracted by the lead agency. The onsite evaluation must consist of a review using a random sample of cases selected by the department.
1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334.

Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(38)(g) — s. 39.01(38)(g) — demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a
person who has custody or is requesting custody of the child or
make a finding of noncompliance for consideration in determining
whether an alternative placement of the child is in the child’s
best interests. Any order entered under this subparagraph may be
made only upon good cause shown. This subparagraph does not
authorize placement of a child with a person seeking custody of
the child, other than the child’s parent or legal custodian, who
requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to
participate in dependency mediation.

3. Require placement of the child either under the
protective supervision of an authorized agent of the department
in the home of one or both of the child’s parents or in the home
of a relative of the child or another adult approved by the
court, or in the custody of the department. Protective
supervision continues until the court terminates it or until the
child reaches the age of 18, whichever date is first. Protective
supervision shall be terminated by the court whenever the court
determines that permanency has been achieved for the child,
whether with a parent, another relative, or a legal custodian,
and that protective supervision is no longer needed. The
termination of supervision may be with or without retaining
jurisdiction, at the court’s discretion, and shall in either
case be considered a permanency option for the child. The order
terminating supervision by the department must set forth the
powers of the custodian of the child and include the powers
ordinarily granted to a guardian of the person of a minor unless
otherwise specified. Upon the court’s termination of supervision
by the department, further judicial reviews are not required if

CODING: Words **stricken** are deletions; words **underlined** are additions.
Paragraph (b) of subsection (5) of section 393.065, Florida Statutes, is amended to read: 

Section 22. Paragraph (b) of subsection (5) of section 393.065, Florida Statutes, is amended to read:

who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 21. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01(58), an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor’s caregiver to sign for a learner’s driver license signs the minor’s application for a learner’s driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 22. Paragraph (b) of subsection (5) of section 393.065, Florida Statutes, is amended to read:
Within categories 3, 4, 5, 6, and 7, the agency shall maintain a waiting list of clients placed in the order of the date that the client is determined eligible for waiver services.

Section 23. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

- 394.495 Child and adolescent mental health system of care; programs and services.

- (4) The array of services may include, but is not limited to:

  (p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(81)(g).

Section 24. Paragraph (a) of subsection (1) of section 394.674, Florida Statutes, is amended to read:

- 394.674 Eligibility for publicly funded substance abuse and mental health services; fee collection requirements.

- (1) To be eligible to receive substance abuse and mental health services funded by the department, an individual must be a member of at least one of the department’s priority populations approved by the Legislature. The priority populations include:

  (a) For adult mental health services:

  1. Adults who have severe and persistent mental illness, as designated by the department using criteria that include severity of diagnosis, duration of the mental illness, ability to independently perform activities of daily living, and receipt of disability income for a psychiatric condition. Included within this group are:

     a. Older adults in crisis.

     b. Older adults who are at risk of being placed in a more

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restrictive environment because of their mental illness.

c. Persons deemed incompetent to proceed or not guilty by
d. Other persons involved in the criminal justice system.
e. Persons diagnosed as having co-occurring mental illness
and substance abuse disorders.

2. Persons who are experiencing an acute mental or
emotional crisis as defined in s. 394.67(18).

Section 25. Subsection (2) of section 409.987, Florida
Statutes, is amended to read:

409.987 Lead agency procurement.—
(2) The department shall produce a schedule for the
procurement of community-based care lead agencies and provide
the schedule to the community alliances established pursuant to
s. 20.19(6) and post the schedule on the
department’s website.

Section 26. Paragraph (c) of subsection (1) of section
409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—
(1) DUTIES.—A lead agency:
(c) Shall follow the financial guidelines developed by the
department and provide for a regular independent auditing of its
financial activities. Such financial information shall be
provided to the community alliance established under s. 20.19(6).

Section 27. Section 627.746, Florida Statutes, is amended
to read:

627.746 Coverage for minors who have a learner’s driver
license; additional premium prohibited.—An insurer that issues

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1567 abandonment, or neglect. Upon receipt of a report that alleges
1568 that an employee or agent of the department, or any other entity
1569 or person covered by s. 39.01(40) or (57), s. 39.21(37) or (54),
1570 acting in an official capacity, has committed an act of child
1571 abuse, abandonment, or neglect, the department shall initiate a
1572 child protective investigation within the timeframes timeframe
1573 established under s. 39.201(5) and notify the appropriate state
1574 attorney, law enforcement agency, and licensing agency, which
1575 shall immediately conduct a joint investigation, unless
1576 independent investigations are more feasible. When conducting
1577 investigations or having face-to-face interviews with the child,
1578 investigation visits shall be unannounced unless it is
1579 determined by the department or its agent that unannounced
1580 visits threaten the safety of the child. If a facility is exempt
1581 from licensing, the department shall inform the owner or
1582 operator of the facility of the report. Each agency conducting a
1583 joint investigation is entitled to full access to the
1584 information gathered by the department in the course of the
1585 investigation. A protective investigation must include an
1586 interview with the child’s parent or legal guardian. The
1587 department shall make a full written report to the state
1588 attorney within 3 working days after making the oral report. A
1589 criminal investigation shall be coordinated, whenever possible,
1590 with the child protective investigation of the department. Any
1591 interested person who has information regarding the offenses
1592 described in this subsection may forward a statement to the
1593 state attorney as to whether prosecution is warranted and
1594 appropriate. Within 15 days after the completion of the
1595 investigation, the state attorney shall report the findings to
1596 the department and shall include in the report a determination
1597 of whether or not prosecution is justified and appropriate in
1598 view of the circumstances of the specific case.
1599
1600 Section 31. For the purpose of incorporating the amendment
1601 made by this act to section 409.997, Florida Statutes, in a
1602 reference thereto, paragraph (b) of subsection (1) of section
1603 409.988, Florida Statutes, is reenacted to read:
1604 (1) DUTIES.—A lead agency:
1605 (b) Shall provide accurate and timely information necessary
1606 for oversight by the department pursuant to the child welfare
1607 results-oriented accountability system required by s. 409.997.
1608
1609 Section 32. For the purpose of incorporating the amendment
1610 made by this act to section 409.997, Florida Statutes, in a
1611 reference thereto, paragraph (a) of subsection (1) of section
1612 409.996, Florida Statutes, is reenacted to read:
1613 409.996 Duties of the Department of Children and Families.—
1614 The department shall contract for the delivery, administration,
1615 or management of care for children in the child protection and
1616 child welfare system. In doing so, the department retains
1617 responsibility for the quality of contracted services and
1618 programs and shall ensure that services are delivered in
1619 accordance with applicable federal and state statutes and
1620 regulations.
1621 (1) The department shall enter into contracts with lead
1622 agencies for the performance of the duties by the lead agencies
1623 pursuant to s. 409.988. At a minimum, the contracts must:
1624 (a) Provide for the services needed to accomplish the
1625 duties established in s. 409.988 and provide information to the
department which is necessary to meet the requirements for a
good quality assurance program pursuant to subsection (18) and the
child welfare results-oriented accountability system pursuant to
s. 409.997.

Section 33. This act shall take effect July 1, 2020.
CourtSmart Tag Report

Room: KN 412  Case No.:  Type:  
Caption: Senate Appropriations Subcommittee on Health and Human Services  Judge:  

Started:  1/29/2020 11:02:48 AM  
Ends:  1/29/2020 11:23:04 AM  
Length: 00:20:17

11:02:54 AM  Sen. Bean (Chair)  
11:05:49 AM  S 52 tp  
11:06:21 AM  Sen. Harrell (Chair)  
11:06:29 AM  S 1020  
11:06:33 AM  Sen. Bean  
11:07:56 AM  Cliff Bauer, VP, Miami Jewish Health (waives in support)  
11:08:12 AM  Sen. Rouson  
11:08:26 AM  Sen. Bean  
11:09:04 AM  Sen. Rouson  
11:09:21 AM  Sen. Bean  
11:10:52 AM  Sen. Bean (Chair)  
11:11:01 AM  TAB 1 - Review and Discussion of Fiscal Year 2020-2021 Budget Issues  
11:22:18 AM  Sen. Flores  
11:22:30 AM  Sen. Hooper  
11:22:42 AM  Sen. Bean