Tab 1	**SB 152** by **Brandes (CO-INTRODUCERS) Perry**; (Similar to H 00979) Dental Therapy					
883162	T	S		CF, Brandes	In title, delete L.2:	02/03 12:33 PM
Tab 2	**SB 302** by **Rader**; (Identical to H 00089) Adoption Records					
286348	A	S		CF, Rader	Delete L.20:	02/03 12:33 PM
Tab 3	**SB 1062** by **Harrell (CO-INTRODUCERS) Perry**; (Similar to H 01083) Involuntary Examinations of Minors					
673474	A	S		CF, Harrell	Delete L.181:	02/03 12:34 PM
Tab 4	**SB 1440** by **Powell**; (Similar to CS/H 00945) Children's Mental Health					
777132	D	S		CF, Powell	Delete everything after	02/03 12:35 PM
Tab 5	**SB 1548** by **Perry (CO-INTRODUCERS) Hutson**; (Compare to H 00043) Child Welfare					
~~229818~~	D	S	WD	CF, Perry	Delete everything after	01/31 02:39 PM
154690	D	S		CF, Perry	Delete everything after	02/03 12:35 PM
Tab 6	**SB 1624** by **Perry**; (Similar to H 01323) Economic Self-sufficiency					
548088	D	S		CF, Perry	Delete everything after	02/03 12:36 PM
Tab 7	**SB 1648** by **Albritton**; (Similar to H 00965) Support for Incapacitated Adult Children					
Tab 8	**SB 1748** by **Hutson (CO-INTRODUCERS) Perry**; Child Welfare					
908544	D	S		CF, Hutson	Delete everything after	02/03 12:41 PM
Tab 9	**SB 1886** by **Brandes**; Grandparent Visitation Rights					
229474	A	S		CF, Brandes	Delete L.72 - 73:	02/03 12:38 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Tuesday, February 4, 2020
TIME: 12:30—2:30 p.m.
PLACE: 301 Senate Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 152** Brandes (Similar H 979)	Dental Therapy; Authorizing Medicaid to reimburse for dental services provided in a mobile dental unit that is owned by, operated by, or contracted with a health access setting or another similar setting or program; requiring the chair of the Board of Dentistry to appoint a Council on Dental Therapy effective after a specified timeframe; requiring the board to adopt certain rules relating to dental therapists; providing application requirements and examination and licensure qualifications for dental therapists; limiting the practice of dental therapy to specified settings, etc. CF 02/04/2020 AHS AP	
2	**SB 302** Rader (Identical H 89)	Adoption Records; Providing that the name and identity of a birth parent, an adoptive parent, and an adoptee may be disclosed from adoption records without a court order under certain circumstances, etc. CF 02/04/2020 JU RC	
3	**SB 1062** Harrell (Similar H 1083, Compare H 407, S 1426, S 7040)	Involuntary Examinations of Minors; Revising parent and guardian notification requirements that must be met before an involuntary examination of a minor; creating reporting requirements for schools relating to involuntary examinations of minors; requiring that certain plans include procedures to assist certain mental and behavioral health providers in attempts to verbally de-escalate certain crisis situations before initiating an involuntary examination, etc. CF 02/04/2020 ED RC	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 1440** Powell (Similar CS/H 945)	Children's Mental Health; Requiring the Department of Children and Families and the Agency for Health Care Administration to identify certain children and adolescents who use crisis stabilization services during specified fiscal years; including crisis response services provided through mobile response teams in the array of services available to children and adolescents; requiring managing entities to develop and implement plans promoting the development of a coordinated system of care for certain services; revising requirements relating to preservice training for foster parents, etc. CF 02/04/2020 AHS AP	
5	**SB 1548** Perry (Compare H 43, H 111, H 679, CS/H 1105, S 88, CS/S 1324)	Child Welfare; Requiring the Florida Court Educational Council to establish certain standards for instruction of specified circuit court judges; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child; providing court procedures and requirements relating to deceased parents of a dependent child; authorizing the department to take certain actions without a court order; providing requirements and procedures for the determination of paternity when a child is dependent, etc. CF 01/28/2020 Temporarily Postponed CF 02/04/2020 AHS AP	
6	**SB 1624** Perry (Similar H 1323)	Economic Self-sufficiency; Requiring the Auditor General to conduct performance audits of the Supplemental Nutrition Assistance Program, the temporary cash assistance program, the Medicaid program, the school readiness program, and the United States Department of Housing and Urban Development Section 8 housing program, every 3 years; requiring that the audits include a review of eligibility requirements and the eligibility determination process; requiring that first priority for eligibility and enrollment in the school readiness program also be given to parents who have an Intensive Service Account or an Individual Training Account, etc. CF 02/04/2020 GO AP	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**SB 1648** Albritton (Similar H 965)	Support for Incapacitated Adult Children; Defining the term "incapacitated adult child"; specifying that parents are responsible for supporting an incapacitated adult child; requiring certain rights of the parents of an incapacitated adult child to be established in a guardianship proceeding; specifying that a child support order need not terminate on the child's 18th birthday in certain circumstances; providing an additional circumstance under which a guardian advocate must be represented by an attorney in guardianship proceedings, etc. CF 02/04/2020 JU AP	
8	**SB 1748** Hutson	Child Welfare; Requiring that child support payments be deposited into specified trust funds; authorizing the Department of Children and Families to place children in a specified program without court approval; requiring certain documentation in the case plan when a child is placed in a qualified residential treatment program; revising the conditions under which a court determines permanent guardian placement for a child; providing requirements for qualified residential treatment programs; revising a requirement and an authorization for safe houses, etc. CF 01/28/2020 Temporarily Postponed CF 02/04/2020 AHS AP	
9	**SB 1886** Brandes	Grandparent Visitation Rights; Authorizing a grandparent of a minor child whose parent was the victim of a murder to petition the court for court-ordered visitation with the child under certain circumstances; removing the requirement that a grandparent petitioning the court for court-ordered visitation with a minor child make a prima facie showing of parental unfitness or significant harm to the child in a preliminary hearing on such petition and instead requiring the grandparent to make a prima facie showing of other specified conditions, etc. CF 02/04/2020 JU RC	
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 152
INTRODUCER:	Senators Brandes and Perry
SUBJECT:	Dental Therapy
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 152 authorizes the Department of Health ("DOH") to issue a dental therapist license to an applicant who possesses a degree or certificate in dental therapy from an accredited program. The bill authorizes a licensed dental therapist to perform remediable tasks under the general supervision of a dentist. The bill provides a scope of practice for dental therapists and requires the Board of Dentistry ("BOD") to appoint and establish members of the Council of Dental Therapy.

The bill also authorizes Medicaid to reimburse for dental services provided in a mobile dental unit owned by a health access setting.

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

II. Present Situation:

Regulation of Dental Practice in Florida

The BOD regulates dental practice in Florida, including dentists, dental hygienists, and dental assistants under the Dental Practice Act.[1] A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.[2] A dental hygienist provides education, preventive and delegated therapeutic dental services.[3]

Any person wishing to practice dentistry in this state must apply to the DOH and meet specified requirements. Section 466.006, F.S., requires dentistry licensure applicants to sit for a national

[1] Section 466.004, F.S.
[2] Section 466.003(3), F.S.
[3] Section 466.003(4)-(5), F.S.

exam, a state exam, and a practicum exam.[4] To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association or be a student in the final year of a program at an accredited institution, and have successfully completed the National Board of Dental Examiners (NBDE) dental examination.

Dentists must maintain professional liability insurance or provide proof of professional responsibility. If the dentist obtains professional liability insurance, the coverage must be at least $100,000 per claim, with a minimum annual aggregate of at least $300,000.[5] Alternatively, a dentist may maintain an unexpired, irrevocable letter of credit in the amount of $100,000 per claim, with a minimum aggregate availability of credit of at least $300,000.[6] The professional liability insurance must provide coverage for the actions of any dental hygienist supervised by the dentist.[7]

Health Professional Shortage Areas

The U.S. Department of Health and Human Services' Health Resources and Services Administration (HRSA) designates Health Professional Shortage Areas (HPSAs) according to criteria developed in accordance with section 332 of the Public Health Services Act. HPSA designations are used to identify areas and population groups within the United States that are experiencing a shortage of health care provider shortages in primary care, dental health, or mental health.[8] The threshold for a dental HPSA is a population-to-provider ratio of at least 5,000:1.[9]

Medically Underserved Area

HRSA also designates Medically Underserved Areas (MUAs) and Medically Underserved Populations (MUPs). MUAs and MUPs identify geographic areas and populations with a lack of access to primary care services.[10] MUAs have a shortage of primary care health services for residents within a geographic area such as a county, a group of neighboring counties, a group of urban census tracts, or a group of county or civil divisions.[11] MUPs are specific sub-groups of people living in a defined geographic area with a shortage of primary care health services who may face economic, cultural, or linguistic barriers to health care.[12] MUPs include, but are not limited to, those who are homeless, low-income, Medicaid-eligible, Native American, or migrant farmworkers.[13]

[4] A passing score is valid for 365 days after the date the official examination results are published. A passing score on an examination obtained in another jurisdiction must be completed on or after October 1, 2011.
[5] Rule 64B5-17.011(1), F.A.C.
[6] Rule 64B5-17.011(2), F.A.C.
[7] Rule 64B5-17.011(4), F.A.C.
[8] Health Resources and Services Administration, *Health Professional Shortage Areas (HPSAs)*, available at https://bhw.hrsa.gov/shortage-designation/hpsas (last visited Jan. 31, 2020).
[9] Id.
[10] Health Resources and Services Administration, *Medically Underserved Areas and Populations (MUA/Ps)*, https://bhw.hrsa.gov/shortage-designation/muap (last visited Jan. 31, 2020).
[11] Id.
[12] Id.
[13] Id.

Access to Dental Care and Dental Workforce in Florida

Nationally, there are 5,352 dental HSPAs, 296 of which are in Florida.[14] The DOH reports that in 2017 - 18 fiscal year there were approximately 55.8 licensed dentists per 100,000 people in Florida; however, this ratio varies greatly across the state.[15] Most dentists are disproportionately concentrated in the more populous areas of the state. Three counties, Dixie, Glades, and Lafayette, do not have any licensed dentists, while other counties have over 150 dentists per 100,000 residents.[16]

Lack of access to dental care can lead to poor oral health and poor overall health. [17] Research has shown a link between poor oral health and diabetes, heart and lung disease, stroke, respiratory illnesses, and adverse birth outcomes including the delivery of pre-term and low birth weight infants.[18]

Dental Licensure Programs for Underserved Populations in Florida

The DOH may issue a permit to a nonprofit corporation chartered to provide dental care for indigent persons. A nonprofit corporation may apply for a permit to employ a non-Florida licensed dentist who is a graduate of an accredited dental school.[19] The DOH also issues limited licenses to dentists whose practice is limited to providing services to the indigent or critical need populations within the state.[20] The DOH will waive the application and all licensure if the limited licensee applicant submits a notarized statement from the employer that he or she will not be receiving monetary compensation for services provided.

Health Access Licenses

A health access license allows out-of-state dentists who meet certain criteria to practice in a health access setting without the supervision of a Florida licensed dentist.[21] A health access setting is a program or institution of the Department of Children and Families, the DOH, Department of Juvenile Justice, a nonprofit health center, a Head Start center, a federally-qualified health center (FQHC) or FQHC look-alike, a school-based prevention program, or a clinic operated by an accredited dental school or accredited dental hygiene program.[22]

A holder of a health access dental license must apply for renewal of the license each biennium and provide a signed statement that she or he has complied will all continuing education

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[14] Health Resources and Services Administration, data.HPSA.gov, *Shortage Areas*, available at https://data.hrsa.gov/topics/health-workforce/shortage-areas (last visited Aug. 27, 2019).
[15] Florida Department of Health, Florida CHARTS, *Total Licensed Florida Dentists*, http://www.flhealthcharts.com/charts/OtherIndicators/NonVitalIndNoGrpDataViewer.aspx?cid=0326 (last visited Jan. 31, 2020).
[16] Id.
[17] Florida Department of Health, *Florida's Burden of Oral Disease Surveillance Report*, (Aug, 2016), p. 5, *available at*, http://www.floridahealth.gov/programs-and-services/community-health/dental-health/reports/_documents/floridas-burden-oral-disease-surveillance-report.pdf (last visited Jan. 31, 2020).
[18] Id.
[19] Rule 64B5-7.006, F.A.C.
[20] *See* Section 456.015, F.S., and Rule 64B5-7.007, F.A.C.
[21] Section 466.0067, F.S. The dental health access license is scheduled for repeal on January 1, 2020, unless saved from repeal by reenactment by the Legislature (s. 466.00673, F.S.).
[22] Section 466.003(14), F.S. Such institutions or programs must report violations of the Dental Practice Act or standards of care to the Board of Dentistry.

requirements of an active dentist. The health access dental license will be renewed if the applicant:

- Submits documentation from the employer in the health access setting that the licensee has at all times pertinent remained an employee;
- Has not been convicted or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Has paid the appropriate renewal fee;
- Has not failed the Florida examination requirements since initially receiving the health access dental license or since the last renewal; and
- Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the data bank.

A health access dental license will be revoked upon the termination of the licensee's employment from a qualifying health access setting, final agency action determining that a licensee has violated disciplinary grounds as provided in s. 466.028, F.S., or failure of the Florida dental licensure examination.

It is considered the unlicensed practice of dentistry if a licensee fails to limit his or her practice to a health access setting.[23]

Dental Therapy

Dental therapists are midlevel dental providers, similar to physician assistants in medicine.[24] Dental therapists provide preventive and routine restorative care, such as filling cavities, placing temporary crowns, and extracting badly diseased or loose teeth.[25] Arizona, Connecticut, Minnesota, Maine, New Mexico, Nevada, and Vermont have authorized the practice of dental therapy, and dental therapists are authorized to practice in tribal areas of Alaska, Oregon, and Washington.[26]

In 2015, the Commission on Dental Accreditation (CODA) established accreditation standards for dental therapy education programs.[27] There are no CODA-accredited dental therapy education programs. There are currently three dental therapy education programs in the United States, which are located in Minnesota and Alaska, and a fourth dental therapy education program is being developed in Vermont. The dental therapy education programs that currently exist are accredited by regional accreditation agencies or approved by state dental boards.

III. Effect of Proposed Changes:

Section 1 amends s. 409.906, F.S., to allow Medicaid to provide reimbursement for dental services provided by a mobile dental unit owned by, operated by, or having a contractual

[23] Section 466.00672(2), F.S.
[24] Pew Charitable Trusts, *5 Dental Therapy FAQs*, (April 21, 2016), available at http://www.pewtrusts.org/en/research-and-analysis/q-and-a/2016/04/5-dental-therapy-faqs (last visited Jan. 31, 2020).
[25] Id.
[26] Pew Charitable Trusts, *National Momentum Building for Midlevel Dental Providers*, http://www.pewtrusts.org/en/research-and-analysis/analysis/2016/09/28/states-expand-the-use-of-dental-therapy (last visited Jan. 31, 2020).
[27] Commission on Dental Accreditation, *Accreditation Standards for Dental Therapy Education Programs*, (eff. Feb. 6, 2015), available at http://www.ada.org/~/media/CODA/Files/dt.ashx (last visited Jan. 31, 2020).

relationship with a health access setting or a similar setting or program that serves underserved populations that face serious barriers to accessing dental services. Examples include Early Head Start programs, homeless shelters, schools, and the Special Supplemental Nutrition Program for Women, Infants and Children.

Section 2 amends s. 466.001, F.S., to express legislative intent to ensure every dental therapist practicing in the state meets minimum requirements for safe practice, and that those dental therapists who fall below minimum competency or otherwise present a danger to the public shall be prohibited from practicing.

Section 3 amends s. 466.002, F.S., to provide that nothing in the Dental Practice Act (ch. 466, F.S.) shall apply to dental therapy students while performing regularly assigned work under the curriculum of schools, nor to instructors of dental therapy while performing regularly assigned instructional duties.

Section 4 amends s. 466.003, F.S., to add definitions for dental therapy and dental therapists, and expands the definition of 'health access settings' to include dental therapy programs.

Section 5 amends s. 466.004, F.S., to provide for the creation of the Council on Dental Therapy. Members of the council will be appointed by the chair of the board and consist of one board member to chair the council and three dental therapists actively engaged in the practice of dental therapy in Florida. The council must meet at least three times per year, and at the request of the board chair, a majority of the members, or the council chair. The council is tasked with rule and policy recommendations, which must be reviewed by the board. The board has authority to take final action on adopting recommendations made by the council.

Section 6 amends s. 466.006, F.S., to make dentists who are full-time faculty members of dental therapy schools eligible for what is considered "full-time practice" of dentists for purposes of state licensure.

Section 7 amends s. 466.0075, F.S., to provide that the board may require any person applying to take the dental therapy licensure exam to maintain medical liability insurance sufficient to cover any incident of harm to a patient during a clinical exam.

Section 8 amends s. 466.009, F.S., to allow applicants for a dental therapy license who fail one part of the practical or clinical exam for licensure to retake only that part in order to pass the exam, however if the applicant fails more than one part they must retake the entire exam.

Section 9 amends s. 466.011, F.S., to provide that anyone who satisfies all parts of the newly created s. 466.0225, F.S., pertaining to dental therapy, must be certified for licensure by the DOH.

Section 10 creates s. 466.0136, F.S., requiring all licensed dental therapists to complete at least 24 hours of continuing education (CE) in dental subjects approved by the board biennially. The bill specifies that CE programs must be programs that, in the opinion of the board, contribute directly to the dental education of the licensee. The bill allows individuals licensed as both a dental therapist and a dental hygienist to count one hour of CE toward the total annual CE

requirements for both professions. The bill gives the board rulemaking authority to enforce the provisions of this section, and also allows the board to excuse the requirement for those facing unusual circumstances, emergencies, or hardships.

Section 11 amends s. 466.0016, F.S., requiring licensed dental therapists to display a copy of their license in plain sight of patients at each office where they practice.

Section 12 amends s. 466.017, F.S., requiring the board to adopt rules which establish additional requirements relating to the use of general anesthesia or sedation for dental therapists who work with either. The bill also requires the board to adopt a mechanism to verify compliance with training and certification requirements. The bill requires any dental therapist who uses any form of anesthesia to obtain certification in either basic CPR or advanced cardiac life support as approved by the American Heart Association or American Red Cross, with recertification every two years. The bill provides that dental therapists working under the general supervision of a dentist may administer local anesthesia, including intraoral block anesthesia, soft tissue infiltration anesthesia, or both if they are properly certified. The bill also permits dental therapists to utilize x-ray machines if authorized by their supervising dentist to do so.

Section 13 amends s. 466.018, F.S., provides that a dentist of record shall be primarily responsible for treatment rendered by a dental therapist. The bill requires anyone other than the dentist of record, a dental hygienist, a dental therapist, or a dental assistant to note their initials in the patient record if they perform treatment on a patient.

Section 14 creates s. 466.0225, F.S., requiring any applicant for licensure as a dental therapist to take the appropriate licensure exams, verify an application for licensure by oath, and include two personal photographs with the application. The bill provides that in order to take the dental therapy exams and obtain licensure, an applicant must:

- The applicant must be at least 18 years old;
- Graduate from a CODA-accredited dental therapy school or program, or a program accredited by another entity recognized by the U.S. Department of Education;
- Successfully complete a dental therapy practical or clinical exam produced by the American Board of Dental Examiners (ADEX) within three attempts;
- Not have been disciplined by the Board with the exception of minor violations or citations;
- Not have been convicted, or pled nolo contendere to, a misdemeanor or felony related to the practice of dental therapy; and
- Successfully complete a written laws and rules exam on dental therapy.

The bill provides that an applicant who meets these requirements and successfully completes either the ADEX practical/clinical exams or exams in another state deemed comparable by the board must be licensed to practice dental therapy in Florida.

Section 15 creates s. 466.0227, F.S., providing legislative findings that licensing dental therapists would improve access to high-quality affordable oral health services, and would rapidly improve such access for low-income, uninsured, and underserved patients. To further this intent, the bill limits dental therapists to practicing in the following settings:

- A health access setting;

- A community health center;
- A military or veterans' hospital or clinic;
- A governmental or public health clinic;
- A school, Head Start program, or school-based prevention program;
- An oral health education institution;
- A hospital;
- A geographical area designated as a dental health professional shortage area by the federal government; or
- Any other clinic or practice setting if at least 50% of the patients are enrolled in Medicaid or lack dental insurance and report an annual income of less than 200% of the federal poverty level.

The bill provides that a dental therapist may provide the following services under the general supervision of a dentist:

- All services specified by CODA in its Dental Therapy Accreditation Standards;[28]
- Evaluating radiographs;
- Placement of space maintainers;
- Pulpotomies on primary teeth;
- Dispensing and administering nonopioid analgesics, and;
- Oral evaluation of dental disease and forming of treatment plans if authorized by a supervising dentist and subject to any conditions in a collaborative agreement between the dentist and dental therapist.

The bill requires a dental therapist and supervising dentist to enter into a written collaborative agreement prior to performing any of the aforementioned services, and the agreement must include permissible practice settings, practice limitations and protocols, record maintenance procedures, emergency protocols, medication protocols, and supervision criteria. The bill requires supervising dentists to determine the number of hours a dental therapist must perform under direct or indirect supervision before practicing under general supervision. The bill provides that a supervising dentist must be licensed to practice in Florida and is responsible for all services authorized and performed by the dental therapist pursuant to a collaborative agreement. Finally, the bill allows a dental therapist to perform services prior to being seen by the supervising dentist if provided for in the collaborative agreement and if the patient is subsequently referred to a dentist for any additional services needed that exceed to the dental therapist's scope of practice.

Section 16 amends s. 466.026, F.S., to provide that the unlicensed practice of dental therapy, and offering to sell a dental therapy school or college degree to someone who was not granted such a degree, both constitute third-degree felonies. The bill also provides that using the name "dental therapist" or the initials, "D.T." or otherwise holding one's self out as an actively licensed dental therapist without proper licensure is a first-degree misdemeanor.

[28] See complete list of service required for CODA Dental Therapy Accreditation Standards Commission on Dental Accreditation, *Accreditation Standards for Dental Therapy Education Programs* (eff. Feb. 6, 2015), Copyright 2019,Standard 2 – Education Program, 2-12 p. 29 - 30 available at https://www.ada.org/en/~/media/CODA/Files/dental_therapy_standards (last visited Aug. 27, 2019).

Section 17 amends s. 466.028, F.S., to provide that the following acts constitute grounds for denial of a dental therapy license or discipline of an existing dental therapy license:

- Having a license to practice dental therapy disciplined by another state or practice jurisdiction;
- Being convicted or found guilty of, or pleading nolo contendere to, a crime related to the practice of dental therapy;
- Aiding or abetting the unlicensed practice of dental therapy;
- Being unable to practice dental therapy with reasonable skill and safety by reason of illness, chemical impairment, or any mental or physical condition, and;
- Fraud, deceit, or misconduct in the practice of dental therapy.

Section 18 amends s. 466.0285, F.S., to prohibit anyone other than a licensed dentist from employing dental therapists in the operation of a dental office.

Section 19 requires that by July 1, 2023, the DOH, in consultation with the board and AHCA must submit, to the President of the Senate and the Speaker of the House of Representatives, a progress report which must include:

- The progress that has been made in Florida to implement dental therapy training programs, licensing, and Medicaid reimbursement;
- Data demonstrating the effects of dental therapy in Florida on:
  - Patient access to dental services;
  - The use of primary and preventative dental services in underserved regions and populations, including Medicaid;
  - Costs to dental providers, patients, insurers and the state; and
  - The quality and safety of dental services.
- Specific recommendations for any necessary legislative, administrative, or regulatory changes relating to dental therapy; and
- Any additional information the DOH deems appropriate.

A final report is required to be submitted to the Legislature three years after the first dental therapy license is issued.

Section 20 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:

The DOH anticipates an estimated revenue for the first biennium of licensure of approximately $2.4 million, and an estimated revenue for the second biennium of $2 million.[29]

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There will be an indeterminate fiscal impact on individuals who apply for licensure as dental therapists as they will need to pay application and licensure fees.

C. Government Sector Impact:

Estimated costs to the state for the first biennium of licensure are $584,408, as shown below:[30]

	RECURRING	**NON-RECURRING**
SALARY	$205,745	
OPS	$800	$25,260
EXPENSE	$54,646	$22,145
CONTRACTED SERVICES	$65,703 (Reccuring Biannually)	
HUMAN RESOURCES	$1,316	$107
TOTAL	**$328,210**	**$47,512**

VI. Technical Deficiencies:

The bill incorrectly cites the statutory reference for the definitions of health access setting and school-based prevention programs. It should read s. 466.003(14), F.S., and s. 466.003(15), F.S., respectively.

[29] Florida Department of Health, 2020 Agency Legislative Bill Analysis, HB 649. October 14, 2019. On file with the Senate Committee on Children, Families and Elder Affairs.
[30] *Id*.

VII. Related Issues:

According to the DOH, the proposed language in the newly created s. 466.0225(1), F.S., is outdated as applicants for licensure with the DOH are no longer required to submit two photographs as part of the application process.[31]

The bill fails to define "minor violations" as cited in the newly created s. 466.0225, F.S.

The bill provides that a dental therapist may provide services to a patient prior to the patient being seen by a dentist if the collaborative agreement between dentist and dental therapist so allows. The DOH has expressed uncertainty over whether this may present a conflict with s. 466.003(10), F.S., which requires a licensed dentist to examine and diagnose a patient before another licensed professional provides services.

VIII. Statutes Affected:

This bill substantially amends sections 409.906, 466.001, 466.002, 466.003, 466.004, 466.006, 466.0075, 466.009, 466.011, 466.016, 466.017, 466.018, 466.026, 466.028, and 466.0285 of the Florida Statutes.
This bill creates sections 466.0136, 466.0225, and 466.0227 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.

[31] *Id*.

883162

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment

In title, delete line 2
and insert:
An act relating to increasing access to health care; amending s.

By Senator Brandes

24-00156-20 2020152__

A bill to be entitled

An act relating to dental therapy; amending s. 409.906, F.S.; authorizing Medicaid to reimburse for dental services provided in a mobile dental unit that is owned by, operated by, or contracted with a health access setting or another similar setting or program; amending s. 466.001, F.S.; revising legislative purpose and intent; amending s. 466.002, F.S.; providing applicability; amending s. 466.003, F.S.; defining the terms "dental therapist" and "dental therapy"; revising the definition of the term "health access setting" to include certain dental therapy programs; amending s. 466.004, F.S.; requiring the chair of the Board of Dentistry to appoint a Council on Dental Therapy effective after a specified timeframe; providing for membership, meetings, and the purpose of the council; amending s. 466.006, F.S.; revising the definition of the terms "full-time practice" and "full-time practice of dentistry within the geographic boundaries of this state within 1 year" to include full-time faculty members of certain dental therapy schools; amending s. 466.0075, F.S.; authorizing the board to require any person who applies to take the examination to practice dental therapy in this state to maintain medical malpractice insurance in a certain amount; amending s. 466.009, F.S.; requiring the Department of Health to allow any person who fails the dental therapy examination to retake the examination; providing that a person who

fails a practical or clinical examination to practice dental therapy and who has failed one part or procedure of the examination may be required to retake only that part or procedure to pass the examination; amending s. 466.011, F.S.; requiring the board to certify applicants for licensure as a dental therapist; creating s. 466.0136, F.S.; requiring the board to require each licensed dental therapist to complete a specified number of hours of continuing education; requiring the board to adopt rules and guidelines; authorizing the board to excuse licensees from continuing education requirements in certain circumstances; amending s. 466.016, F.S.; requiring a practitioner of dental therapy to post and display her or his license in each office where she or he practices; amending s. 466.017, F.S.; requiring the board to adopt certain rules relating to dental therapists; authorizing a dental therapist under the general supervision of a dentist to administer local anesthesia and operate an X-ray machine, expose dental X-ray films, and interpret or read such films if specified requirements are met; correcting a term; amending s. 466.018, F.S.; providing that a dentist remains primarily responsible for the dental treatment of a patient regardless of whether the treatment is provided by a dental therapist; requiring the initials of a dental therapist who renders treatment to a patient to be placed in the record of the patient; creating s. 466.0225, F.S.; providing application

requirements and examination and licensure qualifications for dental therapists; creating s. 466.0227, F.S.; providing legislative findings and intent; limiting the practice of dental therapy to specified settings; authorizing a dental therapist to perform specified services under the general supervision of a dentist under certain conditions; specifying state-specific dental therapy services; requiring a collaborative management agreement to be signed by a supervising dentist and a dental therapist and to include certain information; requiring the supervising dentist to determine the number of hours of practice that a dental therapist must complete before performing certain authorized services; authorizing a supervising dentist to restrict or limit the dental therapist's practice in a collaborative management agreement; providing that a supervising dentist may authorize a dental therapist to provide dental therapy services to a patient before the dentist examines or diagnoses the patient under certain conditions; requiring a supervising dentist to be licensed and practicing in this state; specifying that the supervising dentist is responsible for certain services; amending s. 466.026, F.S.; providing criminal penalties for practicing dental therapy without an active license, selling or offering to sell a diploma from a dental therapy school or college, falsely using a specified name or initials or holding herself or himself out as an actively licensed dental

therapist; amending s. 466.028, F.S.; revising grounds for denial of a license or disciplinary action to include the practice of dental therapy; amending s. 466.0285, F.S.; prohibiting persons other than licensed dentists from employing a dental therapist in the operation of a dental office and from controlling the use of any dental equipment or material in certain circumstances; requiring the department, in consultation with the board and the Agency for Health Care Administration, to provide reports to the Legislature by specified dates; requiring that certain information and recommendations be included in the reports; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 409.906, Florida Statutes, is amended, and paragraph (e) is added to subsection (6) of that section, 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:

(1) ADULT DENTAL SERVICES.—

(c) However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:

1. Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

2. Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

3. Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

4. Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

5. Owned by, operated by, or having a contractual agreement

with a health access setting, as defined in s. 466.003(16), or a similar setting or program that serves underserved or vulnerable populations that face serious barriers to accessing dental services, which may include, but is not limited to, Early Head Start programs, homeless shelters, schools, and the Special Supplemental Nutrition Program for Women, Infants, and Children.

(6) CHILDREN'S DENTAL SERVICES.—The agency may pay for diagnostic, preventive, or corrective procedures, including orthodontia in severe cases, provided to a recipient under age 21, by or under the supervision of a licensed dentist. The agency may also reimburse a health access setting as defined in s. 466.003(16) ~~s. 466.003~~ for the remediable tasks that a licensed dental hygienist is authorized to perform under s. 466.024(2). Services provided under this program include treatment of the teeth and associated structures of the oral cavity, as well as treatment of disease, injury, or impairment that may affect the oral or general health of the individual. However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:

(e) Owned by, operated by, or having a contractual agreement with a health access setting, as defined in s. 466.003(16), or a similar setting or program that serves underserved or vulnerable populations that face serious barriers to accessing dental services, which may include, but is not limited to, Early Head Start programs, homeless shelters, schools, and the Special Supplemental Nutrition Program for Women, Infants, and Children.

Section 2. Section 466.001, Florida Statutes, is amended to

read:

466.001 Legislative purpose and intent.—The legislative purpose for enacting this chapter is to ensure that every dentist, dental therapist, or dental hygienist practicing in this state meets minimum requirements for safe practice without undue clinical interference by persons not licensed under this chapter. It is the legislative intent that dental services be provided only in accordance with ~~the provisions of~~ this chapter and not be delegated to unauthorized individuals. It is the further legislative intent that dentists, dental therapists, and dental hygienists who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. All provisions of this chapter relating to the practice of dentistry, dental therapy, and dental hygiene shall be liberally construed to carry out such purpose and intent.

Section 3. Subsections (5) and (6) of section 466.002, Florida Statutes, are amended to read:

466.002 Persons exempt from operation of chapter.—Nothing in this chapter shall apply to the following practices, acts, and operations:

(5) Students in Florida schools of dentistry, dental therapy, and dental hygiene or dental assistant educational programs, while performing regularly assigned work under the curriculum of such schools.

(6) Instructors in Florida schools of dentistry, instructors in dental programs that prepare persons holding D.D.S. or D.M.D. degrees for certification by a specialty board and that are accredited in the United States by January 1, 2005,

in the same manner as the board recognizes accreditation for Florida schools of dentistry that are not otherwise affiliated with a Florida school of dentistry, or instructors in Florida schools of dental hygiene or dental therapy or dental assistant educational programs, while performing regularly assigned instructional duties under the curriculum of such schools or programs. A full-time dental instructor at a dental school or dental program approved by the board may be allowed to practice dentistry at the teaching facilities of such school or program, upon receiving a teaching permit issued by the board, in strict compliance with such rules as are adopted by the board pertaining to the teaching permit and with the established rules and procedures of the dental school or program as recognized in this section.

Section 4. Present subsections (7) through (15) of section 466.003, Florida Statutes, are redesignated as subsections (9) through (17), respectively, present subsections (14) and (15) are amended, and new subsections (7) and (8) are added to that section, to read:

466.003 Definitions.—As used in this chapter:

(7) "Dental therapist" means a person licensed to practice dental therapy pursuant to s. 466.0225.

(8) "Dental therapy" means the rendering of services pursuant to s. 466.0227 and any related extraoral services or procedures required in the performance of such services.

(16)~~(14)~~ "Health access setting" means a program or an institution of the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a

federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene or dental therapy program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of s. 466.027, s. 466.028, or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, dental therapist, or dental assistant engaged in the delivery of dental care in such setting.

(17) ~~(15)~~ "School-based prevention program" means preventive oral health services offered at a school by one of the entities defined in subsection (16) ~~(14)~~ or by a nonprofit organization that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c)(3) of the Internal Revenue Code.

Section 5. Subsection (2) of section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.—

(2) To advise the board, it is the intent of the Legislature that councils be appointed as specified in paragraphs (a)-(d) ~~(a), (b), and (c)~~. The department shall provide administrative support to the councils and shall provide public notice of meetings and agenda of the councils. Councils shall include at least one board member who shall chair the council and shall include nonboard members. All council members shall be appointed by the board chair. Council members shall be appointed for 4-year terms, and all members shall be eligible for reimbursement of expenses in the manner of board members.

(a) A Council on Dental Hygiene shall be appointed by the board chair and shall include one dental hygienist member of the board, who shall chair the council, one dental member of the board, and three dental hygienists who are actively engaged in the practice of dental hygiene in this state. In making the appointments, the chair shall consider recommendations from the Florida Dental Hygiene Association. The council shall meet at the request of the board chair, a majority of the members of the board, or the council chair; however, the council must meet at least three times a year. The council is charged with the responsibility of and shall meet for the purpose of developing rules and policies for recommendation to the board, which the board shall consider, on matters pertaining to that part of dentistry consisting of educational, preventive, or therapeutic dental hygiene services; dental hygiene licensure, discipline, or regulation; and dental hygiene education. Rule and policy recommendations of the council shall be considered by the board at its next regularly scheduled meeting in the same manner in which it considers rule and policy recommendations from designated subcommittees of the board. Any rule or policy proposed by the board pertaining to the specified part of dentistry defined by this subsection shall be referred to the council for a recommendation before final action by the board. The board may take final action on rules pertaining to the specified part of dentistry defined by this subsection without a council recommendation if the council fails to submit a recommendation in a timely fashion as prescribed by the board.

(b) A Council on Dental Assisting shall be appointed by the board chair and shall include one board member who shall chair

the council and three dental assistants who are actively engaged in dental assisting in this state. The council shall meet at the request of the board chair or a majority of the members of the board. The council shall meet for the purpose of developing recommendations to the board on matters pertaining to that part of dentistry related to dental assisting.

(c) Effective 28 months after the first dental therapy license is granted by the board, a Council on Dental Therapy shall be appointed by the board chair and shall include one board member who shall chair the council and three dental therapists who are actively engaged in the practice of dental therapy in this state. The council shall meet at the request of the board chair, a majority of the members of the board, or the council chair; however, the council must meet at least three times per year. The council is charged with the responsibility of, and shall meet for the purpose of, developing rules and policies for recommendation to the board on matters pertaining to that part of dentistry consisting of educational, preventative, or therapeutic dental therapy services; dental therapy licensure, discipline, or regulation; and dental therapy education. Rule and policy recommendations of the council must be considered by the board at its next regularly scheduled meeting in the same manner in which it considers rule and policy recommendations from designated subcommittees of the board. Any rule or policy proposed by the board pertaining to the specified part of dentistry defined by this subsection must be referred to the council for a recommendation before final action by the board. The board may take final action on rules pertaining to the specified part of dentistry defined by this subsection

without a council recommendation if the council fails to submit a recommendation in a timely fashion as prescribed by the board.

(d) ~~(c)~~ With the concurrence of the State Surgeon General, the board chair may create and abolish other advisory councils relating to dental subjects, including, but not limited to: examinations, access to dental care, indigent care, nursing home and institutional care, public health, disciplinary guidelines, and other subjects as appropriate. Such councils shall be appointed by the board chair and shall include at least one board member who shall serve as chair.

Section 6. Subsection (4) and paragraph (b) of subsection (6) of section 466.006, Florida Statutes, are amended to read:

466.006 Examination of dentists.—

(4) Notwithstanding any other provision of law in chapter 456 pertaining to the clinical dental licensure examination or national examinations, to be licensed as a dentist in this state, an applicant must successfully complete the following:

(a) A written examination on the laws and rules of the state regulating the practice of dentistry;

(b)1. A practical or clinical examination, which shall be the American Dental Licensing Examination produced by the American Board of Dental Examiners, Inc., or its successor entity, if any, that is administered in this state and graded by dentists licensed in this state and employed by the department for just such purpose, provided that the board has attained, and continues to maintain thereafter, representation on the board of directors of the American Board of Dental Examiners, the examination development committee of the American Board of Dental Examiners, and such other committees of the American

Board of Dental Examiners as the board deems appropriate by rule to assure that the standards established herein are maintained organizationally. A passing score on the American Dental Licensing Examination administered in this state and graded by dentists who are licensed in this state is valid for 365 days after the date the official examination results are published.

2.a. As an alternative to the requirements of subparagraph 1., an applicant may submit scores from an American Dental Licensing Examination previously administered in a jurisdiction other than this state after October 1, 2011, and such examination results shall be recognized as valid for the purpose of licensure in this state. A passing score on the American Dental Licensing Examination administered out-of-state shall be the same as the passing score for the American Dental Licensing Examination administered in this state and graded by dentists who are licensed in this state. The examination results are valid for 365 days after the date the official examination results are published. The applicant must have completed the examination after October 1, 2011.

b. This subparagraph may not be given retroactive application.

3. If the date of an applicant’s passing American Dental Licensing Examination scores from an examination previously administered in a jurisdiction other than this state under subparagraph 2. is older than 365 days, then such scores shall nevertheless be recognized as valid for the purpose of licensure in this state, but only if the applicant demonstrates that all of the following additional standards have been met:

a.(I) The applicant completed the American Dental Licensing

Examination after October 1, 2011.

(II) This sub-subparagraph may not be given retroactive application;

b. The applicant graduated from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting organization recognized by the United States Department of Education. Provided, however, if the applicant did not graduate from such a dental school, the applicant may submit proof of having successfully completed a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation of at least 2 consecutive academic years at such accredited sponsoring institution. Such program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the American Dental Association Commission on Dental Accreditation;

c. The applicant currently possesses a valid and active dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

d. The applicant submits proof that he or she has never been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse. This sub-subparagraph does not apply if the applicant successfully appealed to have his or her name removed from the data banks of

these agencies;

e.(I) In the 5 years immediately preceding the date of application for licensure in this state, the applicant must submit proof of having been consecutively engaged in the full-time practice of dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, or, if the applicant has been licensed in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico for less than 5 years, the applicant must submit proof of having been engaged in the full-time practice of dentistry since the date of his or her initial licensure.

(II) As used in this section, "full-time practice" is defined as a minimum of 1,200 hours per year for each and every year in the consecutive 5-year period or, where applicable, the period since initial licensure, and must include any combination of the following:

(A) Active clinical practice of dentistry providing direct patient care.

(B) Full-time practice as a faculty member employed by a dental<u>, dental therapy,</u> or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(C) Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(III) The board shall develop rules to determine what type of proof of full-time practice is required and to recoup the

cost to the board of verifying full-time practice under this section. Such proof must, at a minimum, be:

(A) Admissible as evidence in an administrative proceeding;

(B) Submitted in writing;

(C) Submitted by the applicant under oath with penalties of perjury attached;

(D) Further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice; and

(E) Specifically found by the board to be both credible and admissible.

(IV) An affidavit of only the applicant is not acceptable proof of full-time practice unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath;

f. The applicant must submit documentation that he or she has completed, or will complete, prior to licensure in this state, continuing education equivalent to this state's requirements for the last full reporting biennium;

g. The applicant must prove that he or she has never been convicted of, or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession in any jurisdiction;

h. The applicant must successfully pass a written examination on the laws and rules of this state regulating the

practice of dentistry and must successfully pass the computer-based diagnostic skills examination; and

i. The applicant must submit documentation that he or she has successfully completed the National Board of Dental Examiners dental examination.

(6)

(b)1. As used in this section, "full-time practice of dentistry within the geographic boundaries of this state within 1 year" is defined as a minimum of 1,200 hours in the initial year of licensure, which must include any combination of the following:

a. Active clinical practice of dentistry providing direct patient care within the geographic boundaries of this state.

b. Full-time practice as a faculty member employed by a dental, dental therapy, or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation and located within the geographic boundaries of this state.

c. Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation and located within the geographic boundaries of this state.

2. The board shall develop rules to determine what type of proof of full-time practice of dentistry within the geographic boundaries of this state for 1 year is required in order to maintain active licensure and shall develop rules to recoup the cost to the board of verifying maintenance of such full-time practice under this section. Such proof must, at a minimum:

a. Be admissible as evidence in an administrative

proceeding;

b. Be submitted in writing;

c. Be submitted by the applicant under oath with penalties of perjury attached;

d. Be further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice of dentistry within the geographic boundaries of this state within the last 365 days; and

e. Include such additional proof as specifically found by the board to be both credible and admissible.

3. An affidavit of only the applicant is not acceptable proof of full-time practice of dentistry within the geographic boundaries of this state within 1 year, unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice within the last 365 days. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath.

Section 7. Section 466.0075, Florida Statutes, is amended to read:

466.0075 Applicants for examination; medical malpractice insurance.—The board may require any person applying to take the examination to practice dentistry in this state<u>, the examination to practice dental therapy in this state,</u> or the examination to practice dental hygiene in this state to maintain medical malpractice insurance in amounts sufficient to cover any

incident of harm to a patient during the clinical examination.

Section 8. Subsection (1) of section 466.009, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

466.009 Reexamination.—

(1) The department shall allow ~~permit~~ any person who fails an examination that ~~which~~ is required under s. 466.006, ~~or~~ s. 466.007, or s. 466.0225 to retake the examination. If the examination to be retaken is a practical or clinical examination, the applicant shall pay a reexamination fee set by rule of the board in an amount not to exceed the original examination fee.

(4) If an applicant for a license to practice dental therapy fails the practical or clinical examination and has failed one part or procedure of such examination, she or he may be required to retake only that part or procedure to pass such examination. However, if any such applicant fails more than one part or procedure of any such examination, she or he must be required to retake the entire examination.

Section 9. Section 466.011, Florida Statutes, is amended to read:

466.011 Licensure.—The board shall certify for licensure by the department any applicant who satisfies the requirements of s. 466.006, s. 466.0067, ~~or~~ s. 466.007, or s. 466.0225. The board may refuse to certify an applicant who has violated ~~any of the provisions of~~ s. 466.026 or s. 466.028.

Section 10. Section 466.0136, Florida Statutes, is created to read:

466.0136 Continuing education; dental therapists.—In

addition to any other requirements for relicensure for dental therapists specified in this chapter, the board shall require each licensed dental therapist to complete at least 24 hours, but not more than 36 hours, biennially of continuing education in dental subjects in programs approved by the board or in equivalent programs of continuing education. Programs of continuing education approved by the board must be programs of learning that, in the opinion of the board, contribute directly to the dental education of the dental therapist. An individual who is licensed as both a dental therapist and a dental hygienist may use 1 hour of continuing education that is approved for both dental therapy and dental hygiene education to satisfy both dental therapy and dental hygiene continuing education requirements. The board shall adopt rules and guidelines to administer and enforce this section. The dental therapist shall retain in her or his records any receipts, vouchers, or certificates necessary to document completion of the continuing education. Compliance with the continuing education requirements is mandatory for issuance of the renewal certificate. The board may excuse licensees, as a group or as individuals, from all or part of the continuing education requirements if an unusual circumstance, emergency, or hardship prevented compliance with this section.

Section 11. Section 466.016, Florida Statutes, is amended to read:

466.016 License to be displayed.—Every practitioner of dentistry, dental therapy, or dental hygiene within the meaning of this chapter shall post and keep conspicuously displayed her or his license in the office where ~~wherein~~ she or he practices,

in plain sight of the practitioner's patients. Any dentist, dental therapist, or dental hygienist who practices at more than one location shall be required to display a copy of her or his license in each office where she or he practices.

Section 12. Present subsections (7) and (8) of section 466.017, Florida Statutes, are redesignated as subsections (8) and (9), respectively, paragraphs (d) and (e) of subsection (3), subsection (4), and present subsections (7) and (8) of that section are amended, and a new subsection (7) is added to that section, to read:

466.017 Prescription of drugs; anesthesia.—

(3) The board shall adopt rules which:

(d) Establish further requirements relating to the use of general anesthesia or sedation, including, but not limited to, office equipment and the training of dental assistants, dental therapists, or dental hygienists who work with dentists using general anesthesia or sedation.

(e) Establish an administrative mechanism enabling the board to verify compliance with training, education, experience, equipment, or certification requirements of dentists, dental therapists, dental hygienists, and dental assistants adopted pursuant to this subsection. The board may charge a fee to defray the cost of verifying compliance with requirements adopted pursuant to this paragraph.

(4) A dentist, dental therapist, or dental hygienist who administers or employs the use of any form of anesthesia must possess a certification in either basic cardiopulmonary resuscitation for health professionals or advanced cardiac life support approved by the American Heart Association or the

American Red Cross or an equivalent agency-sponsored course with recertification every 2 years. Each dental office that ~~which~~ uses any form of anesthesia must have immediately available and in good working order such resuscitative equipment, oxygen, and other resuscitative drugs as are specified by rule of the board in order to manage possible adverse reactions.

(7) A dental therapist under the general supervision of a dentist may administer local anesthesia, including intraoral block anesthesia or soft tissue infiltration anesthesia, or both, if she or he has completed the course described in subsection (5) and presents evidence of current certification in basic or advanced cardiac life support.

(8)~~(7)~~ A licensed dentist, or a dental therapist who is authorized by her or his supervising dentist, may operate ~~utilize~~ an X-ray machine, expose dental X-ray films, and interpret or read such films. Notwithstanding ~~The provisions of~~ part IV of chapter 468 ~~to the contrary notwithstanding~~, a licensed dentist, or a dental therapist who is authorized by her or his supervising dentist, may authorize or direct a dental assistant to operate such equipment and expose such films under her or his direction and supervision, pursuant to rules adopted by the board in accordance with s. 466.024 which ensure that the ~~said~~ assistant is competent by reason of training and experience to operate the X-ray ~~said~~ equipment in a safe and efficient manner. The board may charge a fee not to exceed $35 to defray the cost of verifying compliance with requirements adopted pursuant to this section.

(9)~~(8)~~ Notwithstanding ~~The provisions of~~ s. 465.0276 ~~notwithstanding~~, a dentist need not register with the board or

comply with the continuing education requirements of that section if the dentist confines her or his dispensing activity to the dispensing of fluorides and chlorhexidine ~~chlorohexidine~~ rinse solutions; provided that the dentist complies with and is subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, chapters 465, 499, and 893, and all applicable federal laws and regulations, when dispensing such products.

Section 13. Subsection (1) of section 466.018, Florida Statutes, is amended to read:

466.018 Dentist of record; patient records.—

(1) Each patient shall have a dentist of record. The dentist of record shall remain primarily responsible for all dental treatment on such patient regardless of whether the treatment is rendered by the dentist or by another dentist, dental therapist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The dentist of record shall be identified in the record of the patient. If treatment is rendered by a dentist other than the dentist of record or by a dental hygienist, dental therapist, or dental assistant, the name or initials of such person shall be placed in the record of the patient. In any disciplinary proceeding brought pursuant to this chapter or chapter 456, it shall be presumed as a matter of law that treatment was rendered by the dentist of record unless otherwise noted on the patient record pursuant to this section. The dentist of record and any other treating dentist are subject to discipline pursuant to this chapter or chapter 456 for treatment

rendered to the patient and performed in violation of such chapter. One of the purposes of this section is to ensure that the responsibility for each patient is assigned to one dentist in a multidentist practice of any nature and to assign primary responsibility to the dentist for treatment rendered by a dental hygienist, dental therapist, or dental assistant under her or his supervision. This section shall not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist who does not ~~in~~ practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

Section 14. Section 466.0225, Florida Statutes, is created to read:

466.0225 Examination of dental therapists; licensing.—

(1) Any person desiring to be licensed as a dental therapist must apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application must include two recent photographs of the applicant.

(2) An applicant is entitled to take the examinations required under this section and receive licensure to practice dental therapy in this state if the applicant:

(a) Is 18 years of age or older;

(b) Is a graduate of a dental therapy college or school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental therapy accrediting entity recognized by the United States Department of Education. For applicants applying for a

dental therapy license before January 1, 2025, the board shall approve the applicant's dental therapy education program if the program was administered by a college or school that operates an accredited dental or dental hygiene program and the college or school certifies to the board that the applicant's education substantially conformed to the education standards established by the American Dental Association Commission on Dental Accreditation;

(c) Has successfully completed a dental therapy practical or clinical examination produced by the American Board of Dental Examiners, Inc., (ADEX) or its successor entity, if any, if the board finds that the successor entity's examination meets or exceeds the provisions of this section. If an applicant fails to pass such an examination after three attempts, the applicant is not eligible to retake the examination unless the applicant completes additional education requirements as specified by the board. If a dental therapy examination has not been established by the ADEX, the board shall administer or approve an alternative examination;

(d) Has not been disciplined by a board, except for citation offenses or minor violations;

(e) Has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession; and

(f) Has successfully completed a written examination on the laws and rules of this state regulating the practice of dental therapy.

(3) An applicant who meets the requirements of this section and who has successfully completed the examinations identified

in paragraph (2)(c) in a jurisdiction other than this state, or who has successfully completed comparable examinations administered or approved by the licensing authority in a jurisdiction other than this state, shall be licensed to practice dental therapy in this state if the board determines that the other jurisdiction's examinations and scope of practice are substantially similar to those identified in paragraph (2)(c).

Section 15. Section 466.0227, Florida Statutes, is created to read:

466.0227 Dental therapists; scope and area of practice.—

(1) The Legislature finds that authorizing licensed dental therapists to perform the services specified in subsection (3) would improve access to high-quality, affordable oral health services for all residents in this state. The Legislature intends to rapidly improve such access for low-income, uninsured, and underserved patients and communities. To further this intent, a dental therapist licensed under this chapter is limited to practicing dental therapy in the following settings:

(a) A health access setting, as defined in s. 466.003(16).

(b) A community health center, including an off-site care setting.

(c) A nursing facility.

(d) A military or veterans' hospital or clinic, including an off-site care setting.

(e) A governmental or public health clinic, including an off-site care setting.

(f) A school, Head Start program, or school-based prevention program, as defined in s. 466.003(17).

(g) An oral health education institution, including an off-site care setting.

(h) A hospital.

(i) A geographic area designated as a dental health professional shortage area by the state or the Federal Government which is not located within a federally designated metropolitan statistical area.

(j) Any other clinic or practice setting if at least 50 percent of the patients served by the dental therapist in such clinic or practice setting:

1. Are enrolled in Medicaid or another state or local governmental health care program for low-income or uninsured patients; or

2. Do not have dental insurance and report a gross annual income that is less than 200 percent of the applicable federal poverty guidelines.

(2) Except as otherwise provided in this chapter, a dental therapist may perform the dental therapy services specified in subsection (3) under the general supervision of a dentist to the extent authorized by the supervising dentist and provided within the terms of a written collaborative management agreement signed by the dental therapist and the supervising dentist which meets the requirements of subsection (4).

(3) Dental therapy services include all of the following:

(a) All services, treatments, and competencies identified by the American Dental Association Commission on Dental Accreditation in its Dental Therapy Education Accreditation Standards.

(b) The following state-specific services, if the dental

therapist's education included curriculum content satisfying the American Dental Association Commission on Dental Accreditation criteria for state-specific dental therapy services:

1. Evaluating radiographs.

2. Placement of space maintainers.

3. Pulpotomies on primary teeth.

4. Dispensing and administering nonopioid analgesics including nitrous oxide, anti-inflammatories, and antibiotics as authorized by the supervising dentist and within the parameters of the collaborative management agreement.

5. Oral evaluation and assessment of dental disease and formulation of an individualized treatment plan if authorized by a supervising dentist and subject to any conditions, limitations, and protocols specified by the supervising dentist in the collaborative management agreement.

(4) Before performing any of the services authorized in subsection (3), a dental therapist must enter into a written collaborative management agreement with a supervising dentist. The agreement must be signed by the dental therapist and the supervising dentist and must include:

(a) Practice settings where services may be provided by the dental therapist and the populations to be served by the dental therapist.

(b) Any limitations on the services that may be provided by the dental therapist, including the level of supervision required by the supervising dentist.

(c) Age- and procedure-specific practice protocols for the dental therapist, including case selection criteria, assessment guidelines, and imaging frequency.

(d) A procedure for creating and maintaining dental records for the patients who are treated by the dental therapist.

(e) A plan to manage medical emergencies in each practice setting where the dental therapist provides care.

(f) A quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral followup, and a quality assurance chart review.

(g) Protocols for the dental therapist to administer and dispense medications, including the specific conditions and circumstances under which the medications are to be dispensed and administered.

(h) Criteria relating to the provision of care by the dental therapist to patients with specific medical conditions or complex medication histories, including requirements for consultation before the initiation of care.

(i) Supervision criteria of dental therapists.

(j) A plan for the provision of clinical resources and referrals in situations that are beyond the capabilities of the dental therapist.

(5) A supervising dentist shall determine the number of hours of practice a dental therapist must complete under direct or indirect supervision of the supervising dentist before the dental therapist may perform any of the services authorized in subsection (3) under general supervision.

(6) A supervising dentist may restrict or limit the dental therapist’s practice in a collaborative management agreement to be less than the full scope of practice for dental therapists which is authorized in subsection (3).

(7) A supervising dentist may authorize a dental therapist

to provide dental therapy services to a patient before the dentist examines or diagnoses the patient if the authority, conditions, and protocols are established in a written collaborative management agreement and if the patient is subsequently referred to a dentist for any needed additional services that exceed the dental therapist's scope of practice or authorization under the collaborative management agreement.

(8) A supervising dentist must be licensed and practicing in this state. The supervising dentist is responsible for all services authorized and performed by the dental therapist pursuant to the collaborative management agreement and for providing or arranging followup services to be provided by a dentist for those services that are beyond the dental therapist's scope of practice and authorization under the collaborative management agreement.

Section 16. Section 466.026, Florida Statutes, is amended to read:

466.026 Prohibitions; penalties.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing dentistry, dental therapy, or dental hygiene unless the person has an appropriate, active license issued by the department pursuant to this chapter.

(b) Using or attempting to use a license issued pursuant to this chapter which license has been suspended or revoked.

(c) Knowingly employing any person to perform duties outside the scope allowed such person under this chapter or the rules of the board.

(d) Giving false or forged evidence to the department or board for the purpose of obtaining a license.

(e) Selling or offering to sell a diploma conferring a degree from a dental college, ~~or~~ dental hygiene school or college, or dental therapy school or college, or a license issued pursuant to this chapter, or procuring such diploma or license with intent that it shall be used as evidence of that which the document stands for, by a person other than the one upon whom it was conferred or to whom it was granted.

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Using the name or title "dentist," the letters "D.D.S." or "D.M.D.", or any other words, letters, title, or descriptive matter which in any way represents a person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or oral-maxillofacial region unless the person has an active dentist's license issued by the department pursuant to this chapter.

(b) Using the name "dental hygienist" or the initials "R.D.H." or otherwise holding herself or himself out as an actively licensed dental hygienist or implying to any patient or consumer that she or he is an actively licensed dental hygienist unless that person has an active dental hygienist's license issued by the department pursuant to this chapter.

(c) Using the name "dental therapist" or the initials "D.T." or otherwise holding herself or himself out as an actively licensed dental therapist or implying to any patient or

consumer that she or he is an actively licensed dental therapist unless that person has an active dental therapist's license issued by the department pursuant to this chapter.

(d) ~~(c)~~ Presenting as her or his own the license of another.

(e) ~~(d)~~ Knowingly concealing information relative to violations of this chapter.

(f) ~~(e)~~ Performing any services as a dental assistant as defined herein, except in the office of a licensed dentist, unless authorized by this chapter or by rule of the board.

Section 17. Paragraphs (b), (c), (g), (s), and (t) of subsection (1) of section 466.028, Florida Statutes, are amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(b) Having a license to practice dentistry, dental therapy, or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of dentistry, dental therapy, or dental hygiene. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry, dental therapy, or dental hygiene contrary to this chapter or to a rule of the

department or the board.

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or her or his designee that probable cause exists to believe that the licensee is unable to practice dentistry, dental therapy, or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of her or his profession with reasonable skill and safety to patients.

(t) Fraud, deceit, or misconduct in the practice of dentistry, dental therapy, or dental hygiene.

Section 18. Paragraphs (a) and (b) of subsection (1) of section 466.0285, Florida Statutes, are amended to read:

466.0285 Proprietorship by nondentists.—

(1) No person other than a dentist licensed pursuant to this chapter, nor any entity other than a professional corporation or limited liability company composed of dentists, may:

(a) Employ a dentist, a dental therapist, or a dental hygienist in the operation of a dental office.

(b) Control the use of any dental equipment or material while such equipment or material is being used for the provision of dental services, whether those services are provided by a dentist, a dental therapist, a dental hygienist, or a dental assistant.

Any lease agreement, rental agreement, or other arrangement between a nondentist and a dentist whereby the nondentist provides the dentist with dental equipment or dental materials shall contain a provision whereby the dentist expressly maintains complete care, custody, and control of the equipment or practice.

Section 19. The Department of Health, in consultation with the Board of Dentistry and the Agency for Health Care Administration, shall submit a progress report to the President of the Senate and the Speaker of the House of Representatives by July 1, 2023, and a final report 3 years after the first dental therapy license is issued. The reports must include all of the following components:

(1) The progress that has been made in this state to implement dental therapy training programs, licensing, and Medicaid reimbursement.

(2) Data demonstrating the effects of dental therapy in

this state on:

(a) Patient access to dental services;

(b) The use of primary and preventive dental services in underserved regions and populations, including the Medicaid population;

(c) Costs to dental providers, patients, dental insurance carriers, and the state; and

(d) The quality and safety of dental services.

(3) Specific recommendations for any necessary legislative, administrative, or regulatory reform relating to the practice of dental therapy.

(4) Any other information the department deems appropriate.

Section 20. This act shall take effect July 1, 2020.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 302
INTRODUCER:	Senator Rader
SUBJECT:	Adoption Records
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	**Pre-meeting**
2.			JU	
3.			RC	

I. Summary:

SB 302 makes changes to the Florida Adoption Act (Act)[1] which governs all Florida adoptions, whether private or from the child welfare system. The Act reaffirms a number of basic safeguards including providing that all records relating to custody and adoption of a child, including copies of an original birth certificate, are confidential and exempt and may not be released except by court order or authorization of all parties involved.

SB 302 authorizes each party to an adoption to authorize the release of his or her own records except those of the adoptee if he or she is under the age of 18. Adoption records may still be released upon order of the court.

The bill has no fiscal impact on government and provides an effective date of July 1, 2020.

II. Present Situation:

Birth Registration of a Live Birth

Within five days of each live birth in this state, a certificate of live birth must be filed with the local registrar[2] in the district where the birth took place.[3] The state registrar may receive the registration of the birth certificate electronically through facsimile or other electronic transfer. A birth certificate may be amended under the following circumstances:

- Until a child's first birthday, a child's given name or surname may be amended if authorized by both parents named on the original birth certificate or by the registrant's guardian.[4]

[1] Chapter 63 of the Florida Statutes is known as the "Florida Adoption Act".
[2] The Florida Department of Health (DOH) must establish registration districts throughout the state and appoint a local registrar of vital statistics for each registration district.
[3] Section 382.013, F.S.
[4] Section 382.016, F.S.

- Upon receipt of a notarized voluntary acknowledgment of paternity by the mother and father acknowledging paternity of a registrant born out of wedlock.[5]
- Upon receipt of the report or certified copy of an adoption decree or an annulment-of-adoption decree.[6]
- Upon receipt of a name change order by a court of competent jurisdiction.[7]
- Upon receipt of a final judgment establishing paternity or disestablishing paternity.[8]

Certified copies of the original birth certificate or a new or amended birth certificate are confidential and exempt and may only be issued to the following specified persons:[9]

- The person named on the birth certificate (registrant), if the registrant has reached the age of majority, is a certified homeless youth, or is a minor who has had the disability of nonage legally removed;
- The parent, guardian, or other legal representative of the registrant;
- The spouse, child, grandchild, or sibling of the registrant, but only with a copy of the registrant's death certificate;
- Any person if the birth record is over 100 years old and not under seal pursuant to court order;
- Law enforcement agencies for official purposes;
- Any state or federal agency for official purposes approved by DOH; or
- Any individual authorized to receive the birth certificate by court order.

Adoption in Florida

The Florida Adoption Act (Act), ch. 63, F.S., applies to all adoptions, whether private or from the child welfare system, involving the following entities:[10]

- The Department of Children and Families (DCF);
- Child-placing agencies licensed by DCF under s. 63.202, F.S.;
- Child-caring agencies registered under s. 409.176, F.S.;
- An attorney licensed to practice in Florida; or
- A child-placing agency licensed in another state which is qualified by DCF to place children in Florida.

In every adoption, the child's best interest should govern the court's determination in placement, and the court must make specific findings as to those best interests. The court must protect and promote the well-being of any person being adopted. Certain statutory safeguards ensure that a minor is legally eligible for adoption, the required persons consent to the adoption, or a parent-child relationship is terminated by judgment of the court.[11] The Act also provides the process and regulation of adoption in this state, such as, who may adopt, the rights and responsibilities of

[5] *Id*.
[6] Section 382.015, F.S.
[7] Section 68.07, F.S.
[8] Section 742.18, F.S.
[9] Section 382.025(1), F.S.
[10] Section 63.032(3), F.S
[11] Section 63.022(4), F.S.

involved parties, proceedings for terminating parental rights, required notifications, licensure of adoption agencies, and confidentiality of adoption records.

Issuance of Birth Certificates in Adoption Cases

Within 30 days of final disposition of an adoption case, the court clerk must forward a certified copy of the court order to the Bureau of Vital Statistics with sufficient information to identify the original birth certificate and to create a new birth certificate. Unless the court, adoptive parents, or adult adoptee object, the Bureau must prepare and file a new birth certificate. The new certificate must have the same file number as the original birth certificate. The names and identifying information of the adoptive parents are entered on the new certificate without any reference to the parents being adoptive parents. All other information remains the same, including the date of registration and filing.[12]

Once a new birth certificate is prepared, DOH must substitute the new birth certificate for the original certificate on file. Thereafter, DOH may only issue a certified copy of the new birth certificate, unless a court order requires a certified copy of the original birth certificate. The original birth certificate and all related documents must be sealed and remain sealed, unless a court order or other law directs the unsealing.[13]

Confidentiality of Adoption Records

All documents and records related to an adoption, including the original birth certificate, are confidential.[14] Prior to an adoption becoming final, the adoptive parents must be provided with non-identifying information, including the family medical history and social history of the adoptee and the adoptee's parents, when available. Upon reaching the age of majority, an adoptee may also request such non-identifying information. However, the name and identity of a birth parent, an adoptive parent, or an adoptee may not be disclosed unless:[15]

- The birth parent authorizes in writing the release of his or her name;
- An adoptee, age 18 or older, authorizes in writing the release of his or her name;
- An adoptive parent of an adoptee under age 18 provides written consent to disclose the adoptee's name;
- An adoptive parent authorizes in writing the release of his or her name; or
- Upon order of the court for good cause shown.

The court may, upon petition of an adult adoptee or birth parent, for good cause shown, appoint an intermediary or a licensed child-placing agency to contact a birth parent or adult adoptee, as applicable, who has not registered with the adoption registry pursuant to s. 63.165 and advise both of the availability of the intermediary or agency and that the birth parent or adult adoptee, as applicable, wishes to establish contact.[16]

[12] Section 382.015, F.S.
[13] *Id*.
[14] Section 63.162, F.S.
[15] *Id*.
[16] *Id*.

III. Effect of Proposed Changes:

Section 1 amends s. 63.162, F.S., relating to hearings and records in adoption proceedings, confidential nature, to restate current law. The table below shows the effect of the bill.

Identifying Information in Adoption Records		
	Under Current Law	**Under Changes in the Bill**
Birth Parent	May not be disclosed unless a birth parent has authorized in writing the release of such information concerning himself or herself.	No change.
Adoptee	May not be disclosed unless an adoptee over the age of 18 has authorized in writing the release of such information concerning himself or herself.	No change.
Adoptive Parent	May not be disclosed unless an adoptive parent has authorized in writing the release of such information concerning himself or herself.	No change.

Section 2 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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends s. 63.162 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.

286348

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment

Delete line 20
and insert:
name and the adoptee is 18 years of age or older; if the adoptee is younger than 18 years of age, the adoptive parent must also provide written consent to disclose the birth parent's name;

By Senator Rader

29-00578-20 2020302__

A bill to be entitled

An act relating to adoption records; amending s. 63.162, F.S.; providing that the name and identity of a birth parent, an adoptive parent, and an adoptee may be disclosed from adoption records without a court order under certain circumstances; providing an effective date.

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

Section 1. Subsection (4) of section 63.162, Florida Statutes, is amended to read:

63.162 Hearings and records in adoption proceedings; confidential nature.—

(4)(a) A person may ~~not~~ disclose the following from the records without a court order ~~the name and identity of a birth parent, an adoptive parent, or an adoptee unless~~:

1.~~(a)~~ The name and identity of the birth parent, if the birth parent authorizes in writing the release of his or her name;

2.~~(b)~~ The name and identity of the adoptee, if the adoptee is 18 ~~or more~~ years of age or older and~~,~~ authorizes in writing the release of his or her name; or, if the adoptee is younger ~~less~~ than 18 years of age, written consent to disclose the adoptee's name ~~is~~ obtained from an adoptive parent; or

3.~~(c)~~ The name and identity of the adoptive parent, if the adoptive parent authorizes in writing the release of his or her name.~~; or~~

(b)~~(d)~~ A person may disclose from the records the name and

identity of a birth parent, an adoptive parent, or an adoptee upon order of the court for good cause shown. In determining whether good cause exists, the court shall give primary consideration to the best interests of the adoptee, but must also give due consideration to the interests of the adoptive and birth parents. Factors to be considered in determining whether good cause exists include, but are not limited to:

1. The reason the information is sought;

2. The existence of means available to obtain the desired information without disclosing the identity of the birth parents, such as by having the court, a person appointed by the court, the department, or the licensed child-placing agency contact the birth parents and request specific information;

3. The desires, to the extent known, of the adoptee, the adoptive parents, and the birth parents;

4. The age, maturity, judgment, and expressed needs of the adoptee; and

5. The recommendation of the department, licensed child-placing agency, or professional that ~~which~~ prepared the preliminary study and home investigation, or the department if no such study was prepared, concerning the advisability of disclosure.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1062
INTRODUCER:	Senator Harrell
SUBJECT:	Involuntary Examinations of Minors
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	**Pre-meeting**
2.			ED	
3.			RC	

I. Summary:

SB 1062 requires public and charter schools to contact the parents of a minor student before the student is removed from school, school transportation, or a school-sponsored activity for an involuntary mental health examination. The bill provides that a principal or their designee may delay notification if they believe it is necessary for the health and safety of the student or others. The bill requires schools to contact a mobile response service prior to initiating a student removal and requires all school safety officers to undergo crisis intervention training. The bill mandates the collection of data by school districts and the Department of Children and Families (DCF) relating to the number and frequency of involuntary examinations of minors initiated by schools.

The bill will have a fiscal impact on public and charter schools and has an effective date of July 1, 2020.

II. Present Situation:

Baker Act

The Florida Mental Health Act, otherwise known as the Baker Act, was enacted in 1971 to revise the state's mental health commitment laws.[1] The Act includes legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It additionally protects the rights of all individuals examined or treated for mental illness in Florida.[2]

Involuntary Examination and Receiving Facilities

[1] Ss. 394.451-394.47892, F.S.
[2] S. 394.459, F.S.

Individuals in an acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.[3] An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:[4]

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

Involuntary patients must be taken to either a public or a private facility that has been designated by the Department of Children and Families as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.[5] A public receiving facility is a facility that has contracted with a managing entity to provide mental health services to all persons, regardless of their ability to pay, and is receiving state funds for such purpose.[6] Funds appropriated for Baker Act services may only be used to pay for services to diagnostically and financially eligible persons, or those who are acutely ill, in need of mental health services, and the least able to pay.[7]

Crisis Stabilization Units (CSUs) are specialized public receiving facilities that receive state funding to provide services to individuals showing acute mental health disorders. CSUs screen, assess, and admit for stabilization individuals who voluntarily present themselves to the unit, as well as individuals who are brought to the unit on an involuntary basis.[8] CSUs provide patients with 24-hour observation, medication prescribed by a physician or psychiatrist, and other appropriate services.[9] The purpose of a crisis stabilization unit is to stabilize and redirect a client to the most appropriate and least restrictive community setting available, consistent with the client's needs.[10] Individuals often enter the public mental health system through CSUs.[11] For this reason, crisis services are a part of the comprehensive, integrated, community mental health and substance abuse services established by the Legislature in the 1970s to ensure continuity of care for individuals.[12]

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[3] Ss. 394.4625 and 394.463, F.S.
[4] S. 394.463(1), F.S.
[5] S. 394.455(39), F.S. This term does not include a county jail.
[6] S. 394.455(37), F.S
[7] Rule 65E-5.400(2), F.A.C.
[8] S. 394.875(1)(a), F.S.
[9] Id
[10] Id.
[11] Florida Senate, Budget Subcommittee on Health and Human Services Appropriations, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011), available at https://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-109bha.pdf (last visited Jan 30, 2020).
[12] Id. Sections 394.65-394.9085, F.S.

As of September 2019, there are 122 Baker Act receiving facilities in this state, including 54 public receiving facilities and 68 private receiving facilities.[13] Of the 54 public receiving facilities, 40 are CSU's.[14]

Under the Baker Act, a receiving facility must examine an involuntary patient within 72 hours of arrival.[15] During that 72 hours, an involuntary patient must be examined by a physician or a clinical psychologist, or by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at a facility to determine if the criteria for involuntary services are met.[16] If the patient is a minor, the examination must be initiated within 12 hours.[17]

Within that 72-hour examination period, or if the 72 hours ends on a weekend or holiday, no later than the next business day, one of the following must happen:[18]

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to a placement as a voluntary patient and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.

Mental Health Services for Students

The Florida Department of Education (DOE), through the Bureau of Exceptional Education and Student Services and the Office of Safe Schools, promotes a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Florida law requires instructional personnel to teach comprehensive health education that addresses concepts of mental and emotional health as well as substance use and abuse.[19] Student Services personnel, which includes school psychologists, school social workers, and school counselors, are classified as instructional personnel responsible for advising students regarding personal and social adjustments, and provide direct and indirect services at the district and school level.[20]

State funding for school districts' mental health services is provided primarily by legislative appropriations, the majority of which is distributed through an allocation through the Florida Education Finance Program (FEFP) to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified programs, activities or purposes.[21] Each district school board must include the amount of categorical funds as a part of the district annual financial report to DOE, and DOE must submit a

[13] Department of Children and Families, *Designated Baker Act Receiving Facilities*, (Sept. 9, 2019), https://www.myflfamilies.com/service-programs/samh/crisis-services/docs/baker/Baker%20Act%20Receiving%20Faciliites.pdf (last visited Jan. 30, 2020). Hospitals can also be designated as public receiving facilities.
[14] Id.
[15] S. 394.463(2)(g), F.S.
[16] S. 394.463(2)(f), F.S.
[17] S. 394.463(2)(g), F.S.
[18] S. 394.463(2)(g), F.S.
[19] S. 1003.42(2)(n), F.S.
[20] S. 1012.01(2)(b), F.S.
[21] S. 1012.01(6), F.S.

report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.[22]

The law allows district school boards and state agencies administering children's mental health funds to form a multiagency network to provide support for students with severe emotional disturbance.[23] The program goals for each component of the multiagency network are to:

- Enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living;
- Develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services;
- Provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs; and
- Integrate a wide range of services necessary to support students with severe emotional disturbances and their families.[24]

DOE awards grants to district school boards for statewide planning and development of the multiagency Network for Students with Emotional or Behavioral Disabilities.[25] SEDNET is a network of 19 regional projects that are composed of major child-serving agencies, community-based service providers, and students and their families. Local school districts serve as fiscal agents for each local regional project.[26] SEDNET focuses on developing interagency collaboration and sustaining partnerships among professionals and families in the education, mental health, substance abuse, child welfare, and juvenile justice systems serving children and youth with and at risk of emotional and behavioral disabilities.[27]

Mental Health Assistance Allocation

Established in FY 2018-2019 in SB 7026, responding to the Parkland shooting, the mental health assistance allocation within the FEFP provides funds for school-based mental health programs as annually provided in the General Appropriations Act (GAA). The allocation provides each school district at least $100,000, with the remaining balance allocated based on each district's proportionate share of the state's total unweighted FTE student enrollment. Eligible charter schools are also entitled to a proportionate share of district funding.

At least 90 percent of a school district's allocation must be expended on:

- The provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses; and

[22] Id.
[23] See s. 1006.04(1)(a), F.S.
[24] S. 1006.04(1)(b), F.S.
[25] S. 1006.04(2), F.S.
[26] Fiscal agents include the Brevard, Broward, Miami-Dade, Duval, Escambia, Hamilton, Highlands, Hillsborough, Lee, Leon, Marion, Orange, Palm Beach, Pinellas, Polk, Putnam, St. Lucie, Sarasota, and Washington school districts. Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, at p. 11, http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf (last visited Jan. 30, 2020).
[27] Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, *available at* http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf (last visited Jan. 30, 2020).

- The coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.

In order to receive allocation funds, a school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval. In addition, a charter school must annually develop and submit a detailed plan outlining the local program and planned expenditures of the funds in the plan to its governing body for approval. Once the plan is approved by the governing body, it must be provided to its school district for submission to the Commissioner of Education.

Report on Involuntary Examinations of Minors

In 2017, the Legislature created a task force within DCF[28] to address the issue of involuntary examination of minors age 17 years or younger, specifically by:[29]

- Analyzing data on the initiation of involuntary examinations of minors;
- Researching the root causes of and trends in such involuntary examinations;
- Identifying and evaluating options for expediting the examination process; and
- Identifying recommendations for encouraging alternatives to or eliminating inappropriate initiations of such examinations.

The task force found that specific causes of increases in involuntary examinations of children are unknown. Possible factors cited in the task force report include:[30]

- Increase in mental health concerns:
- In 2017, 31.5% of high school students experienced periods of persistent feelings of sadness or hopelessness within the past year, an increase from 2007 (28.5%).
    - In 2017, 17.2% of high school students seriously considered attempting suicide in the past year, increasing from 14.5% in 2007.
- Social stressors such as parental substance use, poverty and economic insecurity, mass shootings, and social media and cyber bullying.
    - Lack of availability of mental health services, due to wait lists for services, limitations on coverage or approval, lack of funding for prevention and diversion, and shortage of psychiatrists and other mental health professionals.
    - Among children ages 12-17 in Florida, approximately 13.0% experienced a major depressive episode in the past year. Only about 33% of children experiencing a major depressive episode in the past year receive treatment.
- Emphasis on diversion and treatment, such as through increased Youth Mental Health First Aid, Crisis Intervention Team, and similar training on recognition of issues and appropriate referral; use of alternatives to expulsion or referral to law enforcement agencies.

As a follow up to the 2017 task force report, in 2019, the Legislature instructed DCF to prepare a report on the initiation of involuntary examinations of minors age 17 years and younger and

[28] Ch. 2017-151, Laws of Florida.
[29] Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors,* (Nov. 2017), https://www.myflfamilies.com/service-programs/samh/publications/ (last visited Jan. 30, 2020).
[30] Id.

submit it by November 1 of each odd numbered year.[31] As part of the report (2019 report), DCF was required to:

- Analyze data on the initiation of involuntary examinations of minors;
- Identify any patterns or trends and cases in which involuntary examinations are repeatedly initiated on the same child;
- Study root causes for such patterns, trends, or repeated involuntary examinations; and
- Make recommendations for encouraging alternatives to and eliminating inappropriate initiations of such examinations.

Multiple Involuntary Examinations

The 2019 report revealed that some crisis stabilization units are not meeting the needs of children and adolescents with significant behavioral health needs, contributing to multiple exams.[32]

The 2019 report found there were 205,781 involuntary examinations in FY 2017-2018, 36,078 of which were of minors.[33] From FY 2013-2014 to FY 2017-2018, statewide involuntary examinations increased 18.85% for children.[34] Children have a larger increase in examinations compared to young adults ages 18-24 (14.04%) and adults (12.49%).[35] Additionally, 22.61% of minors had multiple involuntary examinations in FY 2017-2018, ranging from 2 to 19.[36] DCF identified 21 minors who had more than ten involuntary examinations in FY 2017-2018, with a combined total of 285 initiations.[37] DCF's review of medical records found:[38]

- Most initiations were a result of minors harming themselves and were predominately initiated by law enforcement (88%);
- Many minors were involved in the child welfare system and most experienced significant family dysfunction;
- Most had Medicaid health insurance;
- Most experienced multiple traumas such as abuse, bullying, exposure to violence, parental incarceration, and parental substance abuse and mental health issues;
- Most had behavioral disorders of childhood, such as ADHD or Oppositional Defiant Disorder, followed by mood disorders, followed by anxiety disorders;
- Most involuntary examinations were initiated at home or at a behavioral health provider; and
- Discharge planning and care coordination by the receiving facilities was not adequate enough to meet the child's needs.

Recommendations

Among the 2017 task force report recommendations were to:[39]

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[31] Ch. 2019-134, Laws of Florida.
[32] Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors, 2019* (Nov. 2019), https://www.myflfamilies.com/service-programs/samh/publications/ (last visited Jan. 30, 2020).
[33] Id.
[34] Id.
[35] Id.
[36] Id.
[37] Id.
[38] Id.
[39] *Supra*, note 29.

- Amend statute to increase the number of days that the receiving facility has to submit required forms to DCF to capture additional data;
- Expedite involuntary exams by expanding the list of mental health professionals who can conduct the clinical exam to include physician assistants, psychiatric advanced registered nurse practitioners, licensed clinical social workers, licensed mental health counselors, and licensed marriage and family therapist;
- Increase funding for mobile crisis teams;
- Fund an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis;
- Expand access to outpatient crisis intervention services and treatment especially for children under 13;
- Create the "Invest in the Mental Health of our Children" grant program to provide matching funds to counties to enhance their systems of care serving these children;
- Encourage school districts to adopt a standardized suicide risk assessment tool that school-based mental health professionals would implement prior to initiation of a Baker Act examination;
- Revise statutes to include school psychologists licensed under Chapter 490 to the list of mental health professionals who are qualified to initiate a Baker Act;
- Require Youth Mental Health First Aid and/or CIT training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools;
- Require AHCA to post quarterly Medicaid health plans' EPSDT compliance reports on its website; and
- Supporting Baker Act training and technical assistance by funding a position in DCF to train and provide technical assistance to providers, clinicians, and other professionals who are responsible for implementing the Baker Act.

Several of these recommendations have been implemented through statutory change or legislative appropriations.

The 2019 report recommended:[40]

- Increasing care coordination for minors with multiple involuntary examinations;
- Utilizing the wraparound care coordination approach for children with complex behavioral health needs and multi-system involvement to ensure one point of accountability and individualized care planning;
- Utilizing existing local review teams;
- Revising administrative rules to gather more information about actions taken after the initiation of exams, require electronic submission of forms, and improve care coordination and discharge planning;
- Funding an additional FTE at DCF to provide technical assistance; and
- Ensuring that parents receive information about mobile crisis response teams and other community resources and supports upon child's discharge.

[40] *Supra* note 32.

III. Effect of Proposed Changes:

Section 1 amends s. 381.0056, F.S., requiring school health services plans to mandate that a parent or guardian be notified before a student is removed from school or a school-sponsored activity for an involuntary examination except for when a principal or principal's designee believes that a delay in removal would jeopardize the health and safety of the student.

Section 2 amends s. 394.463, F.S., adding the initiation of involuntary examinations of students who are removed from school, school transportation, or a school-sponsored activity to the elements that must be included in data collected by DCF, and requiring DCF to submit a report on findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House by November 1 of each odd-numbered year.

Section 3 amends s. 1001.212, F.S., requiring that both the number of involuntary examinations initiated at each school or school-sponsored activity and the number of students for whom an involuntary examination was initiated be included in the data provided by the Office of Safe Schools to support the evaluation of mental health services.

Section 4 amends s. 1002.20, F.S., requiring the principal or principal's designee to notify a parent before a student is removed from school, school transportation, or a school-sponsored activity to be taken to a receiving facility for an involuntary examination. The bill allows the principal or principal's designee to delay notification, for no more than 24 hours, if the principal or designee believes that such a delay is necessary to avoid jeopardizing the health and safety of the student.

Section 5 amends s. 1002.33, F.S., requiring the charter school principal or the principal's designee to notify the parents before a student is removed from school, school transportation, or a school-sponsored activity to be taken to a receiving facility for an involuntary examination, and allowing the principal or principal's designee to delay notification, for no more than 24 hours, if the principal or designee believes that such a delay is necessary to avoid jeopardizing the health and safety of the student.

Section 6 amends s. 1006.07, F.S., requiring each district school board to adopt a policy requiring that the superintendent annually report to DOE the number of involuntary examinations initiated at a school, on school transportation, or at a school-sponsored activity.

Section 7 amends s. 1006.12, F.S., requiring that school safety officers complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention to improve skills in responding to students with emotional behavioral disability or mental illness, including de-escalation techniques.

Section 8 amends s. 1011.62, F.S., providing procedures to assist mental or behavioral health service providers, or school resource or school safety officers who have completed mental health crisis intervention training, in verbally de-escalating a crisis situation before initiating an involuntary examination. The bill specifically requires that the procedures include strategies to de-escalate a crisis situation for a student with a developmental disability.

The bill requires school districts to develop a memorandum of understanding with a local crisis response service and requires that school or law enforcement personnel contact in person or through telehealth, the mobile crisis response service, before initiating an involuntary examination. The bill requires school districts to provide all school resource officers and school safety officers training on protocols established in the memorandum of understanding.

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:

There will be an indeterminate impact to providers of crisis intervention training for school safety officers and school resource officers.

C. Government Sector Impact:

DOE estimates that the agency may incur costs relating to data collection and analyses of involuntary examinations, including costs relating to training school and district staff on data collection required by the bill. [41] The impact of these changes is indeterminate.

[41] Florida Department of Education Agency Analysis of SB 1062, December 9, 2019. On file with the Senate Children, Families, and Elder Affairs Committee.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 381.0056, 394.463, 1001.212, 1002.20, 1002.33, 1006.07, 1006.12, and 1011.62 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment

Delete line 181
and insert:
of involuntary examinations, as defined in s. 394.455, which are

By Senator Harrell

25-01519-20 20201062__

A bill to be entitled

An act relating to involuntary examinations of minors; amending s. 381.0056, F.S.; revising parent and guardian notification requirements that must be met before an involuntary examination of a minor; amending s. 394.463, F.S.; revising data reporting requirements for the Department of Children and Families; amending s. 1001.212, F.S.; revising data reporting requirements for the Office of Safe Schools; amending s. 1002.20, F.S.; revising parent and guardian notification requirements that must be met before conducting an involuntary examination of a minor who is removed from school, school transportation, or a school-sponsored activity; providing an exception; amending s. 1002.33, F.S.; revising parent and guardian notification requirements that must be met before an involuntary examination of a minor who is removed from a charter school, charter school transportation, or a charter school-sponsored activity; providing an exception; amending s. 1006.07, F.S.; creating reporting requirements for schools relating to involuntary examinations of minors; amending s. 1006.12, F.S.; revising training requirements for school safety officers; amending s. 1011.62, F.S.; requiring that certain plans include procedures to assist certain mental and behavioral health providers in attempts to verbally de-escalate certain crisis situations before initiating an involuntary examination; requiring the procedures to

include certain strategies; creating requirements for memoranda of understanding between schools and local mobile crisis response services; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) of section 381.0056, Florida Statutes, is amended to read:

381.0056 School health services program.—

(4)(a) Each county health department shall develop, jointly with the district school board and the local school health advisory committee, a school health services plan. The plan must include, at a minimum, provisions for all of the following:

1. Health appraisal;

2. Records review;

3. Nurse assessment;

4. Nutrition assessment;

5. A preventive dental program;

6. Vision screening;

7. Hearing screening;

8. Scoliosis screening;

9. Growth and development screening;

10. Health counseling;

11. Referral and followup of suspected or confirmed health problems by the local county health department;

12. Meeting emergency health needs in each school;

13. County health department personnel to assist school personnel in health education curriculum development;

14. Referral of students to appropriate health treatment, in cooperation with the private health community whenever possible;

15. Consultation with a student's parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated;

16. Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs; except, however, that provisions in the plan for maintenance of health records of individual students must be in accordance with s. 1002.22;

17. Health information which will be provided by the school health nurses, when necessary, regarding the placement of students in exceptional student programs and the reevaluation at periodic intervals of students placed in such programs;

18. Notification to the local nonpublic schools of the school health services program and the opportunity for representatives of the local nonpublic schools to participate in the development of the cooperative health services plan; and

19. ~~Immediate~~ Notification to a student's parent, guardian, or caregiver before ~~if~~ the student is removed from school, school transportation, or a school-sponsored activity to be ~~and~~ taken to a receiving facility for an involuntary examination pursuant to s. 394.463, including and subject to the requirements and exceptions established under ss. 1002.20(3) and 1002.33(9), as applicable.

Section 2. Subsection (4) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(4) DATA ANALYSIS.—Using data collected under paragraph (2)(a), the department shall, at a minimum, analyze data on both the initiation of involuntary examinations of children and the initiation of involuntary examinations of students who are removed from a school, identify any patterns or trends and cases in which involuntary examinations are repeatedly initiated on the same child or student, study root causes for such patterns, trends, or repeated involuntary examinations, and make recommendations to encourage the use of ~~for encouraging~~ alternatives to eliminate ~~and eliminating~~ inappropriate initiations of such examinations. The department shall submit a report on its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1 of each odd-numbered ~~odd numbered~~ year.

Section 3. Subsection (7) of section 1001.212, Florida Statutes, is amended to read:

1001.212 Office of Safe Schools.—There is created in the Department of Education the Office of Safe Schools. The office is fully accountable to the Commissioner of Education. The office shall serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The office shall:

(7) Provide data to support the evaluation of mental health services pursuant to s. 1004.44. Such data must include, for each school, the number of involuntary examinations as defined

in s. 394.455 which are initiated at the school, on school transportation, or at a school-sponsored activity and the number of children for whom an examination is initiated.

Section 4. Paragraph (l) of subsection (3) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(3) HEALTH ISSUES.—

(l) *Notification of involuntary examinations.*—

1. Except as provided in subparagraph 2., the public school principal or the principal's designee shall ~~immediately~~ notify the parent of a student before the student ~~who~~ is removed from school, school transportation, or a school-sponsored activity to be ~~and~~ taken to a receiving facility for an involuntary examination pursuant to s. 394.463.

2. The principal or the principal's designee may delay the required notification for no more than 24 hours after the student is removed if:

a. The principal or designee deems the delay to be in the student's best interest and ~~if~~ a report has been submitted to the central abuse hotline, pursuant to s. 39.201, based upon knowledge or suspicion of abuse, abandonment, or neglect; or

b. The principal or principal's designee reasonably believes that such delay is necessary to avoid jeopardizing the health and safety of the student.

Each district school board shall develop a policy and procedures for notification under this paragraph.

Section 5. Paragraph (q) of subsection (9) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(9) CHARTER SCHOOL REQUIREMENTS.—

(q) The charter school principal or the principal's designee shall ~~immediately~~ notify the parent of a student before the student ~~who~~ is removed from school, school transportation, or a school-sponsored activity to be ~~and~~ taken to a receiving facility for an involuntary examination pursuant to s. 394.463. The principal or the principal's designee may delay notification for no more than 24 hours after the student is removed if:

1. The principal or designee deems the delay to be in the student's best interest and ~~if~~ a report has been submitted to the central abuse hotline, pursuant to s. 39.201, based upon knowledge or suspicion of abuse, abandonment, or neglect; or

2. The principal or principal's designee reasonably believes that such delay is necessary to avoid jeopardizing the health and safety of the student.

Each charter school governing board shall develop a policy and procedures for notification under this paragraph.

Section 6. Subsection (10) is added to section 1006.07, Florida Statutes, to read:

1006.07 District school board duties relating to student discipline and school safety.—The district school board shall provide for the proper accounting for all students, for the

attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(10) REPORTING OF INVOLUNTARY EXAMINATIONS.—Each district school board shall adopt a policy to require the district superintendent to annually report to the department the number of involuntary examinations, as defined in s. 394.463, which are initiated at a school, on school transportation, or at a school-sponsored activity.

Section 7. Present paragraph (c) of subsection (2) of section 1006.12, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

1006.12 Safe-school officers at each public school.—For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent shall partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options available under this section. The school district may implement any combination of the options in subsections (1)-(4) to best meet the needs of the school district and charter schools.

(2) SCHOOL SAFETY OFFICER.—A school district may commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district school superintendent may recommend, and

the district school board may appoint, one or more school safety officers.

(c) School safety officers must complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention. The training shall improve officers' knowledge and skills as first responders to incidents involving students with emotional disturbance or mental illness, including de-escalation skills to ensure student and officer safety.

If a district school board, through its adopted policies, procedures, or actions, denies a charter school access to any safe-school officer options pursuant to this section, the school district must assign a school resource officer or school safety officer to the charter school. Under such circumstances, the charter school's share of the costs of the school resource officer or school safety officer may not exceed the safe school allocation funds provided to the charter school pursuant to s. 1011.62(15) and shall be retained by the school district.

Section 8. Paragraph (b) of subsection (16) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health assistance allocation is created to provide funding to assist

school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall receive a minimum of $100,000, with the remaining balance allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Charter schools that submit a plan separate from the school district are entitled to a proportionate share of district funding. The allocated funds may not supplant funds that are provided for this purpose from other operating funds and may not be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where appropriate.

(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must include the following elements:

1. Direct employment of school-based mental health services

providers to expand and enhance school-based student services and to reduce the ratio of students to staff in order to better align with nationally recommended ratio models. These providers include, but are not limited to, certified school counselors, school psychologists, school social workers, and other licensed mental health professionals. The plan also must identify strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs.

2. Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools. Services may include, but are not limited to, mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification. These behavioral health services may be provided on or off the school campus and may be supplemented by telehealth.

3. Policies and procedures, including contracts with service providers, which will ensure that students who are referred to a school-based or community-based mental health service provider for mental health screening for the identification of mental health concerns and ensure that the assessment of students at risk for mental health disorders occurs within 15 days of referral. School-based mental health

services must be initiated within 15 days after identification and assessment, and support by community-based mental health service providers for students who are referred for community-based mental health services must be initiated within 30 days after the school or district makes a referral.

4. Strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, depression, anxiety disorders, suicidal tendencies, or substance use disorders.

5. Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

6. Procedures to assist a mental health services provider or a behavioral health provider as described in subparagraph 1. or subparagraph 2., respectively, or a school resource officer or school safety officer who has completed mental health crisis intervention training in attempting to verbally de-escalate a student's crisis situation before initiating an involuntary examination pursuant to s. 394.463. Such procedures must include strategies to de-escalate a crisis situation for a student with a developmental disability as that term is defined in s. 393.063.

7. A memorandum of understanding with a local mobile crisis response service. Policies of the school district and the terms of the memorandum of understanding must require that, in a student crisis situation, school or law enforcement personnel must contact the local mobile crisis response service before

initiating an involuntary examination pursuant to s. 394.463. Such contact may be in person or by using telehealth as defined in s. 456.47. School districts shall provide all school resource officers and school safety officers with training on protocols established under the memorandum of understanding developed pursuant to this subparagraph.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1440
INTRODUCER:	Senator Powell
SUBJECT:	Children's Mental Health
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 1440 requires the Department of Children and Families (DCF) and the Agency for Health Care Administration (AHCA) to identify individuals under age 18 who are the highest users of crisis stabilization services, collaboratively take action to meet the behavioral health needs of such children and submit a joint quarterly report during Fiscal Years 2020-2022 to the Legislature.

The bill also requires DCF to contract with managing entities for mobile response teams throughout the state to provide additional services minors. The bill requires the Department of Juvenile Justice (DJJ) to participate in the planning process for promoting a coordinated system of care to provide mental health services to minors.

The bill requires DCF and AHCA to assess the quality of care provided in crisis stabilization units to children and adolescents who are high utilizers of such services and submit a joint report to the Governor and Legislature.

The bill will have a fiscal impact on the state and has an effective date of July 1, 2020.

II. Present Situation:

The Department of Children and Families administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.

Behavioral Health Managing Entities

In 2001, the Legislature authorized DCF to implement behavioral health managing entities as the management structure for the delivery of local mental health and substance abuse services.[1] The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.[2] Full implementation of the statewide managing entity system occurred in April 2013; all geographic regions are now served by a managing entity.[3]

DCF contracts with seven MEs - Big Bend Community Based Care, Lutheran Services Florida, Central Florida Cares Health System, Central Florida Behavioral Health Network, Inc., Southeast Florida Behavioral Health, Broward Behavioral Health Network, Inc., and South Florida Behavioral Health Network, Inc., that in turn contract with local service providers[4] for the delivery of mental health and substance abuse services:[5]

Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as "The Baker Act") to address the mental health needs of individuals in the state. The Baker Act allows for voluntary and, under certain circumstances, involuntary, examinations of individuals suspected of having a mental illness and presenting a threat of harm to themselves or others. The Baker Act also establishes procedures for courts, law enforcement, and certain health care practitioners to initiate such examinations and then act in response to the findings.

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.[6] An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:[7]

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

[1] Ch. 2001-191, Laws of Fla.
[2] Ch. 2008-243, Laws of Fla.
[3] *The Department of Children and Families Performance and Accountability System for Behavioral Health Managing Entities*, Office of Program Policy Analysis and Government Accountability, July 18, 2014.
[4] Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.
[5] Department of Children and Families, *Managing Entities*, https://www.myflfamilies.com/service-programs/samh/managing-entities/ (last visited Jan. 30, 2020).
[6] SS. 394.4625 and 394.463, F.S.
[7] S. 394.463(1), F.S.

Involuntary Admissions

Involuntary patients must be taken to either a public or a private facility that has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.[8]

Within the 72-hour examination period, or if the 72 hours end on a weekend or holiday, no later than the next business day, one of the following must occur:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to a placement as a voluntary and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.[9]

Receiving facilities must give prompt notice[10] of the whereabouts of a patient who is being involuntarily held for examination to the patient's guardian,[11] guardian advocate,[12] health care surrogate or proxy, attorney, and representative.[13] If the patient is a minor, the receiving facility must give prompt notice to the minor's parent, guardian, caregiver, or guardian advocate. Notice for an adult may be provided within 24 hours of arrival; however, notice for a minor must be provided immediately after the minor's arrival at the facility. The facility may delay the notification for a minor for up to 24 hours if it has submitted a report to the central abuse hotline. The receiving facility must attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until it receives confirmation that the notice has been received. Attempts must be repeated at least once every hour during the first 12 hours after the minor's arrival and then once every 24 hours thereafter until confirmation is received, the minor is released, or a petition for involuntary services is filed with the court.[14]

Task Force Report on Involuntary Examination of Minors

During the 2017 Legislative session, the Legislature passed HB 1121, which the Governor signed as ch. 2017-151, Laws of Florida. One of its provisions created a task force within DCF to address the issue of involuntary examination of minors 17 years old and younger.

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[8] S. 394.455(39), F.S. This term does not include a county jail.
[9] S. 394.463(2)(g), F.S.
[10] Notice may be provided in person or by telephone; however, in the case of a minor, notice may also be provided by other electronic means. S. 394.455(2),F.S.
[11] "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated. Section 394.455(17), F.S.
[12] "Guardian advocate" means a person appointed by a court to make decisions regarding mental health treatment on behalf of a patient who has been found incompetent to consent to treatment. Section 394.455(18), F.S.
[13] S. 394.4599(2)(b), F.S.
[14] S. 394.4599(c), F.S.

The task force was composed of stakeholders from the education, mental health, law enforcement, and legal fields. The task force was required to submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2017; the task force submitted its report on November 15, 2017.[15]

Data Analysis

Based on an analysis of available data regarding involuntary examinations of minors, the task force found that:[16]

- Involuntary examinations for children occur in varying degrees across counties.
- There is an increasing trend statewide and in certain counties to initiate involuntary examinations of minors.
- The seasonal pattern shows that involuntary examinations are more common when school is in session.
- Some children have multiple involuntary examinations, although most children who have an involuntary examination have only one.
- Decreases in juvenile arrests correlate with increases of involuntary examinations of children, although it is important to note that the analyses did not show a causal link and there has been a long pattern of decreases in juvenile crime over more than a decade.
- While recent increases in involuntary examinations in certain counties are deserving of focus, a more important focus needs to be on counties that have high rates of involuntary examination. Counties with high rates are, for the most part, not the same counties with the recent increases.
- The most common involuntary examination for children is initiated by law enforcement based on evidence of harm to self.
- The majority of involuntary examinations initiated for children by mental health professionals are initiated by physicians, followed by licensed mental health counselors, and clinical social workers, with many fewer initiated by psychologists, psychiatric nurses, marriage and family therapists, and physicians' assistants.

Recommendations

The task force made six recommendations for encouraging alternatives to and eliminating inappropriate initiations of involuntary examinations of minors under the Baker Act:[17]

- Fund an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis.
- Expand access to outpatient crisis intervention services and treatment.
- Create within DCF the "Invest in the Mental Health of our Children" grant program to provide matching funds to counties that can be used to plan, implement, or expand initiatives that increase public safety, avert increased mental health spending, and improve the accessibility and effectiveness of prevention and intervention services for children who have a diagnosed mental illness or co-occurring mental health and substance use disorder.

[15] Department of Children and Families, Office of Substance Abuse and Mental Health, Task Force Report on Involuntary Examination of Minors, (Nov. 15, 2017), available at: http://www.dcf.state.fl.us/service-programs/samh/publications/ (last visited January 30, 2020).
[16] Id.
[17] Id.

- Encourage school districts, through legislative intent language, to adopt a standardized suicide assessment tool that school-based mental health professionals would implement prior to initiation of a Baker Act examination.[18]
- Revise s. 394.463, F.S., to include school psychologists licensed under ch. 490, F.S. to the list of mental health professionals who are qualified to initiate a Baker Act.
- Require Youth Mental Health First Aid or Crisis Intervention Team (CIT) training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools.[19]

Additionally, the task force recommended amending s. 394.463, F.S., to increase the number of days, from the next working day to five working days, that the receiving facility has to submit forms to DCF required by s. 394.463, F.S. The task force states that this change would allow DCF to capture data on whether the minor was admitted, released, or a petition filed with the court.[20]

DCF subsequently released an updated version of the report in 2019.[21] The 2019 report revealed that some crisis stabilization units are not meeting the needs of children and adolescents with significant behavioral health needs, contributing to multiple exams.

The 2019 report found there were 205,781 involuntary examinations in FY 2017-2018, 36,078 of which were of minors. From FY 2013-2014 to FY 2017-2018, statewide involuntary examinations increased 18.85% for children. Children have a larger increase in examinations compared to young adults ages 18-24 (14.04%) and adults (12.49%). Additionally, 22.61% of minors had multiple involuntary examinations in FY 2017-2018, ranging from 2 to 19. DCF identified 21 minors who had more than ten involuntary examinations in FY 2017-2018, with a combined total of 285 initiations. DCF's review of medical records found:

- Most initiations were a result of minors harming themselves and were predominately initiated by law enforcement (88%);
- Many minors were involved in the child welfare system and most experienced significant family dysfunction;
- Most had Medicaid health insurance;
- Most experienced multiple traumas such as abuse, bullying, exposure to violence, parental incarceration, and parental substance abuse and mental health issues;
- Most had behavioral disorders of childhood, such as ADHD or Oppositional Defiant Disorder, followed by mood disorders, followed by anxiety disorders;
- Most involuntary examinations were initiated at home or at a behavioral health provider; and

[18] The Task Force found that data supports the conclusion that implementation of risk assessment protocols significantly reduced the number of children and youth who received Baker Act initiations in school districts across the state.
[19] CIT training is an effective law enforcement response program designed for first responders who handle crisis situations involving individuals with mental illness or co-occurring disorders. It emphasizes a partnership between law enforcement, the mental health and substance abuse treatment system, mental health advocacy groups, and consumers of mental health services and their families. Additionally, this training offers evidence-informed techniques designed to calm the individual in crisis down, reduces reliance on the Baker Act as a means of handling the crisis, and informs individuals of local resources that are available to people in need of mental health services and supports.
[20] Id.
[21] Florida Department of Children and Families, Task Force Report on Involuntary Examination of Minors, 2019, (Nov. 2019), https://www.myflfamilies.com/service-programs/samh/publications/ (last visited Jan. 31, 2020).

- Discharge planning and care coordination by the receiving facilities was not adequate enough to meet the child's needs.

The 2019 report recommended:
- Increasing care coordination for minors with multiple involuntary examinations;
- Utilizing the wraparound care coordination approach for children with complex behavioral health needs and multi-system involvement to ensure one point of accountability and individualized care planning;
- Utilizing existing local review teams;
- Revising administrative rules to gather more information about actions taken after the initiation of exams, require electronic submission of forms, and improve care coordination and discharge planning;
- Funding an additional FTE at DCF to provide technical assistance; and
- Ensuring that parents receive information about mobile crisis response teams and other community resources and supports upon child's discharge.

Mobile Response Teams

Mobile response teams (MRTs) provide readily available crisis care in a community-based setting and increase opportunities to stabilize individuals in the least restrictive setting to avoid the need for jail or hospital/emergency department utilization.[22] Early intervention services are critical to reducing involuntary examinations in minors and there are areas across the state where options short of involuntary examination via the Baker Act are limited or nonexistent. Response teams are available to individuals 25 years of age and under, regardless of their ability to pay, and must be ready to respond to any mental health emergency.[23] Telehealth can be used to provide direct services to individuals via video-conferencing systems, mobile phones, and remote monitoring. It can also be used to provide assessments and follow-up consultation as well as initial triage to determine if an in-person visit is needed to respond to the crisis call.[24]

SB 7026 (2018) funded additional mobile response teams to serve areas of the state that were not being served by such teams at a total of $18.3 million. There are 40 MRTs serving all 67 counties in Florida, targeting services to individuals under the age of 25. Recent MRT monthly reports showed an 80% statewide average of diverting individuals from involuntary examination.[25]

DCF established a framework to guide procurement of MRTs. This framework suggests that the procurement:
- Be conducted with the collaboration of local Sherriff's Offices and public schools in the procurement planning, development, evaluation, and selection process;

[22] Department of Children and Families, *Mobile Response Teams Framework*, (August 29, 2018), p. 4, https://www.myflfamilies.com/service-programs/samh/publications/docs/Mobile%20Response%20Framework.pdf (last visited Jan. 30, 2020).
[23] Id.
[24] Id.
[25] Id.

- Be designed to ensure reasonable access to services among all counties in the Managing Entity's service region, taking into consideration the geographic location of existing mobile crisis teams;
- Require services be available 24 hours per day, seven days per week with on-site response time to the location of referred crises within 60 minutes of the request for services;
- Require the Network Service Provider to establish formalized written agreements to establish response protocols with local law enforcement agencies and local school districts or superintendents;
- Require access to a board-certified or board-eligible Psychiatrist or Psychiatric Nurse Practitioner; and
- Provide for an array of crisis response services that are responsive to the individual and family needs, including screening, standardized assessments, early identification, or linkage to community services as necessary to address the immediate crisis event.

III. Effect of Proposed Changes:

Section 1 amends s. 394.493, F.S., requiring DCF and AHCA to identify children that are high utilizers of crisis stabilization services beginning in fiscal year 2020-2021 through 2021-2022. The bill requires both agencies to use this information to meet the behavioral health needs of these children within existing resources. The bill also requires DCF and AHCA to jointly submit quarterly reports to the Legislature listing the actions taken by both agencies.

Section 2 amends s. 394.495 F.S., requiring DCF to contract with the MEs for crisis response services provided through MRTs throughout the state to provide immediate, onsite behavioral health services to children and young adults through age 25. The bill provides that mobile response services must be available to children and young adults:

- With an emotional disturbance;
- Experiencing an acute mental health or emotional crisis;
- Experiencing escalating emotional or behavioral [health] symptoms that effect their ability to function within their community; or
- Children served by the child welfare system experiencing placement instability.

The bill requires mobile response services to respond to new requests for services within 60 minutes in the location where the crisis is occurring. Services must be responsive to the needs of the child, young adult, and their family. Services must be evidence-based, enabling the individuals served to independently and effectively deescalate, reducing the possibility for future crises. MRT services must include screening, standardized assessment, and referral to community services and engage children, young adults, and their families as active participants in the process when possible. The bill also requires that MRT providers develop a care plan, provide care coordination by facilitating referrals to community-based services, establish a process for obtaining informed consent, promote information sharing and the use of innovative technology, coordinate with the ME and other service providers and interested parties including schools, Multiagency Network for Students with Emotional/Behavioral Disabilities (SEDNET), the child welfare system, and DJJ.

When procuring MRT providers under the bill, MEs must:

- Collaborate with local law enforcement agencies and public schools in the planning, development, evaluation and selection processes;
- Require that services must be available 24 hours a day, seven days a week, with onsite response time to the location of the crisis within 60 minutes;
- Require the MRT provider to establish protocols with law enforcement agencies, community-based care lead agencies (CBCs), the child welfare system, DJJ, and school districts pursuant to s. 1004.44, F.S.;
- Require access to a board certified or board eligible psychiatrist or psychiatric nurse practitioner; and
- Require MRTs to develop referral processes for individuals served to an array of crisis response services that address individual and family needs, including screening, standardized assessments, early identification, and community services to address the immediate crisis.

Section 3 creates s. 394.4955, F.S., requiring each ME to develop a plan that promotes the development and effective implementation of a coordinated system of care to integrate services provided and funded through the state child serving systems to facilitate access to needed mental health services. The development of the plan must include a planning process led by the ME and must include DCF, individuals served and their families, behavioral health providers, law enforcement agencies, school districts or superintendents, SEDNET, representatives from the child welfare system, DJJ, early learning coalitions, AHCA, the Agency for Persons with Disabilities, Medicaid managed medical assistance plans, and other community partners. The bill requires that during the planning process, the ME and the collaborating organizations consider the geographical distribution of the population, needs, and resources, and create separate plans for each individual county or multi-county area to maximize collaboration and communication at the local level.

To the extent permitted by available resources, the local coordinated system of care must include the services listed in s. 394.495, F.S. The bill also requires each local plan to be integrated with the local designated receiving system plan developed under s. 394.4573, F.S., and shall document each coordinated system of care through written memoranda of understanding or other binding arrangements. The ME and collaborating organizations must also create integrated service delivery approaches within current resources that facilitate parents and caregivers obtaining services and supports by making referrals to specialized treatment providers, if necessary, with follow-up to ensure services are received as part of the plan. MEs must complete plans by July 1, 2021, for submission to DCF. The ME and collaborating organizations are required to implement the coordinated system of care as specified in the plan by July 1, 2022, and must review and update, as necessary, the plans every three years thereafter. When implementing the coordinated system of care. MEs must also identify gaps in the services arrays that are listed in s. 394.495, F.S., for each plan and include any relevant information in their needs assessment required by 394.9082, F.S.

Section 4 amends s. 394.9082, F.S., requiring DCF to consider adolescents who require assistance in transitioning to services provided by the adult system of care when defining the priority populations that will benefit receiving care coordination. The bill requires MEs to include a list and descriptions of gaps in the array of services for children and adolescents identified pursuant to s. 394.4955, F.S., and recommendations for addressing these gaps. The bill also requires MEs to promote the use of available crisis intervention services by requiring

contracted service providers to provide MRT contact information to parents and caregivers of children, adolescents, and young adults between ages 18 and 25, who receive safety-net behavioral health services.

Section 5 amends s. 409.175, F.S., requiring preservice training for foster parents to include information about the local MRT, including contact information, as a means for addressing any behavioral health crisis or to prevent placement disruption.

Section 6 amends s. 409.988, F.S., requiring that CBCs ensure that all individuals providing care for dependent children receive contact information for the local MRTs.

Section 7 amends s. 985.601, F.S., requiring DJJ to participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955, F.S.

Section 8 amends s. 1003.02, F.S., requiring district school boards to participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955, F.S.

Section 9 amends s. 1004.44, F.S., requiring the FMHI at the University of South Florida to develop a model response protocol for schools to utilize MRTs by August 1, 2020. The FMHI must consult with school districts that effectively work with MRTs, school districts that use MRTs less often, law enforcement agencies, DCF, MEs, and MRT providers.

Section 10 amends s. 1006.04, F.S., requiring SEDNET to participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955, F.S.

Section 11 amends s. 1011.62, F.S., to require school districts to enter into a Memorandum of Understanding (MOU) with MEs to facilitate referrals of students to community-based services and coordinate care for student services by school-based and community-based providers. The MOU must include a protocol to share information, coordinate care, and increase access to appropriate services.

The bill requires that school district policies, procedures, and contracts with service providers require that parents of students be provided with information about behavioral health services available through the school or local providers including MRT services. The school may provide this information through web-based directories or local guides if they are easy to understand and navigate by individuals who are unfamiliar with the behavioral health system. The bill also requires that school district policies, procedures, and contracts with service providers require the use MRT services to the extent that they are available. Each school district is required to establish policies and procedures to implement the model response protocol developed under s. 1004.44, F.S.

The bill also requires school districts to refer students or others living in the household of the student to behavioral health services available through other delivery systems or payers.

Section 12 requires DCF and AHCA to assess the quality of care provided in crisis stabilization units to children and adolescents who are high utilizers of services. The bill requires DCF and AHCA to review current laws regarding licensure and designation and compare standards to other states and relevant national standards to make recommendations for improvements. This assessment shall address efforts by facilities to gather and assess information regarding the child or adolescent, to create comprehensive discharge plans to effectively address the needs of the child to help avoid or reduce the need for future crisis stabilization services.

The bill requires DCF and AHCA to jointly submit a report of the findings and recommendations to the Governor, the Senate President, and the Speaker of the House of Representatives by November 15, 2020.

Section 13 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:

Private sector providers of behavioral health services for minors will need to generate new forms and hire additional staff to meet the increased need for services. The impact of these changes are indeterminate.

C. Government Sector Impact:

DCF estimates that one additional FTE will be required to accommodate the coordination of care for children that are high utilizers of crisis stabilization services, at a total cost for fiscal year 2020-2021 of $85,281 with an annualized cost of $80,833 in subsequent years.[26]

The additional responsibilities of MRTs under the bill will create a significant fiscal impact. Requiring services to be provided within 60 minutes of a request in the location where a request originates will be difficult to provide given the strained existing capacity of MRTs and the fact that MRTs often provide services remotely (via telehealth or other means of electronic communication). Additionally, there will be a significant fiscal impact to MRTs if the teams are responsible for on-going care. Currently, MRTs are responsible for the hand off and transition to on-going services; it is the responsibility of the agency who provides on-going services to ensure the active participation of parents and children and continued treatment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.493, 394.495, 394.9082, 409.175, 409.988, 985.601, 1003.02, 1004.44, 1006.04, and 1011.62 of the Florida Statutes.
This bill creates section 394.4955 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.

[26] Department of Children and Families Agency Analysis of HB 945, December 19, 2019. On file with the Senate Children, Families, and Elder Affairs Committee.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 394.493, Florida Statutes, to read:

394.493 Target populations for child and adolescent mental health services funded through the department.—

(4) Beginning with fiscal year 2020-2021 through fiscal year 2021-2022, the department and the Agency for Health Care

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Administration shall identify children and adolescents who are the highest utilizers of crisis stabilization services. The department and agency shall collaboratively take appropriate action within available resources to meet the behavioral health needs of such children and adolescents more effectively, and shall jointly submit to the Legislature a quarterly report listing the actions taken by both agencies to better serve such children and adolescents.

Section 2. Paragraph (q) is added to subsection (4) of section 394.495, Florida Statutes, and subsection (7) is added to that section, 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:

(q) Crisis response services provided through mobile response teams.

(7)(a) The department shall contract with managing entities for mobile response teams throughout the state to provide immediate, onsite behavioral health crisis services to children, adolescents, and young adults ages 18 to 25, inclusive, who:

1. Have an emotional disturbance;

2. Are experiencing an acute mental or emotional crisis;

3. Are experiencing escalating emotional or behavioral reactions and symptoms that impact their ability to function typically within the family, living situation, or community environment; or

4. Are served by the child welfare system and are experiencing or are at high risk of placement instability.


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(b) A mobile response team shall, at a minimum:

1. Respond to new requests for services within 60 minutes after such requests are made.

2. Respond to a crisis in the location where the crisis is occurring.

3. Provide behavioral health crisis-oriented services that are responsive to the needs of the child, adolescent, or young adult and his or her family.

4. Provide evidence-based practices to children, adolescents, young adults, and families to enable them to independently and effectively deescalate and respond to behavioral challenges that they are facing and to reduce the potential for future crises.

5. Provide screening, standardized assessments, early identification, and referrals to community services.

6. Engage the child, adolescent, or young adult and his or her family as active participants in every phase of the treatment process whenever possible.

7. Develop a care plan for the child, adolescent, or young adult.

8. Provide care coordination by facilitating the transition to ongoing services.

9. Ensure there is a process in place for informed consent and confidentiality compliance measures.

10. Promote information sharing and the use of innovative technology.

11. Coordinate with the managing entity within the service location and other key entities providing services and supports to the child, adolescent, or young adult and his or her family,

including, but not limited to, the child, adolescent, or young adult's school, the local educational multiagency network for severely emotionally disturbed students under s. 1006.04, the child welfare system, and the juvenile justice system.

(c) When procuring mobile response teams, the managing entity must, at a minimum:

1. Collaborate with local sheriff's offices and public schools in the planning, development, evaluation, and selection processes.

2. Require that services be made available 24 hours per day, 7 days per week, with onsite response time to the location of the referred crisis within 60 minutes after the request for services is made.

3. Require the provider to establish response protocols with local law enforcement agencies, local community-based care lead agencies as defined in s. 409.986(3), the child welfare system, and the Department of Juvenile Justice. The response protocol with a school district shall be consistent with the model response protocol developed under s. 1004.44.

4. Require access to a board-certified or board-eligible psychiatrist or psychiatric nurse practitioner.

5. Require mobile response teams to refer children, adolescents, or young adults and their families to an array of crisis response services that address individual and family needs, including screening, standardized assessments, early identification, and community services as necessary to address the immediate crisis event.

Section 3. Section 394.4955, Florida Statutes, is created to read:

394.4955 Coordinated system of care; child and adolescent mental health treatment and support.—

(1) Pursuant to s. 394.9082(5)(d), each managing entity shall develop a plan that promotes the development and effective implementation of a coordinated system of care which integrates services provided through providers funded by the state's child-serving systems and facilitates access by children and adolescents, as resources permit, to needed mental health treatment and services at any point of entry regardless of the time of year, intensity, or complexity of the need, and other systems with which such children and adolescents are involved, as well as treatment and services available through other systems for which they would qualify.

(2)(a) The managing entity shall lead a planning process that includes, but is not limited to, children and adolescents with behavioral health needs and their families; behavioral health service providers; law enforcement agencies; school districts or superintendents; the multiagency network for students with emotional or behavioral disabilities; the department; and representatives of the child welfare and juvenile justice systems, early learning coalitions, the Agency for Health Care Administration, Medicaid managed medical assistance plans, the Agency for Persons with Disabilities, the Department of Juvenile Justice, and other community partners. An organization receiving state funding must participate in the planning process if requested by the managing entity.

(b) The managing entity and collaborating organizations shall take into consideration the geographical distribution of the population, needs, and resources, and create separate plans

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on an individual county or multi-county basis, as needed, to maximize collaboration and communication at the local level.

(c) To the extent permitted by available resources, the coordinated system of care shall include the array of services listed in s. 394.495.

(d) Each plan shall integrate with the local plan developed under s. 394.4573.

(3) By July 1, 2021, the managing entity shall complete the plans developed under this section and submit them to the department. By July 1, 2022, the entities involved in the planning process shall implement the coordinated system of care specified in each plan. The managing entity and collaborating organizations shall review and update the plans, as necessary, at least every 3 years thereafter.

(4) The managing entity and collaborating organizations shall create integrated service delivery approaches within current resources that facilitate parents and caregivers obtaining services and support by making referrals to specialized treatment providers, if necessary, with follow up to ensure services are received.

(5) The managing entity and collaborating organizations shall document each coordinated system of care for children and adolescents through written memoranda of understanding or other binding arrangements.

(6) The managing entity shall identify gaps in the arrays of services for children and adolescents listed in s. 394.495 available under each plan and include relevant information in its annual needs assessment required by s. 394.9082.

Section 4. Paragraph (c) of subsection (3) and paragraphs

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(b) and (d) of subsection (5) of section 394.9082, Florida Statutes, are amended, and paragraph (t) is added to subsection (5) of that section, to read:

394.9082 Behavioral health managing entities.—

(3) DEPARTMENT DUTIES.—The department shall:

(c) Define the priority populations that will benefit from receiving care coordination. In defining such populations, the department shall take into account the availability of resources and consider:

1. The number and duration of involuntary admissions within a specified time.

2. The degree of involvement with the criminal justice system and the risk to public safety posed by the individual.

3. Whether the individual has recently resided in or is currently awaiting admission to or discharge from a treatment facility as defined in s. 394.455.

4. The degree of utilization of behavioral health services.

5. Whether the individual is a parent or caregiver who is involved with the child welfare system.

6. Whether the individual is an adolescent, as defined in s. 394.492, who requires assistance in transitioning to services provided in the adult system of care.

(5) MANAGING ENTITY DUTIES.—A managing entity shall:

(b) Conduct a community behavioral health care needs assessment every 3 years in the geographic area served by the managing entity which identifies needs by subregion. The process for conducting the needs assessment shall include an opportunity for public participation. The assessment shall include, at a minimum, the information the department needs for its annual

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report to the Governor and Legislature pursuant to s. 394.4573. The assessment shall also include a list and descriptions of any gaps in the arrays of services for children or adolescents identified pursuant to s. 394.4955 and recommendations for addressing such gaps. The managing entity shall provide the needs assessment to the department.

(d) Promote the development and effective implementation of a coordinated system of care pursuant to ss. 394.4573 and 394.495 ~~s. 394.4573~~.

(t) Promote the use of available crisis intervention services by requiring contracted providers to provide contact information for mobile response teams established under s. 394.495 to parents and caregivers of children, adolescents, and young adults between ages 18 and 25, inclusive, who receive safety-net behavioral health services.

Section 5. Paragraph (b) of subsection (14) of section 409.175, Florida Statutes, is amended to read:

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

(14)

(b) As a condition of licensure, foster parents shall successfully complete preservice training. The preservice training shall be uniform statewide and shall include, but not be limited to, such areas as:

1. Orientation regarding agency purpose, objectives, resources, policies, and services;

2. Role of the foster parent as a treatment team member;

3. Transition of a child into and out of foster care,

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including issues of separation, loss, and attachment;

4. Management of difficult child behavior that can be intensified by placement, by prior abuse or neglect, and by prior placement disruptions;

5. Prevention of placement disruptions;

6. Care of children at various developmental levels, including appropriate discipline; ~~and~~

7. Effects of foster parenting on the family of the foster parent; and

8. Information about and contact information for the local mobile response team as a means for addressing a behavioral health crisis or preventing placement disruption.

Section 6. Paragraph (c) of subsection (2) of section 409.967, Florida Statutes, is amended to read:

409.967 Managed care plan accountability.—

(2) The agency shall establish such contract requirements as are necessary for the operation of the statewide managed care program. In addition to any other provisions the agency may deem necessary, the contract must require:

(c) *Access.*—

1. The agency shall establish specific standards for the number, type, and regional distribution of providers in managed care plan networks to ensure access to care for both adults and children. Each plan must maintain a regionwide network of providers in sufficient numbers to meet the access standards for specific medical services for all recipients enrolled in the plan. The exclusive use of mail-order pharmacies may not be sufficient to meet network access standards. Consistent with the standards established by the agency, provider networks may

include providers located outside the region. A plan may contract with a new hospital facility before the date the hospital becomes operational if the hospital has commenced construction, will be licensed and operational by January 1, 2013, and a final order has issued in any civil or administrative challenge. Each plan shall establish and maintain an accurate and complete electronic database of contracted providers, including information about licensure or registration, locations and hours of operation, specialty credentials and other certifications, specific performance indicators, and such other information as the agency deems necessary. The database must be available online to both the agency and the public and have the capability to compare the availability of providers to network adequacy standards and to accept and display feedback from each provider's patients. Each plan shall submit quarterly reports to the agency identifying the number of enrollees assigned to each primary care provider. The agency shall conduct, or contract for, systematic and continuous testing of the provider network databases maintained by each plan to confirm accuracy, confirm that behavioral health providers are accepting enrollees, and confirm that enrollees have access to behavioral health services.

2. Each managed care plan must publish any prescribed drug formulary or preferred drug list on the plan's website in a manner that is accessible to and searchable by enrollees and providers. The plan must update the list within 24 hours after making a change. Each plan must ensure that the prior authorization process for prescribed drugs is readily accessible to health care providers, including posting appropriate contact

information on its website and providing timely responses to providers. For Medicaid recipients diagnosed with hemophilia who have been prescribed anti-hemophilic-factor replacement products, the agency shall provide for those products and hemophilia overlay services through the agency's hemophilia disease management program.

3. Managed care plans, and their fiscal agents or intermediaries, must accept prior authorization requests for any service electronically.

4. Managed care plans serving children in the care and custody of the Department of Children and Families must maintain complete medical, dental, and behavioral health encounter information and participate in making such information available to the department or the applicable contracted community-based care lead agency for use in providing comprehensive and coordinated case management. The agency and the department shall establish an interagency agreement to provide guidance for the format, confidentiality, recipient, scope, and method of information to be made available and the deadlines for submission of the data. The scope of information available to the department shall be the data that managed care plans are required to submit to the agency. The agency shall determine the plan's compliance with standards for access to medical, dental, and behavioral health services; the use of medications; and followup on all medically necessary services recommended as a result of early and periodic screening, diagnosis, and treatment.

Section 7. Paragraph (f) of subsection (1) of section 409.988, Florida Statutes, is amended to read:

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409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(f) Shall ensure that all individuals providing care for dependent children receive:

1. Appropriate training and meet the minimum employment standards established by the department.

2. Contact information for the local mobile response team established under s. 394.495.

Section 8. Subsection (4) of section 985.601, Florida Statutes, is amended to read:

985.601 Administering the juvenile justice continuum.—

(4) The department shall maintain continuing cooperation with the Department of Education, the Department of Children and Families, the Department of Economic Opportunity, and the Department of Corrections for the purpose of participating in agreements with respect to dropout prevention and the reduction of suspensions, expulsions, and truancy; increased access to and participation in high school equivalency diploma, vocational, and alternative education programs; and employment training and placement assistance. The cooperative agreements between the departments shall include an interdepartmental plan to cooperate in accomplishing the reduction of inappropriate transfers of children into the adult criminal justice and correctional systems. As part of its continuing cooperation, the department shall participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955.

Section 9. Subsection (5) is added to section 1003.02, Florida Statutes, to read:

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1003.02 District school board operation and control of public K-12 education within the school district.—As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school district. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(5) Participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955.

Section 10. Present subsection (4) of section 1004.44, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

1004.44 Louis de la Parte Florida Mental Health Institute.—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(4) By August 1, 2020, the institute shall develop a model response protocol for schools to use mobile response teams established under s. 394.495. In developing the protocol, the institute shall, at a minimum, consult with school districts that effectively use such teams, school districts that use such teams less often, local law enforcement agencies, the Department of Children and Families, managing entities as defined in s.


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394.9082(2), and mobile response team providers.

Section 11. Paragraph (c) of subsection (1) of section 1006.04, Florida Statutes, is amended to read:

1006.04 Educational multiagency services for students with severe emotional disturbance.—

(1)

(c) The multiagency network shall:

1. Support and represent the needs of students in each school district in joint planning with fiscal agents of children's mental health funds, including the expansion of school-based mental health services, transition services, and integrated education and treatment programs.

2. Improve coordination of services for children with or at risk of emotional or behavioral disabilities and their families by assisting multi-agency collaborative initiatives to identify critical issues and barriers of mutual concern and develop local response systems that increase home and school connections and family engagement.

3. Increase parent and youth involvement and development with local systems of care.

4. Facilitate student and family access to effective services and programs for students with and at risk of emotional or behavioral disabilities that include necessary educational, residential, and mental health treatment services, enabling these students to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living.

5. Participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant

to s. 394.4955.

Section 12. Paragraph (b) of subsection (16) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health assistance allocation is created to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall receive a minimum of $100,000, with the remaining balance allocated based on each school district’s proportionate share of the state’s total unweighted full-time equivalent student enrollment. Charter schools that submit a plan separate from the school district are entitled to a proportionate share of district funding. The allocated funds may not supplant funds that are provided for this purpose from other operating funds and may not be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where appropriate.

(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must include the following elements:

1. Direct employment of school-based mental health services providers to expand and enhance school-based student services and to reduce the ratio of students to staff in order to better align with nationally recommended ratio models. These providers include, but are not limited to, certified school counselors, school psychologists, school social workers, and other licensed mental health professionals. The plan also must identify strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs.

2. An interagency agreement or memorandum of understanding with the managing entity, as defined in s. 394.9082(2), that facilitates referrals of students to community-based services and coordinates care for students served by school-based and community-based providers. Such agreement or memorandum of understanding must address the sharing of records and information as authorized under s. 1006.07(7)(d) to coordinate

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care and increase access to appropriate services.

3.~~2.~~ Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools. Services may include, but are not limited to, mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification. These behavioral health services may be provided on or off the school campus and may be supplemented by telehealth.

4.~~3.~~ Policies and procedures, including contracts with service providers, which will ensure that:

a. Parents of students are provided information about behavioral health services available through the students' school or local community-based behavioral health services providers, including, but not limited to, the mobile response team as established in s. 394.495 serving their area. A school may meet this requirement by providing information about and Internet addresses for web-based directories or guides of local behavioral health services as long as such directories or guides are easily navigated and understood by individuals unfamiliar with behavioral health delivery systems or services and include specific contact information for local behavioral health providers.

b. School districts use the services of the mobile response teams to the extent that such services are available. Each school district shall establish policies and procedures to carry

out the model response protocol developed under s. 1004.44.

c. Students who are referred to a school-based or community-based mental health service provider for mental health screening for the identification of mental health concerns and ensure that the assessment of students at risk for mental health disorders occurs within 15 days of referral. School-based mental health services must be initiated within 15 days after identification and assessment, and support by community-based mental health service providers for students who are referred for community-based mental health services must be initiated within 30 days after the school or district makes a referral.

d. Referrals to behavioral health services available through other delivery systems or payors for which a student or individuals living in the household of a student receiving services under this subsection may qualify, if such services appear to be needed or enhancements in those individuals' behavioral health would contribute to the improved well-being of the student.

5.~~4.~~ Strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, depression, anxiety disorders, suicidal tendencies, or substance use disorders.

6.~~5.~~ Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

Section 13. The Department of Children and Families and the Agency for Health Care Administration shall assess the quality


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of care provided in crisis stabilization units to children and adolescents who are high utilizers of crisis stabilization services. The department and agency shall review current standards of care for such settings applicable to licensure under chapters 394 and 408, Florida Statutes, and designation under s. 394.461, Florida Statutes; compare the standards to other states' standards and relevant national standards; and make recommendations for improvements to such standards. The assessment and recommendations shall address, at a minimum, efforts by each facility to gather and assess information regarding each child or adolescent, to coordinate with other providers treating the child or adolescent, and to create discharge plans that comprehensively and effectively address the needs of the child or adolescent to avoid or reduce his or her future use of crisis stabilization services. The department and agency shall jointly submit a report of their findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 15, 2020.

Section 14. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to children's mental health; amending s. 394.493, F.S.; requiring the Department of Children and Families and the Agency for Health Care

Administration to identify certain children and adolescents who use crisis stabilization services during specified fiscal years; requiring the department and agency to collaboratively meet the behavioral health needs of such children and adolescents and submit a quarterly report to the Legislature; amending s. 394.495, F.S.; including crisis response services provided through mobile response teams in the array of services available to children and adolescents; requiring the department to contract with managing entities for mobile response teams to provide certain services to certain children, adolescents, and young adults; providing requirements for such mobile response teams; providing requirements for managing entities when procuring mobile response teams; creating s. 394.4955, F.S.; requiring managing entities to develop a plan promoting the development of a coordinated system of care for certain services; providing requirements for the planning process; requiring each managing entity to submit such plan by a specified date; requiring the entities involved in the planning process to implement such plan by a specified date; requiring that such plan be reviewed and updated periodically; amending s. 394.9082, F.S.; revising the duties of the department relating to priority populations that will benefit from care coordination; requiring that a managing entity's behavioral health care needs assessment include certain information regarding gaps in certain

services; requiring a managing entity to promote the use of available crisis intervention services; amending s. 409.175, F.S.; revising requirements relating to preservice training for foster parents; amending s. 409.967, F.S.; requiring the agency to conduct, or contract for, the testing of provider network databases maintained by Medicaid managed care plans for specified purposes; amending s. 409.988, F.S.; revising the duties of a lead agency relating to individuals providing care for dependent children; amending s. 985.601, F.S.; requiring the Department of Juvenile Justice to participate in the planning process for promoting a coordinated system of care for children and adolescents; amending s. 1003.02, F.S.; requiring each district school board to participate in the planning process for promoting a coordinated system of care; amending s. 1004.44, F.S.; requiring the Louis de la Parte Florida Mental Health Institute to develop, in consultation with other entities, a model response protocol for schools; amending s. 1006.04, F.S.; requiring the educational multiagency network to participate in the planning process for promoting a coordinated system of care; amending s. 1011.62, F.S.; revising the elements of a plan required for school district funding under the mental health assistance allocation; requiring the Department of Children and Families and the Agency for Health Care Administration to assess the quality of care provided in crisis stabilization units to certain


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children and adolescents; requiring the department and agency to review current standards of care for certain settings and make recommendations; requiring the department and agency to jointly submit a report to the Governor and the Legislature by a specified date; providing an effective date.

By Senator Powell

30-01668-20 20201440__

A bill to be entitled

An act relating to children's mental health; amending s. 394.493, F.S.; requiring the Department of Children and Families and the Agency for Health Care Administration to identify certain children and adolescents who use crisis stabilization services during specified fiscal years; requiring the department and agency to collaboratively meet the behavioral health needs of such children and adolescents and submit a quarterly report to the Legislature; amending s. 394.495, F.S.; including crisis response services provided through mobile response teams in the array of services available to children and adolescents; requiring the department to contract with managing entities for mobile response teams to provide certain services to certain children, adolescents, and young adults; providing requirements for such mobile response teams; providing requirements for managing entities when procuring mobile response teams; creating s. 394.4955, F.S.; requiring managing entities to develop and implement plans promoting the development of a coordinated system of care for certain services; providing requirements for the planning process; requiring each managing entity to submit and implement such plan by a specified date; requiring that such plan be reviewed and updated periodically; providing requirements for managing entities and collaborating organizations relating to such plan; amending s. 394.9082, F.S.; revising the

duties of the department relating to priority populations that will benefit from care coordination; requiring that a managing entity's behavioral health care needs assessment include certain information regarding gaps in certain services; requiring a managing entity to promote the use of available crisis intervention services; amending s. 409.175, F.S.; revising requirements relating to preservice training for foster parents; amending s. 409.988, F.S.; revising the duties of a lead agency relating to individuals providing care for dependent children; amending s. 985.601, F.S.; requiring the Department of Juvenile Justice to participate in the planning process for promoting a coordinated system of care for children and adolescents; amending s. 1003.02, F.S.; requiring each district school board to participate in the planning process for promoting a coordinated system of care for children and adolescents; amending s. 1004.44, F.S.; requiring the Louis de la Parte Florida Mental Health Institute to develop, in consultation with other entities, a model response protocol for schools; amending s. 1006.04, F.S.; requiring the educational multiagency network to participate in the planning process for promoting a coordinated system of care for children and adolescents; amending s. 1011.62, F.S.; revising the elements of a plan required for school district funding under the mental health assistance allocation; requiring the Department of Children and Families and

the Agency for Health Care Administration to assess the quality of care provided in crisis stabilization units to certain children and adolescents; requiring the department and agency to review current standards of care for certain settings and make recommendations; requiring the department and agency to jointly submit a report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. Subsection (4) is added to section 394.493, Florida Statutes, to read:

394.493 Target populations for child and adolescent mental health services funded through the department.—

(4) Beginning with fiscal year 2020-2021 through fiscal year 2021-2022, the department and the Agency for Health Care Administration shall identify children and adolescents who are the highest utilizers of crisis stabilization services. The department and agency shall collaboratively take appropriate action within available resources to meet the behavioral health needs of such children and adolescents more effectively, and shall jointly submit to the Legislature a quarterly report listing the actions taken by both agencies to better serve such children and adolescents.

Section 2. Paragraph (q) of subsection (4) and subsection (7) are added to section 394.495, Florida Statutes, 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:

(q) Crisis response services provided through mobile response teams.

(7)(a) The department shall contract with managing entities for mobile response teams throughout the state to provide immediate, onsite behavioral health crisis services to children, adolescents, and young adults ages 18 to 25, inclusive, who:

1. Have an emotional disturbance;

2. Are experiencing an acute mental or emotional crisis;

3. Are experiencing escalating emotional or behavioral reactions and symptoms that impact their ability to function typically within the family, living situation, or community environment; or

4. Are served by the child welfare system and are experiencing or are at high risk of placement instability.

(b) A mobile response team shall, at a minimum:

1. Respond to new requests for services within 60 minutes after such requests are made.

2. Respond to a crisis in the location where the crisis is occurring.

3. Provide behavioral health crisis-oriented services that are responsive to the needs of the child, adolescent, or young adult and his or her family.

4. Provide evidence-based practices to children, adolescents, young adults, and families to enable them to independently and effectively deescalate and respond to behavioral challenges that they are facing and to reduce the potential for future crises.

5. Provide screening, standardized assessments, early identification, and referrals to community services.

6. Engage the child, adolescent, or young adult and his or her family as active participants in every phase of the treatment process whenever possible.

7. Develop a care plan for the child, adolescent, or young adult.

8. Provide care coordination by facilitating the transition to ongoing services.

9. Ensure there is a process in place for informed consent and confidentiality compliance measures.

10. Promote information sharing and the use of innovative technology.

11. Coordinate with the managing entity within the service location and other key entities providing services and supports to the child, adolescent, or young adult and his or her family, including, but not limited to, the child, adolescent, or young adult's school, the local educational multiagency network for severely emotionally disturbed students under s. 1006.04, the child welfare system, and the juvenile justice system.

(c) When procuring mobile response teams, the managing entity must, at a minimum:

1. Collaborate with local sheriff's offices and public schools in the planning, development, evaluation, and selection processes.

2. Require that services be made available 24 hours per day, 7 days per week, with onsite response time to the location of the referred crisis within 60 minutes after the request for services is made.

3. Require the provider to establish response protocols with local law enforcement agencies, local community-based care lead agencies as defined in s. 409.986(3), the child welfare system, and the Department of Juvenile Justice. The response protocol with a school district shall be consistent with the model response protocol developed under s. 1004.44.

4. Require access to a board-certified or board-eligible psychiatrist or psychiatric nurse practitioner.

5. Require mobile response teams to refer children, adolescents, or young adults and their families to an array of crisis response services that address individual and family needs, including screening, standardized assessments, early identification, and community services as necessary to address the immediate crisis event.

Section 3. Section 394.4955, Florida Statutes, is created to read:

394.4955 Coordinated system of care; child and adolescent mental health treatment and support.—

(1) Pursuant to s. 394.9082(5)(d), each managing entity shall develop a plan that promotes the development and effective implementation of a coordinated system of care which integrates services provided through providers funded by the state's child-serving systems and facilitates access by children and adolescents, as resources permit, to needed mental health treatment and services at any point of entry regardless of the time of year, intensity, or complexity of the need, and other systems with which such children and adolescents are involved, as well as treatment and services available through other systems for which they would qualify.

(2)(a) The managing entity shall lead a planning process that includes, but is not limited to, children and adolescents with behavioral health needs and their families; behavioral health service providers; law enforcement agencies; school districts or superintendents; the multiagency network for students with emotional or behavioral disabilities; the department; and representatives of the child welfare and juvenile justice systems, early learning coalitions, the Agency for Health Care Administration, Medicaid managed medical assistance plans, the Agency for Persons with Disabilities, the Department of Juvenile Justice, and other community partners. An organization receiving state funding must participate in the planning process if requested by the managing entity.

(b) The managing entity and collaborating organizations shall take into consideration the geographical distribution of the population, needs, and resources, and create separate plans on an individual county or multi-county basis, as needed, to maximize collaboration and communication at the local level.

(c) To the extent permitted by available resources, the coordinated system of care shall include the array of services listed in s. 394.495.

(d) Each plan shall integrate with the local plan developed under s. 394.4573.

(3) By July 1, 2021, the managing entity shall complete the plans developed under this section and submit them to the department. By July 1, 2022, the entities involved in the planning process shall implement the coordinated system of care specified in each plan. The managing entity and collaborating organizations shall review and update the plans, as necessary,

at least every 3 years thereafter.

(4) The managing entity and collaborating organizations shall create integrated service delivery approaches within current resources that facilitate parents and caregivers obtaining services and support by making referrals to specialized treatment providers, if necessary, with follow-up to ensure services are received.

(5) The managing entity and collaborating organizations shall document each coordinated system of care for children and adolescents through written memoranda of understanding or other binding arrangements.

(6) The managing entity shall identify gaps in the arrays of services for children and adolescents listed in s. 394.495 available under each plan and include relevant information in its annual needs assessment required by s. 394.9082.

Section 4. Paragraph (c) of subsection (3) and paragraphs (b) and (d) of subsection (5) of section 394.9082, Florida Statutes, are amended, and paragraph (t) is added to subsection (5) of that section, to read:

394.9082 Behavioral health managing entities.—

(3) DEPARTMENT DUTIES.—The department shall:

(c) Define the priority populations that will benefit from receiving care coordination. In defining such populations, the department shall take into account the availability of resources and consider:

1. The number and duration of involuntary admissions within a specified time.

2. The degree of involvement with the criminal justice system and the risk to public safety posed by the individual.

3. Whether the individual has recently resided in or is currently awaiting admission to or discharge from a treatment facility as defined in s. 394.455.

4. The degree of utilization of behavioral health services.

5. Whether the individual is a parent or caregiver who is involved with the child welfare system.

6. Whether the individual is an adolescent, as defined in s. 394.492, who requires assistance in transitioning to services provided in the adult system of care.

(5) MANAGING ENTITY DUTIES.—A managing entity shall:

(b) Conduct a community behavioral health care needs assessment every 3 years in the geographic area served by the managing entity which identifies needs by subregion. The process for conducting the needs assessment shall include an opportunity for public participation. The assessment shall include, at a minimum, the information the department needs for its annual report to the Governor and Legislature pursuant to s. 394.4573. The assessment shall also include a list and descriptions of any gaps in the arrays of services for children or adolescents identified pursuant to s. 394.4955 and recommendations for addressing such gaps. The managing entity shall provide the needs assessment to the department.

(d) Promote the development and effective implementation of a coordinated system of care pursuant to ss. 394.4573 and 394.495 ~~s. 394.4573~~.

(t) Promote the use of available crisis intervention services by requiring contracted providers to provide contact information for mobile response teams established under s. 394.495 to parents and caregivers of children, adolescents, and

young adults between ages 18 and 25, inclusive, who receive safety-net behavioral health services.

Section 5. Paragraph (b) of subsection (14) of section 409.175, Florida Statutes, is amended to read:

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

(14)

(b) As a condition of licensure, foster parents shall successfully complete preservice training. The preservice training shall be uniform statewide and shall include, but not be limited to, such areas as:

1. Orientation regarding agency purpose, objectives, resources, policies, and services;

2. Role of the foster parent as a treatment team member;

3. Transition of a child into and out of foster care, including issues of separation, loss, and attachment;

4. Management of difficult child behavior that can be intensified by placement, by prior abuse or neglect, and by prior placement disruptions;

5. Prevention of placement disruptions;

6. Care of children at various developmental levels, including appropriate discipline; ~~and~~

7. Effects of foster parenting on the family of the foster parent; and

8. Information about and contact information for the local mobile response team as a means for addressing a behavioral health crisis or preventing placement disruption.

Section 6. Paragraph (f) 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:

(f) Shall ensure that all individuals providing care for dependent children receive:

1. Appropriate training and meet the minimum employment standards established by the department.

2. Contact information for the local mobile response team established under s. 394.495.

Section 7. Subsection (4) of section 985.601, Florida Statutes, is amended to read:

985.601 Administering the juvenile justice continuum.—

(4) The department shall maintain continuing cooperation with the Department of Education, the Department of Children and Families, the Department of Economic Opportunity, and the Department of Corrections for the purpose of participating in agreements with respect to dropout prevention and the reduction of suspensions, expulsions, and truancy; increased access to and participation in high school equivalency diploma, vocational, and alternative education programs; and employment training and placement assistance. The cooperative agreements between the departments shall include an interdepartmental plan to cooperate in accomplishing the reduction of inappropriate transfers of children into the adult criminal justice and correctional systems. As part of its continuing cooperation, the department shall participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955.

Section 8. Subsection (5) is added to section 1003.02,

Florida Statutes, to read:

1003.02 District school board operation and control of public K-12 education within the school district.—As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school district. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(5) Participate in the planning process for promoting a coordinated system of care for children and adolescents pursuant to s. 394.4955.

Section 9. Subsection (4) of section 1004.44, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

1004.44 Louis de la Parte Florida Mental Health Institute.—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(4) By August 1, 2020, the institute shall develop a model response protocol for schools to use mobile response teams established under s. 394.495. In developing the protocol, the institute shall, at a minimum, consult with school districts that effectively use such teams, school districts that use such teams less often, local law enforcement agencies, the Department

of Children and Families, managing entities as defined in s. 394.9082(2), and mobile response team providers.

Section 10. Paragraph (c) of subsection (1) of section 1006.04, Florida Statutes, is amended to read:

1006.04 Educational multiagency services for students with severe emotional disturbance.—

(1)

(c) The multiagency network shall:

1. Support and represent the needs of students in each school district in joint planning with fiscal agents of children's mental health funds, including the expansion of school-based mental health services, transition services, and integrated education and treatment programs.

2. Improve coordination of services for children with or at risk of emotional or behavioral disabilities and their families by assisting multi-agency collaborative initiatives to identify critical issues and barriers of mutual concern and develop local response systems that increase home and school connections and family engagement.

3. Increase parent and youth involvement and development with local systems of care.

4. Facilitate student and family access to effective services and programs for students with and at risk of emotional or behavioral disabilities that include necessary educational, residential, and mental health treatment services, enabling these students to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living.

5. Participate in the planning process for promoting a

coordinated system of care for children and adolescents pursuant to s. 394.4955.

Section 11. Paragraph (b) of subsection (16) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health assistance allocation is created to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall receive a minimum of $100,000, with the remaining balance allocated based on each school district’s proportionate share of the state’s total unweighted full-time equivalent student enrollment. Charter schools that submit a plan separate from the school district are entitled to a proportionate share of district funding. The allocated funds may not supplant funds that are provided for this purpose from other operating funds and may not be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where

appropriate.

(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must include the following elements:

1. Direct employment of school-based mental health services providers to expand and enhance school-based student services and to reduce the ratio of students to staff in order to better align with nationally recommended ratio models. These providers include, but are not limited to, certified school counselors, school psychologists, school social workers, and other licensed mental health professionals. The plan also must identify strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs.

2. An interagency agreement or memorandum of understanding with the managing entity, as defined in s. 394.9082(2), that facilitates referrals of students to community-based services and coordinates care for students served by school-based and community-based providers. Such agreement or memorandum of understanding must address the sharing of records and

information as authorized under s. 1006.07(7)(d) to coordinate care and increase access to appropriate services.

3.~~2.~~ Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools. Services may include, but are not limited to, mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification. These behavioral health services may be provided on or off the school campus and may be supplemented by telehealth.

4.~~3.~~ Policies and procedures, including contracts with service providers, which will ensure that:

a. Parents of students are provided information about behavioral health services available through the students' school or local community-based behavioral health services providers, including, but not limited to, the mobile response team as established in s. 394.495 serving their area. A school may meet this requirement by providing information about and Internet addresses for web-based directories or guides of local behavioral health services as long as such directories or guides are easily navigated and understood by individuals unfamiliar with behavioral health delivery systems or services and include specific contact information for local behavioral health providers.

b. School districts use the services of the mobile response teams to the extent that such services are available. Each

school district shall establish policies and procedures to carry out the model response protocol developed under s. 1004.44.

c. Students who are referred to a school-based or community-based mental health service provider for mental health screening for the identification of mental health concerns and ensure that the assessment of students at risk for mental health disorders occurs within 15 days of referral. School-based mental health services must be initiated within 15 days after identification and assessment, and support by community-based mental health service providers for students who are referred for community-based mental health services must be initiated within 30 days after the school or district makes a referral.

d. Referrals to behavioral health services available through other delivery systems or payors for which a student or individuals living in the household of a student receiving services under this subsection may qualify, if such services appear to be needed or enhancements in those individuals' behavioral health would contribute to the improved well-being of the student.

5.~~4.~~ Strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, depression, anxiety disorders, suicidal tendencies, or substance use disorders.

6.~~5.~~ Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

Section 12. The Department of Children and Families and the

Agency for Health Care Administration shall assess the quality of care provided in crisis stabilization units to children and adolescents who are high utilizers of crisis stabilization services. The department and agency shall review current standards of care for such settings applicable to licensure under chapters 394 and 408, Florida Statutes, and designation under s. 394.461, Florida Statutes; compare the standards to other states' standards and relevant national standards; and make recommendations for improvements to such standards. The assessment and recommendations shall address, at a minimum, efforts by each facility to gather and assess information regarding each child or adolescent, to coordinate with other providers treating the child or adolescent, and to create discharge plans that comprehensively and effectively address the needs of the child or adolescent to avoid or reduce his or her future use of crisis stabilization services. The department and agency shall jointly submit a report of their findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 15, 2020.

Section 13. This act shall take effect July 1, 2020.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1548
INTRODUCER:	Senator Perry
SUBJECT:	Child Welfare
DATE:	January 27, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 1548 makes a number of changes to current law applicable to children in out-of-home care. Specifically, the bill:

- Creates an emergency modification of placement process that uses a probable cause standard to ensure child safety when a child is either abandoned by or must be immediately removed from a relative, nonrelative, or licensed foster home followed by a review process that uses the current standard of child's best interest established by a preponderance of the evidence.
- Resolves a conflict in Chapter 39 concerning the timeframe for filing and serving a case plan.
- Clarifies the process for terminating court jurisdiction and department supervision in a dependency court action by relocating provisions concerning supervision and jurisdiction that are located throughout Chapter 39, F.S., into a newly created s. 39.630, F.S.
- Clarifies the paternity establishment and disestablishment process by modifying provisions concerning paternity that are located throughout Chapter 39.
- Creates a new s. 39.8025, F.S., to provide a lawful process to immediately protect children whose parents are deceased by committing them to the custody of the department and making them eligible for adoption.
- Clarifies that the department is not required to provide reasonable efforts to preserve and reunify the family if a court has found that the parent is registered as a sexual predator.
- Provides standing for an unsuccessful applicant to adopt a child who is permanently committed to the department to have the opportunity to prove that the department has unreasonably withheld its consent to the applicant. These amendments eliminate the need for an administrative appeal process for unsuccessful applicants and eliminates multiple competing adoption petitions by the approved and unsuccessful applicants.
- Requires a petition to adopt a child who is permanently committed to the department to demonstrate that the department has consented to the adoption or that the dependency court has entered an order waiving the department's consent.

- Provides that a dependent child's placement with a prospective adoptive parent after a Chapter 39 intervention in a dependency proceeding can only occur after the placement is subject to a preliminary home study to establishes the suitability of the home.
- Creates a new s. 742.0211, F.S., to address paternity proceedings concerning dependent children.

In addition the bill does the following:

- Requires the Florida Court Educational Council to establish certain standards, consistent with the purposes of Chapter 39, F.S., for instruction of circuit court judges in dependency cases.
- Eliminates the requirement for the department to submit an annual report to the Governor and Legislature on false reporting of abuse allegations made to the Florida Abuse Hotline, as well as the Independent Living Services Report and the Independent Living Services Advisory Council's Report.
- Provides the department authority to adopt rules for the establishment of processes and procedures for qualified evaluators and implement Medicaid behavioral health utilization management programs for statewide in-patient psychiatric (SIPP) facilities with a contracted vendor.
- Provides authority for the department to appoint all Qualified Evaluators who conduct suitability assessments for children in out-of-home care.

The bill is expected to have a positive fiscal impact on the state and has an effective date of October 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]

[1] The Florida Courts, *Information for New Judges*, *available at*: https://www.flcourts.org/Resources-Services/Judiciary-Education/Information-for-New-Judges (Last visited December 26, 2019).

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 3 years.
- Each judge or justice must complete 4 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 2 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 the judge's 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 benchbook 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]

Paternity

The failure to establish a father for a child as early in the case as possible leads to delay in permanency when the father appears months after disposition because a new case plan must be established. This often extends the goal date by at least six months. The failure to establish the father of the child early also limits the scope of available relative placements for the child, which is contrary to the legislative intent in s. 39.4015(1), F.S., acknowledging that research has shown that relative placements lead to better results for children. If an individual is a "parent" in a dependency action, the individual is entitled to due process and notice before any judicial action may be taken.

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[2] Fla. R. Jud. Admin. 2.320 As amended through August 29, 2019, *available at*: https://casetext.com/rule/florida-court-rules/florida-rules-of-judicial-administration/part-iii-judicial-officers/rule-2320-continuing-judicial-education (Last visited December 26, 2019).

[3] The Florida Courts, *Dependency Benchbook*, *available at* https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Dependency/Dependency-Benchbook (Last visited December 27, 2019).

Chapter 39 defines "parent" to mean a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). The term "parent" also means legal father who defined as a man who is married to the mother at the time of conception or birth of their child unless paternity has been otherwise determined by the court. If the mother was not married to a man at the time of birth or conception of the child, the term means a man named on the birth certificate of the child pursuant to s. 382.013(2), F.S., a man determined by a court order to be the father of the child, or a man determined to be the father of the child by the Department of Revenue as provided in s. 409.256, F.S. If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless specified conditions are met.

When the identity and location of the legal father is unknown, ss. 39.402(8)(c)(4), 39.503(1), 39.803(1), F.S., require the court to inquire under oath of those present at the shelter, dependency, or termination of parental rights hearing whether they have any of the following information:

- Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.
- Whether the mother was cohabiting with a male at the probable time of conception of the child.
- Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.
- Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.
- Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child or in which the child has resided or resides.
- Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2), F.S.
- Whether a man has been determined by a court order to be the father of the child.
- Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256, F.S.

There currently is no requirement in those statutes that the court must enter an order establishing paternity when a legal father has been identified. Without the entry of an order establishing paternity, the legal father is under no obligation to begin services or provide child support. Also, if the child is or were to be placed with the legal father's relatives, that placement is treated as a nonrelative placement until the order establishing paternity is entered.

Current law requires the department and the court to take action including providing notice of hearings where the court's inquiry identifies any person as a parent or a prospective parent and conducting a diligent search if that person's location is unknown. Conducting a diligent search for a prospective parent where there is a legal father can result in unnecessary delay because, even if the prospective parent were to be located, there is no assurance that individual will seek to disestablish the legal father's rights or that he could meet the standing threshold of manifesting a substantial and continuing concern for the welfare of his child in order to be permitted to pursue a paternity action. The court could achieve disposition pursuant to s. 39.521,

F.S., earlier if a diligent search was not required to be conducted to locate a prospective father where there is a legally-established father.

If there is no legal father, then a diligent search for a prospective parent is appropriate to establish paternity and potentially increase the pool of relative placements for the child. Section 39.503(8), F.S., establishes that if the inquiry and diligent search performed at the dependency stage identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent, who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or before the adjudicatory hearing in any termination of parental rights proceeding for the child, shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood.

Current law contains additional provisions related to determination of parentage in chapter 742. Section 742.011, F.S., permits any woman who is pregnant or has a child, any man who has reason to believe that he is the father of a child, or any child may bring proceedings in the circuit court, in chancery, to determine the paternity of the child when paternity has not been established by law or otherwise. Section 742.021, F.S., provides for the filing of a complaint charging paternity in the circuit court where the plaintiff resides or where the defendant resides. Section 742.031, F.S., contemplates that the court will conduct a hearing on the complaint and that, if the court finds that the alleged father is the father of the child, it shall so order. Section 742.18, F.S., provides for a process under which a male may disestablish paternity or terminate a child support obligation when the male is not the biological father of the child.

Current law does not provide any guidance on the standards a court should use in a Chapter 39 proceeding to disestablish a legal father's rights when a Chapter 742 action has been filed concerning a dependent child. Instead, courts get their guidance on resolving a Chapter 742 disestablishment claim from case law. In Simmonds v. Perkins, 247 So. 3d 397 (Fla. 2018), the Florida Supreme Court established the test to determine whether a biological father has standing to bring a paternity action when a child is born of an intact marriage. The Court found that if a biological father manifests a substantial and continuing concern for the welfare of his child, he will not be precluded from bringing a paternity action even if the mother was married at the time of conception or birth. Thereafter, the biological father must show there is a clear and compelling reason based primarily on the child's best interests to overcome the presumption of legitimacy. Dep't of Health & Rehab. Servs. v. Privette, 617 So. 2d 305, 308 (Fla. 1993).

Case Closure

Current law does not have a case closure statute that provides when a court can terminate the department's supervision or the court's jurisdiction. Instead, the only statute in Chapter 39, F.S., to describe when these events can occur is s. 39.521, F.S., which addresses disposition. Section 39.521(1)(c)3., F.S., provides that 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 permanency has been established for the child.

While many statutes in Chapter 39 concern a child remaining in or returning to the home or being placed in some other permanency placement, those statutes are silent on how and when supervision and jurisdiction should be terminated.

Permanent Commitment of Orphaned Children

Presently, the department can adjudicate a child dependent if both parents are deceased, but there is no legal mechanism to permanently commit the child to the department for subsequent adoption.

The court in F.L.M. v. Department of Children and Families, 912 So. 2d 1264 (Fla. 4th DCA 2005), held that when the parents or guardians have died, they have not abandoned the child because the definition of abandonment contemplates the failure to provide a minor child with support and supervision while being able and the parents who died are no longer able to do so. Instead, the court held that an orphaned child without a legal custodian can be properly adjudicated dependent based upon then s. 39.01(14)(e), F.S., which is currently numbered as s. 39.01(15)(e), F.S., in that the child has no parent or legal custodian capable of providing supervision and care. As such, the department relies upon s. 39.01(15)(e), F.S., to adjudicate orphaned children dependent.

Section 39.811(2), F.S., permits a court to commit a child to the custody of the department for the purpose of adoption if the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence. Section 39.806(1), F.S., outlines the available grounds for termination of parental rights. Those grounds include: a written surrender voluntarily executed by the parent, abandonment, failure by the parent to substantially comply with a case plan, and egregious conduct on the part of the parent, among other grounds. All of the grounds available under s. 39.806(1), F.S., require that the parent engage in some kind of behavior that puts a child at risk. Because a deceased parent can no longer engage in any behavior, the department cannot seek the termination of a deceased parent's rights. Moreover, even if there was a legal ground to seek the termination of a deceased parent's rights, there may be benefits that the child is receiving such as social security benefits or an inheritance as a result of the parent's death that the department would not want to halt by seeking a termination of the deceased parent's rights. Because the department cannot seek termination of parental rights when both parents are deceased, courts are permanently committing children to the department's custody without meeting the requirements of s. 39.811(2), F.S. The dependency system is in need of a statute that permits an orphaned child to be permanently committed to the department for subsequent adoption without terminating the deceased parent's rights so as to allow the child to continue to receive death benefits.

Reasonable Efforts for Registered Sexual Predators

Currently, s. 39.806(1)(n), F.S., provides that a ground for termination of parental rights may be established when the parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21, F.S.

Section 39.806(2), F.S., provides that the department is not required to provide reasonable efforts to preserve and reunify families if a court of competent jurisdiction has determined that any of the events described in ss. 39.806(1)(b)-(d) or (1)(f)-(m), F.S., have occurred. These grounds are referred to as the expedited termination of parental rights grounds because the department does not need to obtain an adjudication of dependency and offer the parents a case plan for reunification before seeking termination of the parents' rights. These grounds include where the parent has committed egregious conduct, aggravated child abuse, and aggravated sexual battery. Because s. 39.806(1)(n), F.S., is not listed in s. 39.806(2), F.S., the department must provide a parent who is a convicted and registered sexual predator a case plan for reunification prior to seeking termination of that parent's rights pursuant to this particular ground for termination.

Department's Selection of Adoptive Placement

Currently, the department's ability to place a child in its custody for adoption and the court's review of the placement is controlled by s. 39.812, F.S. The statute provides the department may place a child in a home and the department's consent alone shall be sufficient. The dependency court retains jurisdiction over any child placed in the custody of the department until the child is adopted pursuant to ss. 39.811(9), 39.812(4), and 39.813, F.S. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, s. 39.811(9), F.S., provides that for good cause shown by the Guardian ad Litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Where a child is available for adoption, the department through its contractors will receive applications to adopt the child. Some applicants are not selected because their adoption home study is denied. When there are two or more families with approved home studies, the department's rules route these conflicting applications through the adoption applicant review committee (AARC) for resolution. The decision of the AARC is then reviewed and the department issues its consent to one applicant while communicating its denial to the other applicants through certified letter. These letters are considered final agency action. Unsuccessful applicants have a "point of entry" to seek review of department action through the administrative hearing process under Chapter 120, F.S. These hearings are heard by designated hearing officers within the department. The assignment of adoption disputes to the Chapter 120, F.S., process did not originate with nor was it inspired by legislative directive. Instead, this process arose due to the opinion in Department of Children & Family Services v. I.B. and D.B., 891 So. 2d 1168 (Fla. 1st DCA 2005). However, this process is inconsistent with the Legislature's clear intent of permanency and resolution of all disputes through the Chapter 39, F.S., process.

Florida law also permits individuals, who the department has not approved to adopt a child, to initiate a new Chapter 63, F.S., legal action by filing a petition for adoption. Upon filing the

petition, the petitioner must demonstrate pursuant to s. 63.062(7), F.S., that the department unreasonably withheld its consent to be permitted to adopt the child. Because Chapter 63, F.S., permits anyone who meets the requirements of s. 63.042(2), F.S., to adopt and any petitioner may argue the department's consent to the adoption should be waived because it was unreasonably withheld, multiple parties may file a petition to adopt the same child. Indeed, there can be at least three legal proceedings simultaneously addressing the adoption of the child:

- The Chapter 39, F.S., dependency proceeding.
- The Chapter 63, F.S., adoption proceeding filed by the family who has the department's consent.
- The Chapter 63, F.S., adoption proceeding filed by the applicant who asserts the department unreasonably withheld its consent.

Multiple competing adoption petitions require additional court hearings to resolve the conflict and leads to a delay of the child's adoption. These court proceedings often occur concurrently with the administrative hearing process, which can lead to disparate results.

Relative Home Studies in Chapter 63 Intervention Proceedings

For children in the custody of the department, s. 63.082(6)(a), F.S., provides that if a parent executes a consent for placement of a minor with an adoption entity or qualified adoptive parents, but parental rights have not yet been terminated, the adoption consent is valid, binding, and enforceable by the court. After the parent executes the consent, s. 63.082(6)(b), F.S., permits the adoption entity to intervene in the dependency case as a party in interest and requires the adoption entity to provide the court with a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. Section 63.082(6)(b), F.S., further provides that the home study provided by the adoption entity shall be sufficient unless the court has concerns regarding the qualifications of the home study provider or concerns that the home study may not be adequate to determine the best interests of the child.

Although s. 63.082(6), F.S., provides no exception for the completion of a preliminary home study before the court may transfer custody of the child to the prospective adoptive parents, parties have been able to intervene and accomplish a modification of placement without presenting the court with a home study by relying upon s. 63.092(3), F.S. This section provides that a preliminary home study in a nondependency proceeding is not required when the petitioner for adoption is a stepparent or a relative. Section 63.032(16), F.S., defines a "relative" to mean a person related by blood to the person being adopted within the third degree of consanguinity. As a result of this interpretation of the law, a "relative" who did not pass a department home study because of safety concerns in the home or disqualifying background offenses is permitted to intervene in a dependency action to obtain placement of the child. In one recent case, the relative failed 5 different department home studies, yet the trial court held that she did not need to complete a home study to intervene in the proceeding pursuant to s. 63.082(6), F.S. The department has no ability to ensure the safety of the child in these instances because the adoption entity upon the modification of placement takes over supervision of the child pursuant to s. 63.082(6)(f), F.S.

Licensing Requirements – Institutional Investigations

There are situations where a person is named in some capacity in a report and that, after an investigation of institutional abuse, neglect, or abandonment is closed, the person is not identified as a caregiver responsible for the alleged abuse, neglect, or abandonment. Chapter 39 currently provides that the information contained in the report may not be used in any way to adversely affect the interests of that person. However, Chapter 39 goes also provides that if a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

Section 39.302(7)(a), F.S., establishes the fact that a person named in some capacity in a report may not be used in any way to adversely affect the interests of that person after an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report. However, if a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

Qualified Evaluator

Currently, the Agency for Health Care Administration (AHCA) has statutory authority to adopt rules for the registration of qualified evaluators, to establish procedures for selecting the evaluators to conduct the reviews, and to establish a reasonable cost-efficient fee schedule for qualified evaluators. AHCA is required to contract with a vendor (in this case the department) who would then be responsible for maintaining the QEN. In 2016, the Legislature moved the positions and funding to the department for it to exercise its responsibility of maintaining the QEN, but s. 39.407, F.S., still references AHCA as having authority over the QEN.

Child Care

To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child. To that end, the Child Care Regulation Program is responsible for regulating programs that provide services that meet the statutory definition of "child care." This is accomplished through the inspection of licensed child care programs to ensure the consistent statewide application of child care standards established in statute and rule, and the registration of child care providers not subject to inspection. The department regulates licensed child care facilities, licensed family day care homes, licensed large family child care homes, and licensed mildly ill facilities in 62 of the 67 counties in Florida.

"Child care" is defined as "the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care." If a child care program meets this statutory definition of "child care," it is subject to regulation by the department/local licensing agencies, unless

specifically excluded or exempted from regulation by statute. Every program determined to be subject to licensing must meet the applicable licensing standards established by ss. 402.301-402.319, F. S., and rules.

- The current definition in s. 402.302, F.S., allows the family day care operation to occur in any occupied residence, thus allowing for operators to utilize additional residences to operate the family day care home.
- Current language in s. 402.305, F.S., allows for child care personnel to complete "training" in cardiopulmonary resuscitation. Training in this statute has always been interpreted and implemented as certification. Certification ensures that child care personnel have actually demonstrated an ability to implement cardiopulmonary resuscitation training. This section of statute is the primary issue at stake in a pending challenge on the rule development process.
- Currently, providers are not required to notify the department when they begin offering transportation services.
- Child care providers are required to provide parents with information at different times throughout the year as required in ss. 402.305, 402.313, and 403.3131, F.S. The dates for provision of different kinds of information is staggered.

III. Effect of Proposed Changes:

Section 1 amends s. 25.385,F.S., relating to standards for instruction of circuit and county court judges in handling domestic violence cases, to require the Florida Court Educational Council to establish standards for instruction of circuit court judges who have responsibility for dependency cases. The standards for instruction must be consistent with and reinforce the purposes of Chapter 39, F.S., particularly the purpose of ensuring that a permanent placement is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year. The instruction must be provided on a periodic and timely basis and by specified entities.

Section 2 amends s. 39.01, F.S., relating to definitions to amend the definition of the term "parent" to remove an alleged or prospective parent from the definition unless parental status is applied for the purpose of determining whether the child has been abandoned.

Section 3 amends s. 39.205, F.S., relating to penalties for false reporting of child abuse, abandonment and neglect, to remove the requirement of an annual report to the Legislature on the number of reports referred.

Section 4 amends s. 39.302, F.S., relating to protective investigations of institutional investigations, to require the department to review any and all reports within a 5-year period, if a person is a licensee of the department and is named in any capacity within the report.

Section 5 amends s. 39.402, F.S., relating to shelter placement, to require the court to enter an order establishing the paternity of the child if the inquiry under s. 39.402(8)(c)4., F.S., identifies a person as a legal father, as defined in s. 39.01, F.S. It also provides that once an order establishing paternity has been entered, the court shall not take any further action to disestablish this paternity in the absence of an action filed pursuant to Chapter 742, F.S. The statute explains that if an action is filed pursuant to Chapter 742 for a dependent child, the action must comply with newly created s. 742.0211, F.S.

Section 6 amends s. 39.407, F.S., relating to medical, psychiatric, and psychological examinations, to make a technical change to agree with the law that was changed in 2016 to move responsibility for the appointment of Qualified Evaluators to the department from AHCA.

Section 7 amends s. 39.503, F.S., relating to identity or location of an unknown parent, to address instances in which there is a legal father. Specifically, this section:

- Provides if an inquiry identifies any person as a parent or a prospective parent and that person's location is known, the court shall require notice of the hearing to be provided to that person, except that notice shall not be required to be provided to a prospective parent if there is an identified legal father, as defined in s. 39.01(40), F.S., for the child.
- Provides that if the inquiry identifies a person as a legal father, as defined in s. 39.01, F.S., the court shall enter an order establishing the paternity of the child. This subsection further provides that once an order establishing paternity has been entered, the court shall not take any further action to disestablish this paternity in the absence of an action filed pursuant to Chapter 742, F.S.
- Provides that the petitioner is relieved from further search in addition to being relieved of further notice when an inquiry does not identify a parent or a prospective parent.
- Provides that a diligent search shall not be required to be conducted for a prospective parent if there is an identified legal father, as defined in s. 39.01(40), F.S., for the child.
- Provides that if the inquiry and diligent search identifies and locates a parent, the individual shall be considered a parent for all purposes under this chapter and the court shall require notice of all hearings to be provided to that person.
- Provides that if the inquiry and diligent search identifies and locates a prospective parent and there is no legal father, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. Also provides that no person shall have standing to file a sworn affidavit of parenthood or otherwise establish parenthood except through adoption after entry of a judgment terminating the parental rights of the legal father of the child. If the known parent contests the recognition of the prospective parent as a parent, the court having jurisdiction over the dependency matter shall conduct paternity proceedings under Chapter 742, F.S.
- Provides if the diligent search under the subsection fails to identify and locate a parent or a prospective parent who was identified during the inquiry, the court shall so find and may proceed without further notice and the petitioner is relieved of further search.

Section 8 creates s. 39.5035, F.S., relating to deceased parents, to provide a process for the permanent commitment of a child to the department for the purpose of adoption when both parents are deceased. Specifically, this section:

- Provides that, where both parents of a child are deceased and the child does not have a legal custodian through a probate or guardianship proceeding, an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true, may initiate a proceeding seeking an adjudication of dependency and permanent commitment of the child to the custody of the department.
- Provides that, when a child has been placed in shelter status by order of the court and not yet adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition must be filed within a reasonable

time after the date the child was referred to protective investigation or after the petitioner becomes aware of the facts supporting the petition.

- Provides that, when a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court shall set the case before the court for an adjudicatory hearing to be held as soon as possible, but no later than 30 days after the petition is filed.
- Provides notice of the date, time, and place of the adjudicatory hearing for the petition for adjudication and permanent commitment or the petition for permanent commitment and requires a copy of the petition be served upon specified individuals
- Provides that adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition for adjudication and permanent commitment or a petition for permanent commitment, the court shall consider whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased, and that the child does not have a legal custodian through a probate or guardianship proceeding. The presentation of a certified copy of the death certificate for each parent shall constitute evidence of the parents' deaths and no further evidence is required to establish that element.
- Provides when the adjudicatory hearing is on a petition for adjudication and permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court shall enter a written order.
- Provides when the adjudicatory hearing is on a petition for permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court shall enter a written order.

Section 9 amends s. 39.521, F.S., relating to disposition hearings, to eliminate the description of how long protective supervision can continue and under what circumstances the court can terminate protective supervision. Instead, protective supervision will now be fully addressed in newly created s. 39.63, F.S.

Section 10 amends s. 39.522, F.S., relating to postdisposition change of custody, to create an emergency modification of placement that will enable the department and the judiciary to take immediate action to protect children at risk of abuse, abandonment, or neglect who have already been subject to disposition. Specifically, the section:

- Clarifies that the statute applies to a modification of placement if a child must be removed from the parent's custody while the department is supervising the placement of the child after the child is returned to the parent.
- Provides that at any time, an authorized agent of the department or a law enforcement officer may remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if the circumstances meet the criteria of probable cause. It also provides requirements and sets timelines for motions and petitions to be filed, considerations for the court before issuing an order, requirements for a home study if a placement is changed, and cause for the court to conduct an evidentiary hearing. The standard for changing custody of the child shall be whether a preponderance of the evidence establishes that a change is in the best interest of the child. When applying this standard, the court shall consider 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.

Section 11 amends s. 39.6011, F.S., relating to case plan development, to require the department to file the case plan with the court and serve a copy on the parties:

- Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care. All such case plans must be approved by the court.
- Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted pursuant to this paragraph, or if the court does not approve the case plan at the disposition hearing. The case plan acceptance hearing must occur within 30 days after the disposition hearing to review and approve the case plan.

Section 12 creates s. 39.63, F.S., relating to case closure, to provide that unless the circumstances relating to young adults in extended foster care apply, the court must close the judicial case for all proceedings under this chapter by terminating protective supervision and its jurisdiction as provided in this section. Specifically, the section provides the circumstances under which the court shall close the judicial case by terminating protective supervision and its jurisdiction in a Chapter 39, F.S., proceeding. This statute clarifies for the court and the parties the requirements that must be met to ensure child safety before jurisdiction and supervision is terminated at any stage of the case.

Section 13 amends s. 39.801, F.S., relating to procedures and jurisdiction related to termination of parental right procedures, to clarify that personal service of a termination of parental rights petition is required only on a prospective parent who has been both identified and located.

Section 14 amends s. 39.803, F.S., relating to identity or location of a parent unknown after filing a termination of parental rights petition, to conform to changes that were made to s. 39.503, F.S. This section further clarifies that the court needs to conduct an inquiry to determine the identity or location of a parent where an inquiry has not previously been performed under s. 39.503, F.S.

Section 15 amends s. 39.806, F.S., relating to grounds for termination of parental rights, to provide that reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in ss. 39.806(1)(b)-(d) and (1)(f)-(n), F.S., have occurred. Consequently, the department will no longer need to make reasonable efforts if a parent has been convicted of an offense that requires the parent to register as a sexual predator.

Section 16 amends s. 39.811, F.S., relating to powers of disposition and orders of disposition, to provide the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted after termination of parental rights or permanent commitment pursuant to newly created s. 39.8025, F.S. It also provides that the department's decision to deny an application to adopt a specific child who is under the court's jurisdiction is reviewable only through the process established in s. 39.812(4), F.S., and is not subject to the provisions of Chapter 120, F.S.

Section 17 amends s. 38.812, F.S., relating to postdisposition relief and petition for adoption, to

provide that the department may place a child in the department's custody with an agency as defined in s. 63.032, F.S., with a child-caring agency registered under s. 409.176, F.S., or in a family home for prospective subsequent adoption without the need for a court order unless as otherwise provided in this section. It also authorizes the department, without the need for a court order, to allow prospective adoptive parents to visit with the child to determine whether adoptive placement would be appropriate. It also provides procedures if the department has denied an individual's application to adopt a child.

Section 18 amends s. 63.062, F.S., relating to persons required to consent to adoption, to provide that when a minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or the court order finding the department unreasonably withheld its consent must be attached to the petition to adopt.

Section 19 amends s. 63.082, F.S., relating to execution of consent to adopt, to provide that a preliminary home study is required for all prospective parents regardless of whether that individual is a stepparent or a relative, and that the exemption in s. 63.092(3), F.S., does not apply when a minor child is under the supervision of the department or otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, a dependency petition, or a petition for termination of parental rights pursuant to Chapter 39, F.S.

Section 20 amends s.402.302, relating to definitions, to specify that family day care home operations must occur in the operator's primary residence and that the capacity is limited to children present in the home during operations.

Section 21 amends s. 402.305, F.S., relating to licensing standards, to clarify that at least one child care facility staff person must receive a certification for completion of a cardiopulmonary resuscitation course.

Sections 402.305(9)(b) and (c), F.S., are amended to align the dates for providers on when information is to be shared with parents or guardians.

Section 402.305(10), F.S., is amended to specify that, prior to providing transportation services, a child care facility, family day care home or large family child care home is required to notify the department for approval to begin the service to ensure that all standards have been verified as compliant. Currently, providers are not required to notify the department when they begin offering transportation services. The amendment further specifies that family or large family child care homes are not responsible for children being transported by a parent or guardian.

Section 22 amends s. 402.313, F.S., relating to family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

Section 23 amends s. 402.331, F.S., relating to large family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

Section 24 amends s. 409.1451, F.S., relating to the Road-to-Independence Program, to eliminate the requirement to submit an annual report.

Section 25 creates s. 742.0211, F.S., relating to proceedings applicable to dependent children, to establish a process for paternity proceedings concerning a dependent child. Specifically, it:

- Provides that, in addition to satisfying the other requirements of this chapter, any paternity proceeding filed under Chapter 742 concerning a dependent child must comply with the requirements of this section.
- Provides that, notwithstanding s. 742.021(1), F.S., a paternity proceeding filed under Chapter 742 concerning a dependent child may be filed in the circuit court of the county that is exercising jurisdiction over the Chapter 39 proceeding even if the plaintiff or the defendant do not reside in the county.
- Provides that the court having jurisdiction over the dependency matter may conduct proceedings under this chapter either as part of the Chapter 39 proceeding or as a separate action under Chapter 742.
- Provides that no person shall have standing to file a paternity complaint under this chapter regarding a dependent child after entry in the Chapter 39 proceeding of a judgment terminating the parental rights of the legal father, as defined in s. 39.01(40), F.S., for the dependent child.
- Addresses paternity proceedings concerning a dependent child who already has an established legal father under Chapter 39, F.S.
- Mandates that the court shall enter a written order on the paternity complaint within 30 days after conclusion of the hearing held pursuant to s. 742.031, F.S.
- Provides that if the court enters an order finding the alleged father is the father of the dependent child, that individual will be considered a parent as defined in s. 39.01(56), F.S., for all purposes of the Chapter 39 proceeding.

Section 26 provides an effective date of October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Pinellas, Hillsborough, and Sarasota counties would be required to adopt standards that address the minimum standards in the changes to Chapter 402, F.S.

The department has reported that there is a potential cost savings of $1.1 million if the changes in sections 16, 17, and 18 of the bill are implemented.[4]

VI. Technical Deficiencies:

Lines 1266 and 1299 in the bill change "shall be," to "is" or "are." Both lines should either retain current law or be changed to "must be."

VII. Related Issues:

It is unclear how the changes proposed in section 39.503, regarding the department's current obligation to search for prospective parents will be reconciled with other provisions in the statute (for example section 39.502) and parents' constitutional rights.

Additionally, the provisions regarding determinations of paternity under Chapter 742 appear to establish new standards and legal burdens for determinations of paternity. Questions have arisen as to whether the procedure proposed can be implemented from a practical perspective given the standards established and the timeframes imposed.

VIII. Statutes Affected:

This bill substantially amends ss. 25.385, 39.01, 39.205, 39.302, 39.402, 39.407, 39.503, 39.521, 39.522, 39.6011, 39.801, 39.803, 39.806, 39.811, 39.812, 63.062, 63.082, 402.302, 402.305, 402.313, 402.3131, and 409.1451 of the Florida Statutes.
This bill creates ss. 39.5035, 39.63, and 742.0211 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.

[4] The Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1548, November 25, 2019.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/31/2020	.	
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The Committee on Children, Families, and Elder Affairs (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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have responsibility for domestic violence cases, and the council shall provide such instruction on a periodic and timely basis.

~~(2)~~ As used in this section:

(a) The term "domestic violence" has the meaning set forth in s. 741.28.

(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 court judges who have responsibility for dependency cases. The standards for instruction must be consistent with and reinforce the purposes of chapter 39, with emphasis on ensuring that a permanent placement is achieved as soon as possible and that a child should not remain in foster care for longer than 1 year. This instruction must be provided on a periodic and timely basis and may be provided by or in consultation with current or retired judges, the Department of Children and Families, or the Statewide Guardian Ad Litem Office established in s. 39.8296.

Section 2. Subsection (7) of section 39.205, Florida Statutes, is amended to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency ~~and shall report annually to the Legislature the number of reports referred~~.

Section 3. Subsection (7) of section 39.302, Florida

Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(a) However, if such a person is a licensee of the department and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~those reports~~ and determine whether the information contained in the report ~~reports~~ is relevant for purposes of determining whether the person's license should be renewed or revoked. If the information is relevant to the decision to renew or revoke the license, the department may rely on the information contained in the report in making that decision.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~all reports~~ for the purposes of the employment screening as defined in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(c)~~.

Section 4. Subsection (6) of section 39.407, Florida

Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only as provided in ~~pursuant to~~ this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

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

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the department ~~Agency for Health Care Administration~~. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require residential treatment and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the

treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must

include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment

program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

Section 5. Section 39.5035, Florida Statutes, is created to

read:

39.5035 Deceased parents; special procedures.—

(1)(a)1. If both parents of a child are deceased and a legal custodian has not been appointed for the child through a probate or guardianship proceeding, then an attorney for the department or any other person, who has knowledge of the facts whether alleged or is informed of the alleged facts and believes them to be true, may initiate a proceeding by filing a petition for adjudication and permanent commitment.

2. If a child has been placed in shelter status by order of the court but has not yet been adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition must be filed within a reasonable time after the date the child was referred to protective investigation or after the petitioner first becomes aware of the facts that support the petition for adjudication and permanent commitment.

(b) If both parents or the last living parent dies after a child has already been adjudicated dependent, an attorney for the department or any other person who has knowledge of the facts alleged or is informed of the alleged facts and believes them to be true may file a petition for permanent commitment.

(2) The petition:

(a) Must be in writing, identify the alleged deceased parents, and provide facts that establish that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

(b) Must be signed by the petitioner under oath stating the

petitioner's good faith in filing the petition.

(3) When a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court shall set the case before the court for an adjudicatory hearing. The adjudicatory hearing must be held as soon as practicable after the petition is filed, but no later than 30 days after the filing date.

(4) Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on the following persons:

(a) Any person who has physical custody of the child.

(b) A living relative of each parent of the child, unless a living relative cannot be found after a diligent search and inquiry.

(c) The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

(5) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. At the hearing, the judge must determine whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding. A certified copy of the death certificate for each parent is sufficient evidence of proof of the parents' deaths.

(6) Within 30 days after an adjudicatory hearing on a petition for adjudication and permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order adjudicating the child dependent and permanently committing the child to the custody of the department for the purpose of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide a case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, but that a preponderance of the evidence establishes that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order adjudicating the child dependent. A disposition hearing shall be scheduled no later than 30 days after the entry of the order as provided in s. 39.521.

(c) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding and that a

preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order so finding and dismissing the petition.

(7) Within 30 days after an adjudicatory hearing on a petition for permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order permanently committing the child to the custody of the department for purposes of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide an amended case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, the court shall enter a written order denying the petition. The order has no effect on the child's prior adjudication. The order does not bar the petitioner from filing a subsequent petition for permanent commitment based on newly discovered evidence that establishes that both parents of a child are deceased and that a legal

custodian has not been appointed for the child through a probate or guardianship proceeding.

Section 6. Paragraph (c) of subsection (1) and subsections (3) and (7) of section 39.521, Florida Statutes, are amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

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(35)(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 permanency has been established for the child.~~

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

(3) When any child is adjudicated by a court to be dependent, the court shall determine the appropriate placement for the child as follows:

(a) If the court determines that the child can safely remain in the home with the parent with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court and that remaining in this home is in the best interest of the child,

then the court shall order conditions under which the child may remain or return to the home and that this placement be under the protective supervision of the department for not less than 6 months.

(b) If there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child, the court shall place the child with that parent upon completion of a home study, unless the court finds that such placement would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

1. Order that the parent assume sole custodial responsibilities for the child. The court may also provide for reasonable visitation by the noncustodial parent. The court may then terminate its jurisdiction over the child.

2. Order that the parent assume custody subject to the jurisdiction of the circuit court hearing dependency matters. The court may order that reunification services be provided to the parent from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing which parent, if either, shall have custody of the

child. The standard for changing custody of the child from one parent to another or to a relative or another adult approved by the court shall be the best interest of the child.

(c) If no fit parent is willing or available to assume care and custody of the child, place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of the department. The department must supervise this placement until the child reaches permanency status in this home, and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship.

(d) If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department may ~~shall~~ not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

~~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 shall set forth the powers of the custodian of the child and shall 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, no further judicial reviews are required, so long as permanency has been established for the child.~~

~~(7) The court may enter an order ending its jurisdiction over a child when a child has been returned to the parents, provided the court shall not terminate its jurisdiction or the department's supervision over the child until 6 months after the child's return. The department shall supervise the placement of the child after reunification for at least 6 months with each parent or legal custodian from whom the child was removed. The court shall determine whether its jurisdiction should be continued or terminated in such a case based on a report of the department or agency or the child's guardian ad litem, and any other relevant factors; if its jurisdiction is to be terminated, the court shall enter an order to that effect.~~

Section 7. Section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may

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change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing. If a child has been returned to the parent and is under protective supervision by the department and the child is later removed again from the parent's custody, any modifications of placement shall be done under this section.

(1) At any time, an authorized agent of the department or a law enforcement officer may remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if there is probable cause as required in s. 39.401(1)(b). The department shall file a motion to modify placement within 1 business day after the child is taken into custody. Unless all parties agree to the change of placement, the court must set a hearing within 24 hours after the filing of the motion. At the hearing, the court shall determine whether the department has established probable cause to support the immediate removal of the child from his or her current placement. The court may base its determination on a sworn petition, testimony, or an affidavit and may hear all relevant and material evidence, including oral or written reports, to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing. If the court finds that probable cause is not established to support the removal of the child from the placement, the court shall order that the child be returned to his or her current placement. If the caregiver admits to a need for a change of placement or probable cause is established to support the removal, the court shall enter an

order changing the placement 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 in chapter 39. If the child's placement is modified based on a probable cause finding, the court must conduct a subsequent evidentiary hearing, unless waived by all parties, on the motion to determine whether the department has established by a preponderance of the evidence that maintaining the new placement of the child is in the best interest of the child. The court shall consider 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.

(2) ~~(1)~~ At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other party ~~interested person~~, upon the filing of a petition ~~motion~~ alleging a need for a change in the conditions of protective supervision or the 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 is determined by a preponderance of the evidence that establishes that a change is in ~~shall be~~ the best interest of the child. When applying this

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standard, the court shall consider 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 under ~~pursuant to~~ this chapter.

(3) ~~(2)~~ In cases where the issue before the court is whether a child should be reunited with a parent, the court shall review 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 department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(4) ~~(3)~~ 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 department will not be detrimental to the child, the standard shall be 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.

Section 8. Subsection (8) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(8) The case plan must be filed with the court and copies provided to all parties, including the child if appropriate:~~,~~ ~~not less than 3 business days before the disposition hearing.~~

(a) Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care; or

(b) Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted under this subsection, or if the court does not approve the case plan at the disposition hearing.

Section 9. Paragraph (a) of subsection (3) of section 39.801, Florida Statutes, is amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

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4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified and located under s. 39.503 or s. 39.803, unless a court order has been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified and located by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND

TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

Section 10. Paragraph (e) of subsection (1) and subsection (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(e) When a child has been adjudicated dependent, a case plan has been filed with the court, and:

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month period begins to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; ~~or~~

2. The parent or parents have materially breached the case plan by their action or inaction. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case

plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires; or.

3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(3) ~~s. 39.522(2)~~ unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.

(2) Reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(b)-(d) or paragraphs (1)(f)-(n) ~~(1)(f)-(m)~~ have occurred.

Section 11. Subsection (9) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.—

(9) After termination of parental rights or a written order of permanent commitment entered under s. 39.5035, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. The department's decision to deny an application to adopt a child who is under the court's jurisdiction is reviewable only through

a motion to file a chapter 63 petition as provided in s. 39.812(4), and is not subject to chapter 120.

Section 12. Subsections (1), (4), and (5) of section 39.812, Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

(1) If the department is given custody of a child for subsequent adoption in accordance with this chapter, the department may place the child with an agency as defined in s. 63.032, with a child-caring agency registered under s. 409.176, or in a family home for prospective subsequent adoption without the need for a court order unless otherwise required under this section. The department may allow prospective adoptive parents to visit with a child in the department's custody without a court order to determine whether the adoptive placement would be appropriate. The department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption, and that consent alone shall in all cases be sufficient.

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the case is closed as provided in s. 39.63 ~~the child is adopted~~. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

(a) If the department has denied a person's application to adopt a child, the denied applicant may file a motion with the court within 30 days after the issuance of the written notification of denial to allow him or her to file a chapter 63 petition to adopt a child without the department's consent. The denied applicant must allege in its motion that the department unreasonably withheld its consent to the adoption. The court, as part of its continuing jurisdiction, may review and rule on the motion.

1. The denied applicant only has standing in the chapter 39 proceeding to file the motion in paragraph (a) and to present evidence in support of the motion at a hearing, which must be held within 30 days after the filing of the motion.

2. At the hearing on the motion, the court may only consider whether the department's review of the application was consistent with its policies and made in an expeditious manner. The standard of review by the court is whether the department's denial of the application is an abuse of discretion. The court may not compare the denied applicant against another applicant to determine which placement is in the best interests of the child.

3. If the denied applicant establishes by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order authorizing the denied applicant to file a petition to adopt the child under chapter 63 without the department's consent.

4. If the denied applicant does not prove by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order so finding

and dismiss the motion.

5. The standing of the denied applicant in the chapter 39 proceeding is terminated upon entry of the court's order.

(b) When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

1.~~(a)~~ There is probable cause to believe that the child is at imminent risk of abuse or neglect;

2.~~(b)~~ Thirty days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department's decision has been filed; ~~or~~

3.~~(c)~~ The foster parent or custodian agrees to the child's removal; or~~.~~

4. The department has selected another prospective adoptive parent to adopt the child and either the foster parent or custodian has not filed a motion with the court to allow him or her to file a chapter 63 petition to adopt a child without the department's consent, as provided under paragraph (a), or the court has denied such a motion.

(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted under ~~pursuant to~~ s. 47.122. A copy of the consent executed by

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the department must be attached to the petition, unless such consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~. The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

Section 13. Subsection (7) of section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.—

(7) If parental rights to the minor have previously been terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required. If the minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or, in the alternative, the court order entered under s. 39.812(4) finding that the department ~~The consent of the department shall be waived upon a determination by the court that such consent is being~~ unreasonably withheld its consent must be attached to the petition to adopt, and ~~if~~ the petitioner must file ~~has filed with the court~~ a favorable preliminary adoptive home study as required under s. 63.092.


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Section 14. Paragraph (b) of subsection (6) of section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent to adoption or affidavit of nonpaternity; family social and medical history; revocation of consent.—

(6)

(b) Upon execution of the consent of the parent, the adoption entity must ~~shall~~ be permitted to intervene in the dependency case as a party in interest and must provide the court that acquired jurisdiction over the minor, pursuant to the shelter order or dependency petition filed by the department, a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study must be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has intervened under ~~pursuant to~~ this section. The exemption in s. 63.092(3) from the home study for a stepparent or relative does not apply if a minor is under the supervision of the department or is otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, dependency petition, or termination of parental rights petition under chapter 39. Unless the court has concerns regarding the qualifications of the home study provider, or concerns that the home study may not be adequate to determine the best interests of the child, the home study provided by the adoption entity is ~~shall be deemed to be~~ sufficient and no additional home study needs to be performed by the department.


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Section 15. Subsections (8) and (9) of section 402.302, Florida Statutes, are amended to read:

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

(8) "Family day care home" means an occupied primary residence leased or owned by the operator in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, are ~~shall be~~ included in the overall capacity of the licensed home. A family day care home is ~~shall be~~ allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older than 12 months of age.

(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

(9) "Household children" means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of

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the operator's household children shall be left to the discretion of the operator unless those children receive subsidized child care through the school readiness program under ~~pursuant to~~ s. 1002.92 to be in the home.

Section 16. Paragraph (a) of subsection (7), paragraphs (b) and (c) of subsection (9), and subsection (10) of section 402.305, Florida Statutes, are amended to read:

402.305 Licensing standards; child care facilities.—

(7) SANITATION AND SAFETY.—

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained and certified in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(9) ADMISSIONS AND RECORDKEEPING.—

(b) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each facility shall provide parents of


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children enrolled in the facility information regarding the potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The child care facility shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which child care facilities may choose to reproduce and provide to parents to satisfy the requirements of this paragraph.

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards for child care facilities, family day care homes, and large family child care homes ~~shall~~ include all of the following:

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

2. Requirements for annual inspections of such ~~the~~ vehicles.~~,~~

3. Limitations on the number of children which may be transported in such ~~the~~ vehicles.~~, procedures to avoid leaving children in vehicles when transported by the facility, and accountability for children transported by the child care facility~~.

(b) Before providing transportation services or reinstating transportation services after a lapse or discontinuation of longer than 30 days, a child care facility, family day care home, or large family child care home must be approved by the department to transport children. Approval by the department is


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based on the provider's demonstration of compliance with all current rules and standards for transportation.

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

Section 17. Subsections (14) and (15) of section 402.313, Florida Statutes, are amended to read:

402.313 Family day care homes.—

(14) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(15) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each family day care home shall provide parents of children attending the family day care home information regarding the potential for a distracted adult to fail to drop off a child at the family day care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The family day care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the

department's website, which family day care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 18. Subsections (8), (9), and (10) of section 402.3131, Florida Statutes, are amended to read:

402.3131 Large family child care homes.—

(8) Before ~~Prior to~~ being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

(9) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each large family child care home shall provide parents of children attending the large family child care home information regarding the potential for a distracted adult to fail to drop off a child at the large family child care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The large family child care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall


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develop a flyer or brochure with this information that shall be posted to the department's website, which large family child care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 19. Subsection (6) and paragraphs (b) and (e) of subsection (7) of section 409.1451, Florida Statutes, are amended to read:

409.1451 The Road-to-Independence Program.—

(6) ACCOUNTABILITY.—The department shall develop outcome measures for the program and other performance measures ~~in order~~ to maintain oversight of the program. ~~No later than January 31 of each year, the department shall prepare a report on the outcome measures and the department's oversight activities and submit the report to the President of the Senate, the Speaker of the House of Representatives, and the committees with jurisdiction over issues relating to children and families in the Senate and the House of Representatives. The report must include:~~

~~(a) An analysis of performance on the outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures.~~

~~(b) A description of the department's oversight of the program, including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance.~~

~~(c) Any rules adopted or proposed under this section since the last report. For the purposes of the first report, any rules adopted or proposed under this section must be included.~~


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(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6251 and the Road-to-Independence Program. The advisory council shall function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

~~(b) The advisory council shall report to the secretary on the status of the implementation of the Road-to-Independence Program, efforts to publicize the availability of the Road-to-Independence Program, the success of the services, problems identified, recommendations for department or legislative action, and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2013. The department shall submit a report by December 31 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes a summary of the factors reported on by the council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or provides the department's rationale for not implementing the recommendations.~~

~~(c) The advisory council report required under paragraph (b) must include an analysis of the system of independent living~~

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~~transition services for young adults who reach 18 years of age while in foster care before completing high school or its equivalent and recommendations for department or legislative action. The council shall assess and report on the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.~~

Section 20. This act shall take effect October 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to child welfare; amending s. 25.385, F.S.; requiring the Florida Court Educational Council to establish certain standards for instruction of specified circuit court judges; amending s. 39.205, F.S.; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; amending s. 39.302, F.S.; requiring the department to review certain reports under certain circumstances; amending s. 39.407, F.S.; transferring certain duties to the department from the Agency for Health Care Administration; creating s. 39.5035, F.S.; providing court procedures and requirements relating to deceased parents of a dependent child; providing requirements for petitions for adjudication and permanent commitment for certain children; amending s.

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39.521, F.S.; deleting provisions relating to protective supervision; deleting provisions relating to the court's authority to enter an order ending its jurisdiction over a child under certain circumstances; amending s. 39.522, F.S.; providing requirements for a modification of placement of a child under the supervision of the department; amending s. 39.6011, F.S.; providing timeframes in which case plans must be filed with the court and be provided to specified parties; amending s. 39.801, F.S.; conforming provisions to changes made by the act; amending s. 39.806, F.S.; conforming cross-references; amending s. 39.811, F.S.; expanding conditions under which a court retains jurisdiction; providing when certain decisions relating to adoption are reviewable; amending s. 39.812, F.S.; authorizing the department to take certain actions without a court order; authorizing certain persons to file a petition to adopt a child without the department's consent; providing standing requirements; providing a standard of proof; providing responsibilities of the court in such cases; amending s. 63.062, F.S.; requiring the department to consent to certain adoptions; providing exceptions; amending s. 63.082, F.S.; providing construction; amending s. 402.302, F.S.; revising definitions; amending s. 402.305, F.S.; requiring a certain number of staff persons at child care facilities to be certified in certain safety techniques; requiring child care facilities to provide certain information to parents

at the time of initial enrollment and annually thereafter; revising minimum standards for child care facilities, family day care homes, and large family child care homes relating to transportation; requiring child care facilities, family day care homes, and large family child care homes to be approved by the department to transport children in certain situations; amending s. 402.313, F.S.; requiring family day care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 402.3131, F.S.; requiring large family child care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 409.1451, F.S.; deleting a reporting requirement of the department and the Independent Living Services Advisory Council; providing an effective date.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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have responsibility for domestic violence cases, and the council shall provide such instruction on a periodic and timely basis.

~~(2)~~ As used in this section:

(a) The term "domestic violence" has the meaning set forth in s. 741.28.

(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 court judges who have responsibility for dependency cases. The standards for instruction must be consistent with and reinforce the purposes of chapter 39, with emphasis on ensuring that a permanent placement is achieved as soon as possible and that a child should not remain in foster care for longer than 1 year. This instruction must be provided on a periodic and timely basis and may be provided by or in consultation with current or retired judges, the Department of Children and Families, or the Statewide Guardian Ad Litem Office established in s. 39.8296.

Section 2. Subsection (7) of section 39.205, Florida Statutes, is amended to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency ~~and shall report annually to the Legislature the number of reports referred~~.

Section 3. Subsection (7) of section 39.302, Florida

Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(a) However, if such a person is a licensee of the department and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~those reports~~ and determine whether the information contained in the report ~~reports~~ is relevant for purposes of determining whether the person's license should be renewed or revoked. If the information is relevant to the decision to renew or revoke the license, the department may rely on the information contained in the report in making that decision.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~all reports~~ for the purposes of the employment screening as defined in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(c)~~.

Section 4. Subsection (6) of section 39.407, Florida

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Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only as provided in ~~pursuant to~~ this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

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

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

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a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the department ~~Agency for Health Care Administration~~. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require residential treatment and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the

treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must

include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment

program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

Section 5. Section 39.5035, Florida Statutes, is created to

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read:

39.5035 Deceased parents; special procedures.—

(1)(a)1. If both parents of a child are deceased and a legal custodian has not been appointed for the child through a probate or guardianship proceeding, then an attorney for the department or any other person, who has knowledge of the facts whether alleged or is informed of the alleged facts and believes them to be true, may initiate a proceeding by filing a petition for adjudication and permanent commitment.

2. If a child has been placed in shelter status by order of the court but has not yet been adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition must be filed within a reasonable time after the date the child was referred to protective investigation or after the petitioner first becomes aware of the facts that support the petition for adjudication and permanent commitment.

(b) If both parents or the last living parent dies after a child has already been adjudicated dependent, an attorney for the department or any other person who has knowledge of the facts alleged or is informed of the alleged facts and believes them to be true may file a petition for permanent commitment.

(2) The petition:

(a) Must be in writing, identify the alleged deceased parents, and provide facts that establish that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

(b) Must be signed by the petitioner under oath stating the

petitioner's good faith in filing the petition.

(3) When a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court shall set the case before the court for an adjudicatory hearing. The adjudicatory hearing must be held as soon as practicable after the petition is filed, but no later than 30 days after the filing date.

(4) Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on the following persons:

(a) Any person who has physical custody of the child.

(b) A living relative of each parent of the child, unless a living relative cannot be found after a diligent search and inquiry.

(c) The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

(5) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. At the hearing, the judge must determine whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding. A certified copy of the death certificate for each parent is sufficient evidence of proof of the parents' deaths.

(6) Within 30 days after an adjudicatory hearing on a petition for adjudication and permanent commitment:

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(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order adjudicating the child dependent and permanently committing the child to the custody of the department for the purpose of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide a case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, but that a preponderance of the evidence establishes that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order adjudicating the child dependent. A disposition hearing shall be scheduled no later than 30 days after the entry of the order as provided in s. 39.521.

(c) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding and that a

preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order so finding and dismissing the petition.

(7) Within 30 days after an adjudicatory hearing on a petition for permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order permanently committing the child to the custody of the department for purposes of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide an amended case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, the court shall enter a written order denying the petition. The order has no effect on the child’s prior adjudication. The order does not bar the petitioner from filing a subsequent petition for permanent commitment based on newly discovered evidence that establishes that both parents of a child are deceased and that a legal

custodian has not been appointed for the child through a probate or guardianship proceeding.

Section 6. Paragraph (c) of subsection (1) and subsections (3) and (7) of section 39.521, Florida Statutes, are amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

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

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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(35)(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 permanency has been established for the child.~~

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

(3) When any child is adjudicated by a court to be dependent, the court shall determine the appropriate placement for the child as follows:

(a) If the court determines that the child can safely remain in the home with the parent with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court and that remaining in this home is in the best interest of the child,

then the court shall order conditions under which the child may remain or return to the home and that this placement be under the protective supervision of the department for not less than 6 months.

(b) If there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child, the court shall place the child with that parent upon completion of a home study, unless the court finds that such placement would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

1. Order that the parent assume sole custodial responsibilities for the child. The court may also provide for reasonable visitation by the noncustodial parent. The court may then terminate its jurisdiction over the child.

2. Order that the parent assume custody subject to the jurisdiction of the circuit court hearing dependency matters. The court may order that reunification services be provided to the parent from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing which parent, if either, shall have custody of the

child. The standard for changing custody of the child from one parent to another or to a relative or another adult approved by the court shall be the best interest of the child.

(c) If no fit parent is willing or available to assume care and custody of the child, place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of the department. The department must supervise this placement until the child reaches permanency status in this home, and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship.

(d) If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department may ~~shall~~ not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

~~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 shall set forth the powers of the custodian of the child and shall 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, no further judicial reviews are required, so long as permanency has been established for the child.~~

~~(7) The court may enter an order ending its jurisdiction over a child when a child has been returned to the parents, provided the court shall not terminate its jurisdiction or the department's supervision over the child until 6 months after the child's return. The department shall supervise the placement of the child after reunification for at least 6 months with each parent or legal custodian from whom the child was removed. The court shall determine whether its jurisdiction should be continued or terminated in such a case based on a report of the department or agency or the child's guardian ad litem, and any other relevant factors; if its jurisdiction is to be terminated, the court shall enter an order to that effect.~~

Section 7. Section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may

change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing. If a child has been returned to the parent and is under protective supervision by the department and the child is later removed again from the parent's custody, any modifications of placement shall be done under this section.

(1) At any time, an authorized agent of the department or a law enforcement officer may remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if there is probable cause as required in s. 39.401(1)(b). The department shall file a motion to modify placement within 1 business day after the child is taken into custody. Unless all parties agree to the change of placement, the court must set a hearing within 24 hours after the filing of the motion. At the hearing, the court shall determine whether the department has established probable cause to support the immediate removal of the child from his or her current placement. The court may base its determination on a sworn petition, testimony, or an affidavit and may hear all relevant and material evidence, including oral or written reports, to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing. If the court finds that probable cause is not established to support the removal of the child from the placement, the court shall order that the child be returned to his or her current placement. If the caregiver admits to a need for a change of placement or probable cause is established to support the removal, the court shall enter an


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order changing the placement 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 in chapter 39. If the child's placement is modified based on a probable cause finding, the court must conduct a subsequent evidentiary hearing, unless waived by all parties, on the motion to determine whether the department has established by a preponderance of the evidence that maintaining the new placement of the child is in the best interest of the child. The court shall consider 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.

(2) ~~(1)~~ At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other party ~~interested person~~, upon the filing of a petition ~~motion~~ alleging a need for a change in the conditions of protective supervision or the 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 is determined by a preponderance of the evidence that establishes that a change is in ~~shall be~~ the best interest of the child. When applying this

standard, the court shall consider 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 under ~~pursuant to~~ this chapter.

(3) ~~(2)~~ In cases where the issue before the court is whether a child should be reunited with a parent, the court shall review 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 department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(4) ~~(3)~~ 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 department will not be detrimental to the child, the standard shall be 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.

Section 8. Subsection (8) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—


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(8) The case plan must be filed with the court and copies provided to all parties, including the child if appropriate:~~,~~ ~~not less than 3 business days before the disposition hearing.~~

(a) Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care; or

(b) Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted under this subsection, or if the court does not approve the case plan at the disposition hearing.

Section 9. Section 39.63, Florida Statutes, is created to read:

39.63 Case closure.—Unless s. 39.6251 applies, the court shall close the judicial case for all proceedings under this chapter by terminating protective supervision and its jurisdiction as provided in this section.

(1) If a child is placed under the protective supervision of the department, the protective supervision continues until such supervision is terminated by the court or until the child reaches the age of 18, whichever occurs first. The court shall terminate protective supervision when it determines that permanency has been achieved for the child and supervision is no longer needed. If the court adopts a permanency goal of reunification with a parent or legal custodian from whom the child was initially removed, the court must retain jurisdiction and the department must supervise the placement for a minimum of 6 months after reunification. The court shall determine whether


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its jurisdiction should be continued or terminated based on a report of the department or the child's guardian ad litem. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion.

(2) The order terminating protective supervision must set forth the powers of the legal custodian of the child and include the powers originally granted to a guardian of the person of a minor unless otherwise specified.

(3) Upon the court's termination of supervision by the department, further judicial reviews are not required.

(4) The court must enter a written order terminating its jurisdiction over a child when the child is returned to his or her parent. However, the court must retain jurisdiction over the child for a minimum of 6 months after reunification and may not terminate its jurisdiction until the court determines that protective supervision is no longer needed.

(5) If a child was not removed from the home, the court must enter a written order terminating its jurisdiction over the child when the court determines that permanency has been achieved.

(6) If a child is placed in the custody of a parent and the court determines that reasonable efforts to reunify the child with the other parent are not required, the court may, at any time, order that the custodial parent assume sole custodial responsibilities for the child, provide for reasonable visitation by the noncustodial parent, and terminate its jurisdiction over the child. If the court previously approved a case plan that requires services to be provided to the noncustodial parent, the court may not terminate its

jurisdiction before the case plan expires unless the court finds by a preponderance of the evidence that it is not likely that the child will be reunified with the noncustodial parent within 12 months after the child was removed from the home.

(7) When a child has been adopted under a chapter 63 proceeding, the court must enter a written order terminating its jurisdiction over the child in the chapter 39 proceeding.

Section 10. Paragraph (e) of subsection (1) and subsection (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(e) When a child has been adjudicated dependent, a case plan has been filed with the court, and:

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month period begins to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; ~~or~~

2. The parent or parents have materially breached the case plan by their action or inaction. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires; or.

3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(3) s. 39.522(2) unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.

(2) Reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(b)-(d) or paragraphs (1)(f)-(n) (1)(f)-(m) have occurred.

Section 11. Subsection (9) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.—

(9) After termination of parental rights or a written order of permanent commitment entered under s. 39.5035, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the

guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. The department's decision to deny an application to adopt a child who is under the court's jurisdiction is reviewable only through a motion to file a chapter 63 petition as provided in s. 39.812(4), and is not subject to chapter 120.

Section 12. Subsections (1), (4), and (5) of section 39.812, Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

(1) If the department is given custody of a child for subsequent adoption in accordance with this chapter, the department may place the child with an agency as defined in s. 63.032, with a child-caring agency registered under s. 409.176, or in a family home for prospective subsequent adoption without the need for a court order unless otherwise required under this section. The department may allow prospective adoptive parents to visit with a child in the department's custody without a court order to determine whether the adoptive placement would be appropriate. The department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption, and that consent alone shall in all cases be sufficient.

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the case is closed as provided in s. 39.63 ~~the child is adopted~~. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent

adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

(a) If the department has denied a person's application to adopt a child, the denied applicant may file a motion with the court within 30 days after the issuance of the written notification of denial to allow him or her to file a chapter 63 petition to adopt a child without the department's consent. The denied applicant must allege in its motion that the department unreasonably withheld its consent to the adoption. The court, as part of its continuing jurisdiction, may review and rule on the motion.

1. The denied applicant only has standing in the chapter 39 proceeding to file the motion in paragraph (a) and to present evidence in support of the motion at a hearing, which must be held within 30 days after the filing of the motion.

2. At the hearing on the motion, the court may only consider whether the department's review of the application was consistent with its policies and made in an expeditious manner. The standard of review by the court is whether the department's denial of the application is an abuse of discretion. The court may not compare the denied applicant against another applicant to determine which placement is in the best interests of the child.

3. If the denied applicant establishes by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order authorizing the denied applicant to file a petition to adopt the child under chapter 63

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without the department's consent.

4. If the denied applicant does not prove by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order so finding and dismiss the motion.

5. The standing of the denied applicant in the chapter 39 proceeding is terminated upon entry of the court's order.

(b) When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

1.~~(a)~~ There is probable cause to believe that the child is at imminent risk of abuse or neglect;

2.~~(b)~~ Thirty days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department's decision has been filed; ~~or~~

3.~~(c)~~ The foster parent or custodian agrees to the child's removal; or~~.~~

4. The department has selected another prospective adoptive parent to adopt the child and either the foster parent or custodian has not filed a motion with the court to allow him or her to file a chapter 63 petition to adopt a child without the department's consent, as provided under paragraph (a), or the court has denied such a motion.


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(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted under ~~pursuant to~~ s. 47.122. A copy of the consent executed by the department must be attached to the petition, unless such consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~. The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

Section 13. 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, a contract attorney, or ~~certified~~ a 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

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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.

Section 14. Subsection (7) of section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.—

(7) If parental rights to the minor have previously been terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required. If the minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or, in the alternative, the court order entered under s. 39.812(4) finding that the department ~~The consent of the department shall be waived upon a determination by the court that such consent is being~~ unreasonably withheld its consent must be attached to the petition to adopt, and ~~if~~ the petitioner must file ~~has filed with the court~~ a favorable preliminary adoptive home study as required under s. 63.092.

Section 15. Paragraph (b) of subsection (6) of section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent to adoption or affidavit of nonpaternity; family social and medical history; revocation of consent.—

(6)

(b) Upon execution of the consent of the parent, the adoption entity is ~~shall be~~ permitted to intervene in the dependency case as a party in interest and must provide the court that acquired jurisdiction over the minor, pursuant to the shelter order or dependency petition filed by the department, a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study must be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has intervened under ~~pursuant to~~ this section. The exemption in s. 63.092(3) from the home study for a stepparent or relative does not apply if a minor is under the supervision of the department or is otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, dependency petition, or termination of parental rights petition under chapter 39. Unless the court has concerns regarding the qualifications of the home study provider, or concerns that the home study may not be adequate to determine the best interests of the child, the home study provided by the adoption entity is ~~shall be deemed to be~~ sufficient and no additional home study needs to be performed by the department.

Section 16. Subsections (8) and (9) of section 402.302, Florida Statutes, are amended to read:

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

(8) "Family day care home" means an occupied primary residence leased or owned by the operator in which child care is regularly provided for children from at least two unrelated

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881 families and which receives a payment, fee, or grant for any of
882 the children receiving care, whether or not operated for profit.
883 Household children under 13 years of age, when on the premises
884 of the family day care home or on a field trip with children
885 enrolled in child care, are ~~shall be~~ included in the overall
886 capacity of the licensed home. A family day care home is ~~shall~~
887 ~~be~~ allowed to provide care for one of the following groups of
888 children, which shall include household children under 13 years
889 of age:
890 (a) A maximum of four children from birth to 12 months of
891 age.
892 (b) A maximum of three children from birth to 12 months of
893 age, and other children, for a maximum total of six children.
894 (c) A maximum of six preschool children if all are older
895 than 12 months of age.
896 (d) A maximum of 10 children if no more than 5 are
897 preschool age and, of those 5, no more than 2 are under 12
898 months of age.
899 (9) "Household children" means children who are related by
900 blood, marriage, or legal adoption to, or who are the legal
901 wards of, the family day care home operator, the large family
902 child care home operator, or an adult household member who
903 permanently or temporarily resides in the home. Supervision of
904 the operator's household children shall be left to the
905 discretion of the operator unless those children receive
906 subsidized child care through the school readiness program under
907 ~~pursuant to~~ s. 1002.92 to be in the home.
908 Section 17. Paragraph (a) of subsection (7), paragraphs (b)
909 and (c) of subsection (9), and subsection (10) of section

402.305, Florida Statutes, are amended to read:

402.305 Licensing standards; child care facilities.—

(7) SANITATION AND SAFETY.—

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained and certified in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(9) ADMISSIONS AND RECORDKEEPING.—

(b) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each facility shall provide parents of children enrolled in the facility information regarding the potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult’s vehicle upon arrival at the adult’s destination. The child care facility shall also give parents information about resources with suggestions to avoid this occurrence. The department shall


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develop a flyer or brochure with this information that shall be posted to the department's website, which child care facilities may choose to reproduce and provide to parents to satisfy the requirements of this paragraph.

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards for child care facilities, family day care homes, and large family child care homes ~~shall~~ include all of the following:

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

2. Requirements for annual inspections of such ~~the~~ vehicles.~~,~~

3. Limitations on the number of children which may be transported in such ~~the~~ vehicles.~~,~~

4. Procedures to avoid leaving children in vehicles when transported by the facility, and accountability for children transported by the child care facility.

(b) Before providing transportation services or reinstating transportation services after a lapse or discontinuation of longer than 30 days, a child care facility, family day care home, or large family child care home must be approved by the department to transport children. Approval by the department is based on the provider's demonstration of compliance with all current rules and standards for transportation.

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

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Section 18. Subsections (14) and (15) of section 402.313, Florida Statutes, are amended to read:

402.313 Family day care homes.—

(14) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(15) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each family day care home shall provide parents of children attending the family day care home information regarding the potential for a distracted adult to fail to drop off a child at the family day care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The family day care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which family day care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 19. Subsections (8), (9), and (10) of section 402.3131, Florida Statutes, are amended to read:

402.3131 Large family child care homes.—

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(8) Before ~~Prior to~~ being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

(9) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each large family child care home shall provide parents of children attending the large family child care home information regarding the potential for a distracted adult to fail to drop off a child at the large family child care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The large family child care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which large family child care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 20. Subsection (6) and paragraphs (b) and (e) of subsection (7) of section 409.1451, Florida Statutes, are


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amended to read:

409.1451 The Road-to-Independence Program.—

(6) ACCOUNTABILITY.—The department shall develop outcome measures for the program and other performance measures ~~in order~~ to maintain oversight of the program. ~~No later than January 31 of each year, the department shall prepare a report on the outcome measures and the department's oversight activities and submit the report to the President of the Senate, the Speaker of the House of Representatives, and the committees with jurisdiction over issues relating to children and families in the Senate and the House of Representatives. The report must include:~~

~~(a) An analysis of performance on the outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures.~~

~~(b) A description of the department's oversight of the program, including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance.~~

~~(c) Any rules adopted or proposed under this section since the last report. For the purposes of the first report, any rules adopted or proposed under this section must be included.~~

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6251 and the Road-to-Independence Program. The advisory council shall function as specified in


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this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

~~(b) The advisory council shall report to the secretary on the status of the implementation of the Road-to-Independence Program, efforts to publicize the availability of the Road-to-Independence Program, the success of the services, problems identified, recommendations for department or legislative action, and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2013. The department shall submit a report by December 31 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes a summary of the factors reported on by the council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or provides the department's rationale for not implementing the recommendations.~~

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

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~~other states.~~

Section 21. This act shall take effect October 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to child welfare; amending s. 25.385, F.S.; requiring the Florida Court Educational Council to establish certain standards for instruction of specified circuit court judges; amending s. 39.205, F.S.; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; amending s. 39.302, F.S.; requiring the department to review certain reports under certain circumstances; amending s. 39.407, F.S.; transferring certain duties to the department from the Agency for Health Care Administration; creating s. 39.5035, F.S.; providing court procedures and requirements relating to deceased parents of a dependent child; providing requirements for petitions for adjudication and permanent commitment for certain children; amending s. 39.521, F.S.; deleting provisions relating to protective supervision; deleting provisions relating to the court’s authority to enter an order ending its jurisdiction over a child under certain circumstances; amending s. 39.522, F.S.; providing requirements for a modification of placement of a child under the

supervision of the department; amending s. 39.6011, F.S.; providing timeframes in which case plans must be filed with the court and be provided to specified parties; creating s. 39.63, F.S.; providing procedures and requirements for closing a case under chapter 39; amending s. 39.806, F.S.; conforming cross-references; amending s. 39.811, F.S.; expanding conditions under which a court retains jurisdiction; providing when certain decisions relating to adoption are reviewable; amending s. 39.812, F.S.; authorizing the department to take certain actions without a court order; authorizing certain persons to file a petition to adopt a child without the department's consent; providing standing requirements; providing a standard of proof; providing responsibilities of the court in such cases; amending s. 39.820, F.S.; revising the definition of the term "guardian ad litem"; amending s. 63.062, F.S.; requiring the department to consent to certain adoptions; providing exceptions; amending s. 63.082, F.S.; providing construction; amending s. 402.302, F.S.; revising definitions; amending s. 402.305, F.S.; requiring a certain number of staff persons at child care facilities to be certified in certain safety techniques; requiring child care facilities to provide certain information to parents at the time of initial enrollment and annually thereafter; revising minimum standards for child care facilities, family day care homes, and large family child care homes relating to transportation; requiring


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child care facilities, family day care homes, and large family child care homes to be approved by the department to transport children in certain situations; amending s. 402.313, F.S.; requiring family day care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 402.3131, F.S.; requiring large family child care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 409.1451, F.S.; deleting a reporting requirement of the department and the Independent Living Services Advisory Council; providing an effective date.

By Senator Perry

8-01040A-20 20201548__

A bill to be entitled

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 specified circuit court judges; amending s. 39.01, F.S.; revising the definition of the term "parent"; amending s. 39.205, F.S.; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; amending s. 39.302, F.S.; requiring the department to review certain reports under certain circumstances; amending s. 39.402, F.S.; providing requirements for the court when establishing paternity at a shelter hearing; amending s. 39.407, F.S.; transferring certain duties to the department from the Agency for Health Care Administration; amending s. 39.503, F.S.; revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child; providing that a person does not have standing under certain circumstances; creating s. 39.5035, F.S.; providing court procedures and requirements relating to deceased parents of a dependent child; providing requirements for petitions for adjudication and permanent commitment for certain children; amending s. 39.521, F.S.; deleting provisions relating to protective supervision; deleting provisions relating to the court's authority to enter an order ending its jurisdiction over a child under certain circumstances; amending s. 39.522, F.S.; providing requirements for a

modification of placement of a child under the supervision of the department; amending s. 39.6011, F.S.; providing timeframes in which case plans must be filed with the court and be provided to specified parties; creating s. 39.63, F.S.; providing procedures and requirements for closing a case under chapter 39; amending s. 39.801, F.S.; conforming provisions to changes made by the act; amending s. 39.803, F.S.; revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child; providing that a person does not have standing under certain circumstances; amending s. 39.806, F.S.; conforming cross-references; amending s. 39.811, F.S.; expanding conditions under which a court retains jurisdiction; providing when certain decisions relating to adoption are reviewable; amending s. 39.812, F.S.; authorizing the department to take certain actions without a court order; authorizing certain persons to file a petition to adopt a child without the department's consent; providing standing requirements; providing a standard of proof; providing responsibilities of the court in such cases; amending s. 63.062, F.S.; requiring the department to consent to certain adoptions; providing exceptions; amending s. 63.082, F.S.; providing construction; amending s. 402.302, F.S.; revising definitions; amending s. 402.305, F.S.; requiring a certain number of staff persons at child care facilities to be certified in certain safety techniques; requiring child care

facilities to provide certain information to parents at the time of initial enrollment and annually thereafter; revising minimum standards for child care facilities, family day care homes, and large family child care homes relating to transportation; requiring child care facilities, family day care homes, and large family child care homes to be approved by the department to transport children in certain situations; amending s. 402.313, F.S.; requiring family day care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 402.3131, F.S.; requiring large family child care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 409.1451, F.S.; deleting a reporting requirement of the department and the Independent Living Services Advisory Council; creating s. 742.0211, F.S.; defining the term "dependent child"; providing requirements and procedures for the determination of paternity when a child is dependent; providing the burden of proof for certain paternity complaints; providing applicability; 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.

~~(2)~~ As used in this section:

(a) The term "domestic violence" has the meaning set forth in s. 741.28.

(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 court judges who have responsibility for dependency cases. The standards for instruction must be consistent with and reinforce the purposes of chapter 39, with emphasis on ensuring that a permanent placement is achieved as soon as possible and that a child should not remain in foster care for longer than 1 year. This instruction must be provided on a periodic and timely basis and may be provided by or in consultation with current or retired judges, the Department of Children and Families, or the Statewide Guardian Ad Litem Office established in s. 39.8296.

Section 2. Subsection (56) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(56) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). The term "parent" also means legal father as defined in this section. If a child has been legally

adopted, the term "parent" means the adoptive mother or father of the child. For purposes of this chapter only, when the phrase "parent or legal custodian" is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless~~:~~

~~(a) The parental status falls within the terms of s. 39.503(1) or s. 63.062(1); or~~

~~(b)~~ parental status is applied for the purpose of determining whether the child has been abandoned.

Section 3. Subsection (7) of section 39.205, Florida Statutes, is amended to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency ~~and shall report annually to the Legislature the number of reports referred~~.

Section 4. Subsection (7) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a

caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(a) However, if such a person is a licensee of the department and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~those reports~~ and determine whether the information contained in the report ~~reports~~ is relevant for purposes of determining whether the person's license should be renewed or revoked. If the information is relevant to the decision to renew or revoke the license, the department may rely on the information contained in the report in making that decision.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~all reports~~ for the purposes of the employment screening as defined in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(c)~~.

Section 5. Paragraph (c) of subsection (8) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(8)

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the best

interest of the child, unless the court finds that such representation is unnecessary.~~;~~

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.~~;~~

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.~~;~~ ~~and~~

4. Inquire of those present at the shelter hearing as to the identity and location of the legal father. In determining who the legal father of the child may be, the court shall inquire under oath of those present at the shelter hearing whether they have any of the following information:

a. Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.

b. Whether the mother was cohabiting with a male at the probable time of conception of the child.

c. Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

d. Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

e. Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child or in which the child has resided or resides.

f. Whether a man is named on the birth certificate of the child under ~~pursuant to~~ s. 382.013(2).

g. Whether a man has been determined by a court order to be the father of the child.

h. Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

5. If the inquiry under subparagraph 4. identifies a person as a legal father, as defined in s. 39.01, enter an order establishing the paternity of the child. Once an order establishing paternity has been entered, the court may not take any action to disestablish paternity in the absence of an action filed under chapter 742. An action filed under chapter 742 concerning a child who is the subject in a dependence proceeding must comply with s. 742.0211.

Section 6. Subsection (6) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only as provided in ~~pursuant to~~ this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection

must have a guardian ad litem appointed.

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

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the department ~~Agency for Health Care Administration~~. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified

evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require residential treatment and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report

of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

Section 7. Section 39.503, Florida Statutes, is amended to read:

39.503 Identity or location of parent unknown; special procedures.—

(1) If the identity or location of a parent is unknown and a petition for dependency ~~or shelter~~ is filed, the court shall conduct under oath an ~~the following~~ inquiry of the parent or legal custodian who is available, or, if no parent or legal custodian is available, of any relative or custodian of the child who is present at the hearing and likely to have any of the following information:

(a) Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.

(b) Whether the mother was cohabiting with a male at the probable time of conception of the child.

(c) Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

(d) Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

(e) Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child, or in which the child has resided or resides.

(f) Whether a man is named on the birth certificate of the child under ~~pursuant to~~ s. 382.013(2).

(g) Whether a man has been determined by a court order to be the father of the child.

(h) Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent and that person's location is known, the court shall require notice of the hearing to be provided to that person. However, notice is not required to be provided to a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(4) If the inquiry under subsection (1) identifies a person

as a legal father, as defined in s. 39.01, the court shall enter an order establishing the paternity of the father. Once an order establishing paternity has been entered, the court may not take any action to disestablish this paternity in the absence of an action filed under chapter 742. An action filed under chapter 742 concerning a child who is the subject in a dependence proceeding must comply with s. 742.0211.

(5) ~~(4)~~ If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice and the petitioner is relieved of performing any further search.

(6) ~~(5)~~ If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the petitioner to conduct a diligent search for that person before scheduling a disposition hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown. However, a diligent search is not required to be conducted for a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(7) ~~(6)~~ The diligent search required by subsection (6) ~~(5)~~ must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, a

thorough search of at least one electronic database specifically designed for locating persons, a search of the Florida Putative Father Registry, and inquiries of appropriate law enforcement agencies. Pursuant to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.

(8) ~~(7)~~ Any agency contacted by a petitioner with a request for information under ~~pursuant to~~ subsection (7) must ~~(6) shall~~ release the requested information to the petitioner without the necessity of a subpoena or court order.

(9) If the inquiry and diligent search identifies and locates a parent, that person is considered a parent for all purposes under this chapter and must be provided notice of all hearings.

(10) ~~(8)~~ If the inquiry and diligent search identifies and locates a prospective parent and there is no legal father, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or before the adjudicatory hearing in any termination of parental rights proceeding for the child shall be considered a parent for all purposes under this chapter ~~section~~ unless the other parent contests the determination of parenthood. A person does not have standing to file a sworn affidavit of parenthood or otherwise establish parenthood, except through adoption, after entry of a

judgment terminating the parental rights of the legal father for a child. If the known parent contests the recognition of the prospective parent as a parent, the court having jurisdiction over the dependency matter shall conduct a determination of parentage under chapter 742. The prospective parent may not be recognized as a parent until proceedings to determine maternity or paternity ~~under chapter 742~~ have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the ~~chapter 742~~ proceedings to determine maternity or paternity.

(11)~~(9)~~ If the diligent search under subsection (6) ~~(5)~~ fails to ~~identify and~~ locate a parent or prospective parent who was identified during the inquiry under subsection (1), the court shall so find and may proceed without further notice and the petitioner is relieved from performing any further search.

Section 8. Section 39.5035, Florida Statutes, is created to read:

39.5035 Deceased parents; special procedures.—

(1)(a)1. If both parents of a child are deceased and a legal custodian has not been appointed for the child through a probate or guardianship proceeding, then an attorney for the department or any other person, who has knowledge of the facts whether alleged or is informed of the alleged facts and believes them to be true, may initiate a proceeding by filing a petition for adjudication and permanent commitment.

2. If a child has been placed in shelter status by order of the court but has not yet been adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition

must be filed within a reasonable time after the date the child was referred to protective investigation or after the petitioner first becomes aware of the facts that support the petition for adjudication and permanent commitment.

(b) If both parents or the last living parent dies after a child has already been adjudicated dependent, an attorney for the department or any other person who has knowledge of the facts alleged or is informed of the alleged facts and believes them to be true may file a petition for permanent commitment.

(2) The petition:

(a) Must be in writing, identify the alleged deceased parents, and provide facts that establish that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

(b) Must be signed by the petitioner under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court shall set the case before the court for an adjudicatory hearing. The adjudicatory hearing must be held as soon as practicable after the petition is filed, but no later than 30 days after the filing date.

(4) Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on the following persons:

(a) Any person who has physical custody of the child.

(b) A living relative of each parent of the child, unless a living relative cannot be found after a diligent search and

inquiry.

(c) The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

(5) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. At the hearing, the judge must determine whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding. A certified copy of the death certificate for each parent is sufficient evidence of proof of the parents' deaths.

(6) Within 30 days after an adjudicatory hearing on a petition for adjudication and permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order adjudicating the child dependent and permanently committing the child to the custody of the department for the purpose of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide a case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold

hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, but that a preponderance of the evidence establishes that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order adjudicating the child dependent. A disposition hearing shall be scheduled no later than 30 days after the entry of the order as provided in s. 39.521.

(c) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding and that a preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order so finding and dismissing the petition.

(7) Within 30 days after an adjudicatory hearing on a petition for permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order permanently committing the child to the custody of the department for purposes of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide an amended case plan that identifies the permanency goal for the child to the court.

Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, the court shall enter a written order denying the petition. The order has no effect on the child's prior adjudication. The order does not bar the petitioner from filing a subsequent petition for permanent commitment based on newly discovered evidence that establishes that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

Section 9. Paragraph (c) of subsection (1) and subsections (3) and (7) of section 39.521, Florida Statutes, are amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search

having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

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(35)(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 permanency has been established for the child.~~

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

(3) When any child is adjudicated by a court to be dependent, the court shall determine the appropriate placement for the child as follows:

(a) If the court determines that the child can safely remain in the home with the parent with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court and that remaining in this home is in the best interest of the child, then the court shall order conditions under which the child may remain or return to the home and that this placement be under the protective supervision of the department for not less than 6 months.

(b) If there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child, the court shall place the child with that parent upon completion of a home study, unless the court finds that such placement would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the

safety, well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

1. Order that the parent assume sole custodial responsibilities for the child. The court may also provide for reasonable visitation by the noncustodial parent. The court may then terminate its jurisdiction over the child.

2. Order that the parent assume custody subject to the jurisdiction of the circuit court hearing dependency matters. The court may order that reunification services be provided to the parent from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another or to a relative or another adult approved by the court shall be the best interest of the child.

(c) If no fit parent is willing or available to assume care and custody of the child, place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of the department. The department must supervise this placement until the child reaches permanency status in this home, and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship.

(d) If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department may ~~shall~~ not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

~~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 shall set forth the powers of the custodian of the child and shall 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, no further judicial reviews are required, so long as permanency has been established for the~~

~~child.~~

~~(7) The court may enter an order ending its jurisdiction over a child when a child has been returned to the parents, provided the court shall not terminate its jurisdiction or the department's supervision over the child until 6 months after the child's return. The department shall supervise the placement of the child after reunification for at least 6 months with each parent or legal custodian from whom the child was removed. The court shall determine whether its jurisdiction should be continued or terminated in such a case based on a report of the department or agency or the child's guardian ad litem, and any other relevant factors; if its jurisdiction is to be terminated, the court shall enter an order to that effect.~~

Section 10. Section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing. If a child has been returned to the parent and is under protective supervision by the department and the child is later removed again from the parent's custody, any modifications of placement shall be done under this section.

(1) At any time, an authorized agent of the department or a law enforcement officer may remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if there is probable cause as required in s. 39.401(1)(b). The department shall file a motion to modify placement within 1

business day after the child is taken into custody. Unless all parties agree to the change of placement, the court must set a hearing within 24 hours after the filing of the motion. At the hearing, the court shall determine whether the department has established probable cause to support the immediate removal of the child from his or her current placement. The court may base its determination on a sworn petition, testimony, or an affidavit and may hear all relevant and material evidence, including oral or written reports, to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing. If the court finds that probable cause is not established to support the removal of the child from the placement, the court shall order that the child be returned to his or her current placement. If the caregiver admits to a need for a change of placement or probable cause is established to support the removal, the court shall enter an order changing the placement 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 in chapter 39. If the child's placement is modified based on a probable cause finding, the court must conduct a subsequent evidentiary hearing, unless waived by all parties, on the motion to determine whether the department has established by a preponderance of the evidence that maintaining the new placement of the child is in the best interest of the child. The court shall consider 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.

(2) ~~(1)~~ At any time before a child is residing in the permanent placement approved at the permanency hearing, a child

who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other party ~~interested person~~, upon the filing of a petition ~~motion~~ alleging a need for a change in the conditions of protective supervision or the 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 is determined by a preponderance of the evidence that establishes that a change is in ~~shall be~~ the best interest of the child. When applying this standard, the court shall consider 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 under ~~pursuant to~~ this chapter.

(3)~~(2)~~ In cases where the issue before the court is whether a child should be reunited with a parent, the court shall review 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 department will not be detrimental

to the child's safety, well-being, and physical, mental, and emotional health.

(4)~~(3)~~ 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 department will not be detrimental to the child, the standard shall be 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.

Section 11. Subsection (8) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(8) The case plan must be filed with the court and copies provided to all parties, including the child if appropriate:~~,~~ ~~not less than 3 business days before the disposition hearing.~~

(a) Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care; or

(b) Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted under this subsection, or if the court does not approve the case plan at the disposition hearing.

Section 12. Section 39.63, Florida Statutes, is created to

read:

39.63 Case closure.—Unless s. 39.6251 applies, the court shall close the judicial case for all proceedings under this chapter by terminating protective supervision and its jurisdiction as provided in this section.

(1) If a child is placed under the protective supervision of the department, the protective supervision continues until such supervision is terminated by the court or until the child reaches the age of 18, whichever occurs first. The court shall terminate protective supervision when it determines that permanency has been achieved for the child and supervision is no longer needed. If the court adopts a permanency goal of reunification with a parent or legal custodian from whom the child was initially removed, the court must retain jurisdiction and the department must supervise the placement for a minimum of 6 months after reunification. The court shall determine whether its jurisdiction should be continued or terminated based on a report of the department or the child's guardian ad litem. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion.

(2) The order terminating protective supervision must set forth the powers of the legal custodian of the child and include the powers originally granted to a guardian of the person of a minor unless otherwise specified.

(3) Upon the court's termination of supervision by the department, further judicial reviews are not required.

(4) The court must enter a written order terminating its jurisdiction over a child when the child is returned to his or her parent. However, the court must retain jurisdiction over the

child for a minimum of 6 months after reunification and may not terminate its jurisdiction until the court determines that protective supervision is no longer needed.

(5) If a child was not removed from the home, the court must enter a written order terminating its jurisdiction over the child when the court determines that permanency has been achieved.

(6) If a child is placed in the custody of a parent and the court determines that reasonable efforts to reunify the child with the other parent are not required, the court may, at any time, order that the custodial parent assume sole custodial responsibilities for the child, provide for reasonable visitation by the noncustodial parent, and terminate its jurisdiction over the child. If the court previously approved a case plan that requires services to be provided to the noncustodial parent, the court may not terminate its jurisdiction before the case plan expires unless the court finds by a preponderance of the evidence that it is not likely that the child will be reunified with the noncustodial parent within 12 months after the child was removed from the home.

(7) When a child has been adopted under a chapter 63 proceeding, the court must enter a written order terminating its jurisdiction over the child in the chapter 39 proceeding.

Section 13. Paragraph (a) of subsection (3) of section 39.801, Florida Statutes, is amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the

following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified and located under s. 39.503 or s. 39.803, unless a court order has been entered under s. 39.503(5) or (11) or s. 39.803(5) or (11) ~~pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9)~~ which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified and located by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best

interests of the child in accepting such affidavit.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

Section 14. Section 39.803, Florida Statutes, is amended to read:

39.803 Identity or location of parent unknown after filing of termination of parental rights petition; special procedures.—

(1) If the identity or location of a parent is unknown, ~~and~~ a petition for termination of parental rights is filed, and the court has not previously conducted an inquiry or entered an order relieving the petitioner of further search or notice under s. 39.503, the court shall conduct under oath the following inquiry of the parent who is available, or, if no parent is available, of any relative, caregiver, or legal custodian of the child who is present at the hearing and likely to have the information:

(a) Whether the mother of the child was married at the probable time of conception of the child or at the time of birth

of the child.

(b) Whether the mother was cohabiting with a male at the probable time of conception of the child.

(c) Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

(d) Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

(e) Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child, or in which the child has resided or resides.

(f) Whether a man is named on the birth certificate of the child under ~~pursuant to~~ s. 382.013(2).

(g) Whether a man has been determined by a court order to be the father of the child.

(h) Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent and that person's location is known, the court shall require notice of the hearing to be provided to that person. However, notice is not required to be provided to a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(4) If the inquiry under subsection (1) identifies a person as a legal father, as defined in s. 39.01, the court shall enter an order establishing the paternity of the father. Once an order establishing paternity has been entered, the court may not take any action to disestablish this paternity in the absence of an action filed under chapter 742. An action filed under chapter 742 concerning a child who is the subject in a dependence proceeding must comply with s. 742.0211.

(5)~~(4)~~ If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice and the petitioner is relieved of performing any further search.

(6)~~(5)~~ If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the petitioner to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the petition for termination of parental rights to the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown. However, a diligent search is not required to be conducted for a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(7)~~(6)~~ The diligent search required by subsection (6) ~~(5)~~ must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or

prospective parent, inquiries of appropriate utility and postal providers, a thorough search of at least one electronic database specifically designed for locating persons, a search of the Florida Putative Father Registry, and inquiries of appropriate law enforcement agencies. Pursuant to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.

(8) ~~(7)~~ Any agency contacted by petitioner with a request for information under ~~pursuant to~~ subsection (7) ~~(6)~~ shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(9) If the inquiry and diligent search identifies and locates a parent, that person is considered a parent for all purposes under this chapter and must be provided notice of all hearings.

(10) ~~(8)~~ If the inquiry and diligent search identifies and locates a prospective parent and there is no legal father, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or before the adjudicatory hearing in the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this chapter ~~section~~. A person does not have standing to file a sworn affidavit of parenthood or otherwise establish parenthood, except through adoption, after the entry

of a judgment terminating the parental rights of the legal father for a child. If the known parent contests the recognition of the prospective parent as a parent, the court having jurisdiction over the dependency matter shall conduct a determination of parentage proceeding under chapter 742. The prospective parent may not be recognized as a parent until proceedings to determine maternity or paternity have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the proceedings to determine maternity or paternity.

(11) ~~(9)~~ If the diligent search under subsection (6) ~~(5)~~ fails to ~~identify and~~ locate a parent or prospective parent who was identified during the inquiry under subsection (1), the court shall so find and may proceed without further notice and the petitioner is relieved from performing any further search.

Section 15. Paragraph (e) of subsection (1) and subsection (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(e) When a child has been adjudicated dependent, a case plan has been filed with the court, and:

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with

the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month period begins to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; ~~or~~

2. The parent or parents have materially breached the case plan by their action or inaction. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires; or~~.~~

3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(3) ~~s. 39.522(2)~~ unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.

(2) Reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(b)-(d) or paragraphs (1)(f)-(n) ~~(1)(f)-(m)~~ have occurred.

Section 16. Subsection (9) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.—

(9) After termination of parental rights or a written order of permanent commitment entered under s. 39.5035, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. The department's decision to deny an application to adopt a child who is under the court's jurisdiction is reviewable only through a motion to file a chapter 63 petition as provided in s. 39.812(4), and is not subject to chapter 120.

Section 17. Subsections (1), (4), and (5) of section 39.812, Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

(1) If the department is given custody of a child for subsequent adoption in accordance with this chapter, the department may place the child with an agency as defined in s. 63.032, with a child-caring agency registered under s. 409.176, or in a family home for prospective subsequent adoption without the need for a court order unless otherwise required under this section. The department may allow prospective adoptive parents to visit with a child in the department's custody without a court order to determine whether the adoptive placement would be appropriate. The department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to

the adoption, and that consent alone shall in all cases be sufficient.

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the case is closed as provided in s. 39.63 ~~the child is adopted~~. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

(a) If the department has denied a person's application to adopt a child, the denied applicant may file a motion with the court within 30 days after the issuance of the written notification of denial to allow him or her to file a chapter 63 petition to adopt a child without the department's consent. The denied applicant must allege in its motion that the department unreasonably withheld its consent to the adoption. The court, as part of its continuing jurisdiction, may review and rule on the motion.

1. The denied applicant only has standing in the chapter 39 proceeding to file the motion in paragraph (a) and to present evidence in support of the motion at a hearing, which must be held within 30 days after the filing of the motion.

2. At the hearing on the motion, the court may only consider whether the department's review of the application was consistent with its policies and made in an expeditious manner. The standard of review by the court is whether the department's

denial of the application is an abuse of discretion. The court may not compare the denied applicant against another applicant to determine which placement is in the best interests of the child.

3. If the denied applicant establishes by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order authorizing the denied applicant to file a petition to adopt the child under chapter 63 without the department's consent.

4. If the denied applicant does not prove by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order so finding and dismiss the motion.

5. The standing of the denied applicant in the chapter 39 proceeding is terminated upon entry of the court's order.

(b) When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

1.~~(a)~~ There is probable cause to believe that the child is at imminent risk of abuse or neglect;

2.~~(b)~~ Thirty days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department's decision has been filed; ~~or~~

3.~~(c)~~ The foster parent or custodian agrees to the child's removal; or~~.~~

4. The department has selected another prospective adoptive parent to adopt the child and either the foster parent or custodian has not filed a motion with the court to allow him or her to file a chapter 63 petition to adopt a child without the department's consent, as provided under paragraph (a), or the court has denied such a motion.

(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted under ~~pursuant to~~ s. 47.122. A copy of the consent executed by the department must be attached to the petition, unless such consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~. The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

Section 18. Subsection (7) of section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.—

(7) If parental rights to the minor have previously been

terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required. If the minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or, in the alternative, the court order entered under s. 39.812(4) finding that the department ~~The consent of the department shall be waived upon a determination by the court that such consent is being~~ unreasonably withheld its consent must be attached to the petition to adopt, and ~~if~~ the petitioner must file ~~has filed with the court~~ a favorable preliminary adoptive home study as required under s. 63.092.

Section 19. Paragraph (b) of subsection (6) of section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent to adoption or affidavit of nonpaternity; family social and medical history; revocation of consent.—

(6)

(b) Upon execution of the consent of the parent, the adoption entity is ~~shall be~~ permitted to intervene in the dependency case as a party in interest and must provide the court that acquired jurisdiction over the minor, pursuant to the shelter order or dependency petition filed by the department, a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study must be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has

intervened under ~~pursuant to~~ this section. The exemption in s. 63.092(3) from the home study for a stepparent or relative does not apply if a minor is under the supervision of the department or is otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, dependency petition, or termination of parental rights petition under chapter 39. Unless the court has concerns regarding the qualifications of the home study provider, or concerns that the home study may not be adequate to determine the best interests of the child, the home study provided by the adoption entity is ~~shall be deemed to be~~ sufficient and no additional home study needs to be performed by the department.

Section 20. Subsections (8) and (9) of section 402.302, Florida Statutes, are amended to read:

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

(8) "Family day care home" means an occupied primary residence leased or owned by the operator in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, are ~~shall be~~ included in the overall capacity of the licensed home. A family day care home is ~~shall be~~ allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older than 12 months of age.

(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

(9) "Household children" means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of the operator's household children shall be left to the discretion of the operator unless those children receive subsidized child care through the school readiness program under ~~pursuant to~~ s. 1002.92 to be in the home.

Section 21. Paragraph (a) of subsection (7), paragraphs (b) and (c) of subsection (9), and subsection (10) of section 402.305, Florida Statutes, are amended to read:

402.305 Licensing standards; child care facilities.—

(7) SANITATION AND SAFETY.—

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained and certified in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(9) ADMISSIONS AND RECORDKEEPING.—

(b) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each facility shall provide parents of children enrolled in the facility information regarding the potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The child care facility shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which child care facilities may choose to reproduce and provide to parents to satisfy the requirements of this paragraph.

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards for child care facilities, family day care homes, and large family child care homes ~~shall~~ include all of the following:

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

2. Requirements for annual inspections of such ~~the~~ vehicles.~~,~~

3. Limitations on the number of children which may be transported in such ~~the~~ vehicles.~~,~~

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

(b) Before providing transportation services or reinstating transportation services after a lapse or discontinuation of longer than 30 days, a child care facility, family day care home, or large family child care home must be approved by the department to transport children. Approval by the department is based on the provider's demonstration of compliance with all current rules and standards for transportation.

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

Section 22. Subsections (14) and (15) of section 402.313, Florida Statutes, are amended to read:

402.313 Family day care homes.—

(14) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of

immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(15) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each family day care home shall provide parents of children attending the family day care home information regarding the potential for a distracted adult to fail to drop off a child at the family day care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The family day care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which family day care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 23. Subsections (8), (9), and (10) of section 402.3131, Florida Statutes, are amended to read:

402.3131 Large family child care homes.—

(8) Before ~~Prior to~~ being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

(9) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an

effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each large family child care home shall provide parents of children attending the large family child care home information regarding the potential for a distracted adult to fail to drop off a child at the large family child care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The large family child care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which large family child care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 24. Subsection (6) and paragraphs (b) and (e) of subsection (7) of section 409.1451, Florida Statutes, are amended to read:

409.1451 The Road-to-Independence Program.—

(6) ACCOUNTABILITY.—The department shall develop outcome measures for the program and other performance measures ~~in order~~ to maintain oversight of the program. ~~No later than January 31 of each year, the department shall prepare a report on the outcome measures and the department's oversight activities and submit the report to the President of the Senate, the Speaker of the House of Representatives, and the committees with~~

~~jurisdiction over issues relating to children and families in the Senate and the House of Representatives. The report must include:~~

~~(a) An analysis of performance on the outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures.~~

~~(b) A description of the department's oversight of the program, including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance.~~

~~(c) Any rules adopted or proposed under this section since the last report. For the purposes of the first report, any rules adopted or proposed under this section must be included.~~

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6251 and the Road-to-Independence Program. The advisory council shall function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

~~(b) The advisory council shall report to the secretary on the status of the implementation of the Road-to-Independence Program, efforts to publicize the availability of the Road-to-Independence Program, the success of the services, problems identified, recommendations for department or legislative~~

~~action, and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2013. The department shall submit a report by December 31 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes a summary of the factors reported on by the council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or provides the department's rationale for not implementing the recommendations.~~

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

Section 25. Section 742.0211, Florida Statutes, is created to read:

742.0211 Proceedings applicable to dependent children.—

(1) As used in this section, the term "dependent child" means a child who is the subject of any proceeding under chapter 39.

(2) In addition to the other requirements of this chapter, any paternity proceeding filed under this chapter that concerns

a dependent child must also comply with the requirements of this section.

(3) Notwithstanding s. 742.021(1), a paternity proceeding filed under this chapter that concerns a dependent child may be filed in the circuit court of the county that is exercising jurisdiction over the chapter 39 proceeding, even if the plaintiff or defendant do not reside in that county.

(4) The court having jurisdiction over the dependency matter may conduct any paternity proceeding filed under this chapter either as part of the chapter 39 proceeding or as a separate action under this chapter.

(5) A person does not have standing to file a complaint under this chapter after the entry of a judgment terminating the parental rights of the legal father, as defined in s. 39.01, for the dependent child in the chapter 39 proceeding.

(6) The court must hold a hearing on the complaint concerning a dependent child as required under s. 742.031 within 30 days after the complaint is filed.

(7)(a) If the dependent child has a legal father, as defined in s. 39.01, and a different man, who has reason to believe that he is the father of the dependent child, has filed a complaint to establish paternity under this chapter and disestablish the paternity of the legal father, the alleged father must prove at the hearing held under s. 742.031 that:

1. He has acted with diligence in seeking the establishment of paternity.

2. He is the father of the dependent child.

3. He has manifested a substantial and continuing concern for the welfare of the dependent child.

(b) If the alleged father establishes the facts under paragraph (a), he must then prove by clear and convincing evidence that there is a clear and compelling reason to disestablish the legal father's paternity and instead establish paternity with him by considering the best interest of the dependent child.

(c) There is a rebuttable presumption that it is not in the dependent child's best interest to disestablish the legal father's paternity if:

1. The dependent child has been the subject of a chapter 39 proceeding for 12 months or more before the alleged father files a complaint under this chapter.

2. The alleged father does not pass a preliminary home study as required under s. 63.092 to be a placement for the dependent child.

(8) The court must enter a written order on the paternity complaint within 30 days after the conclusion of the hearing.

(9) If the court enters an order disestablishing the paternity of the legal father and establishing the paternity of the alleged father, then that person shall be considered a parent, as defined in s. 39.01, for all purposes of the chapter 39 proceeding.

Section 26. This act shall take effect October 1, 2020.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1624
INTRODUCER:	Senator Perry
SUBJECT:	Economic Self-sufficiency
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	**Pre-meeting**
2.			GO	
3.			AP	

I. Summary:

SB 1624 requires the Auditor General to review the state's economic assistance, health care, and housing programs every three years. The bill requires the Auditor General to submit a report to the Governor and Legislature within 30 days of completing such reviews.

The bill removes the definitions of "earned income" and "unearned income" from the statutes guiding the School Readiness Program. The bill provides a priority for subsidized child care to parents who have an Intensive Service Account or an Individual Training Account. Such accounts are used by the state's workforce program, CareerSource Florida, Inc., to assist persons with job referral and placement.

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

II. Present Situation:

Florida Auditor General

The Constitution of the State of Florida provides for the Legislature to appoint an auditor who shall audit the public records and perform related duties as prescribed by law or concurrent resolution. Section 11.42, Florida Statutes, designates the constitutional auditor as the Auditor General and Sections 11.42 through 11.47, Florida Statutes, set forth her general authority and duties. Independently, and in accordance with applicable professional standards, the Auditor General:

- Conducts financial audits of the accounts and records of State government, State universities, State colleges, and school districts.
- Conducts operational and performance audits of public programs, activities, and functions and information technology systems.

- Adopts rules, in consultation with the Florida Board of Accountancy, for audits performed by independent certified public accountants of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for-profit organizations.
- Conducts reviews of audit reports of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for profit organizations.
- Conducts examinations of school districts' and other entities' records to evaluate compliance with State requirements governing the Florida Education Finance Program student enrollment and student transportation funding allocations.
- Conducts quality assessment reviews of the internal audits performed by State agency offices of inspectors general.

Pursuant to the Federal Single Audit Act, the Office of Management and Budget requires an audit of major State-administered Federal awards programs, as described in Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.[1] Accordingly, the Auditor General performs an annual financial and Federal awards audit of the State of Florida, which encompasses all state agencies, universities, and colleges, most recently in Report No. 2019-186. With the exception of the Section 8 program, this audit includes the State administered Federal programs listed in the bill. The Section 8 program is administered by local housing authorities rather than the state. As a result, each of the listed programs except Section 8 is audited by the Auditor General at least once every 3 years.[2]

Early Learning

The Department of Education's Office of Early Living oversees three programs—the school readiness program, the Voluntary Prekindergarten Education Program (VPK), and child care resource and referral services—and an annual budget of $1.3 billion.[3] The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund.[4] The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK program.[5] The executive director of the OEL is responsible for administering early learning programs at the state level.

The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds. Across the state, 30 regional early learning coalitions are responsible for delivering local services, including the VPK program and the school readiness program.[6] Each coalition is governed by a board of directors comprised of

[1] Letter from the Auditor General, dated Jan. 21, 2020. On file with the Senate Committee on Children, Families and Elder Affairs
[2] *Id.*
[3] Early Learning Services Program Total, s. 2, ch. 2019-115, L.O.F.
[4] Section 1002.82(1), F.S.
[5] The OEL is required to submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be immediately filed with the Department of State. Section 1001.213, F.S.
[6] The Office of Early Learning, *Coalitions*, http://www.floridaearlylearning.com/coalitions.aspx (last visited Jan. 30, 2020). *See also* 1002.83(1), F.S.

various stakeholders and community representatives.[7] The State Board of Education does not have authority over the coalitions, and early learning data is not collected in the K-20 student database as part of the management information databases governed by the board.[8]

The school readiness program provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.[9] The school readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.[10] To participate in the school readiness program, a provider must execute a school readiness contract.[11] During the 2017-2018 academic year, 7,668 school readiness providers served 201,474 children enrolled in a school readiness program.[12] For Fiscal Year 2019-2020, a total of $760.8 million was appropriated for the school readiness program from state and federal funds.[13]

III. Effect of Proposed Changes:

Section 1 amends 11.45, F.S., relating to the Auditor General. The bill provides every three years the Auditor General must conduct performance audits of the following economic assistance and health care programs:

- The Supplemental Nutrition Assistance Program (SNAP) that helps low-income individuals and families buy healthy food.
- The Temporary Cash Assistance Program that provides cash assistance to families with children under the age of 18 that meet the technical, income, and asset requirements.
- The Medicaid Program that provides medical coverage to low-income individuals and families.
- The School Readiness Program that provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.
- The U.S. Department of Housing and Urban Development Section 8 Housing Program that provides housing assistance to low income individuals and families. The U.S. Department of Housing and Urban Development Section 8 Housing Program is operated by the federal government through local organizations in Florida. It is unclear if the Florida Auditor General would have the authority to conduct such reviews or audits.

The bill requires the Auditor General to review eligibility criteria, review how the programs document eligibility, how frequently the programs determine eligibility, how clear the programs communicate requirements to the program beneficiaries, review ways to improve efficiency and

[7] Section 1002.83(3), F.S.
[8] Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 13.
[9] Section 1002.87, F.S.
[10] Section 1002.86, F.S.
[11] Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, *available at* http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Form%20OEL-SR%2020_%20Statewide%20School%20Readiness%20Provider%20Contract_12-19-18_Fi....pdf.
[12] Florida Office of Early Learning, *Early Learning Programs Profile: Monthly State Report* (June 2018), https://factbook.floridaearlylearning.com/oel_1.aspx, (last visited Jan. 30, 2020).
[13] Specific Appropriation 86, s. 2, ch. 2019-115, L.O.F.

effectiveness through data sharing, and the number of families receiving assistance from more than one of the programs.

The bill directs the Auditor General to determine the number of families receiving assistance from these programs that also receive Earned Income Tax credits. In is unclear whether the Internal Revenue Service (IRS) would be able to provide information on Floridians who receive the Earned Income Tax credit. When dealing with the IRS, taxpayers have the right to confidentiality. Taxpayers can expect that any information they provide to the IRS will not be disclosed to outside parties, unless authorized by the taxpayer or by law.[14] The right to confidentiality requires:

- In general, the IRS may not disclose a taxpayer's tax information to third parties, unless those taxpayers give the agency permission.
- In general, the IRS cannot contact third parties, such as a taxpayer's employer, neighbor, or bank, to get information about a taxpayer unless it provides the taxpayer with reasonable notice before making the contact.
- When dealing with a federally authorized tax practitioner, taxpayers can expect the same confidentiality protection that they would have with an attorney.

The bill requires the Auditor General to report the results of such audits to the Governor and Legislature within 30 days after their completion.

Section 2 amends s. 1002.81, F.S., providing definitions for the School Readiness Program. The bill removes the definitions of "earned income" and "unearned income" from the statutes. It is unclear what the impact of these changes would be to the state's School Readiness Program. The Department of Education has not provided the requested analysis of this bill.

Section 3 amends s. 1002.87, F.S., relating to the School Readiness Program to provide a priority for subsidized child care to parents who have an Intensive Service Account or an Individual Training Account. Such accounts are used by the state's workforce program, CareerSource Florida, Inc., to assist persons with job referral and placement.

Section 4 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[14] U.S. Internal Revenue Service website. See https://www.irs.gov/newsroom/the-right-to-confidentiality-taxpayer-bill-of-rights-8 (last visited Jan. 30, 2020).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The proposed changes would require the Auditor General to conduct a performance audit every 3 years of various State-administered Federal public assistance programs. However, the bill would have a minimal impact on the operations of the Auditor General because many of the issues raised in the bill have been or are currently subject to audit.[15]

VI. Technical Deficiencies:

The U.S. Department of Housing and Urban Development Section 8 Housing Program is operated by the federal government. It is unclear if the Florida Auditor General would have the authority to conduct reviews or audits of the program.

The Auditor General would not be able to access information on Floridians who receive the Earned Income Tax credit in order to determine if such individuals also participate in the economic assistance and health care programs. Tax information is confidential and only released by the IRS under certain circumstances.

VII. Related Issues:

None.

[15] Letter from the Auditor General, dated Jan. 21, 2020. On file with the Senate Committee on Children, Families and Elder Affairs

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 1002.81, and 1002.87.

IX. Additional Information:

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

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (m) is added to subsection (2) of section 11.45, Florida Statutes, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(2) DUTIES.—The Auditor General shall:

(m) At least every 3 years, conduct performance audits of the Supplemental Nutrition Assistance Program established under

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7 U.S.C. ss. 2011 et seq., the Temporary Cash Assistance Program provided under s. 414.095, the Medicaid program designated in s. 409.963, the School Readiness Program set forth in part VI of chapter 1002, and the Housing Choice Voucher Program established under 42 U.S.C. s. 1437. Such audits shall include a review of eligibility criteria; the manner by which each program establishes and documents eligibility and disbursement policies; the frequency of eligibility determinations; the clarity of both written and verbal communication in which eligibility requirements are conveyed to current and potential program recipients; opportunities for improving service efficiency and efficacy made possible by improved integration of state data system platforms, processes, and procedures related to data collection, analysis, documentation, and interagency sharing; and a review of the number and family size of families receiving multiple program services compared to all eligible families, including whether they are single-parent or two-parent households. If possible, the Auditor General also shall determine the number of families receiving services who are claiming the Earned Income Tax Credit. The Auditor General shall provide the results of the audits in a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee within 30 days after completion of the audit, but no later than December 31, 2020, and every 3 years thereafter.

The Auditor General shall perform his or her duties independently but under the general policies established by the

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Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

Section 2. Paragraph (a) of subsection (1) of section 1002.87, Florida Statutes, is amended to read:

1002.87 School readiness program; eligibility and enrollment.—

(1) Each early learning coalition shall give priority for participation in the school readiness program as follows:

(a) Priority shall be given first to a child younger than 13 years of age from a family that includes a parent who is receiving temporary cash assistance under chapter 414 and subject to the federal work requirements or a parent who receives an Intensive Service Account or an Individual Training Account under s. 445.009.

Section 3. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to economic self-sufficiency; amending s. 11.45, F.S.; requiring the Auditor General to perform audits of specified programs at specified intervals; requiring the audits to review specified elements of such programs; requiring the Auditor General to make a specified determination, if

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possible; providing reporting requirements for the results of such audits; amending s. 1002.87, F.S.; revising the criteria for a child to be given priority for participation in the school readiness program; providing an effective date.

By Senator Perry

8-01614-20 20201624__

A bill to be entitled

An act relating to economic self-sufficiency; amending s. 11.45, F.S.; requiring the Auditor General to conduct performance audits of the Supplemental Nutrition Assistance Program, the temporary cash assistance program, the Medicaid program, the school readiness program, and the United States Department of Housing and Urban Development Section 8 housing program, every 3 years; requiring that the audits include a review of eligibility requirements and the eligibility determination process; requiring that the audits review the opportunities for improving service efficiency and efficacy made possible by improved integration of state data system platforms, processes, and procedures and interagency sharing; requiring the Auditor General, if possible, to determine the number of families receiving multiple program services; requiring the Auditor General to submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee, within a specified timeframe amending s. 1002.81, F.S.; removing definitions; amending s. 1002.87, F.S.; requiring that first priority for eligibility and enrollment in the school readiness program also be given to parents who have an Intensive Service Account or an Individual Training Account; providing an effective date.

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

Section 1. Paragraph (m) is added to subsection (2) of section 11.45, Florida Statutes, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(2) DUTIES.—The Auditor General shall:

(m) At least every 3 years, conduct performance audits of the Supplemental Nutrition Assistance Program authorized under s. 414.455, the temporary cash assistance program administered under s. 414.095, the Medicaid program administered under part III of chapter 409, the school readiness program administered under part VI of chapter 1002, and the United States Department of Housing and Urban Development Section 8 housing program. Such audits must include a review of eligibility criteria; the manner in which each program determines and documents eligibility and establishes disbursement policies; the frequency of eligibility determinations; the clarity of both written and verbal communication in which eligibility requirements are conveyed to current and potential program beneficiaries; opportunities for improving service efficiency and efficacy made possible by improved integration of state data system platforms, processes, and procedures related to data collection, analysis, documentation, and interagency sharing; and the number of families receiving assistance or services under more than one such program and the percentage of such families of the total of eligible families. If possible, the Auditor General shall also determine the number of families receiving services and those using the Internal Revenue Service Earned Income Tax Credit. The Auditor General shall submit a report on the results of the

audits to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee within 30 days after completion of the audit.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

Section 2. Subsections (6) and (15) of section 1002.81, Florida Statutes, are amended to read:

1002.81 Definitions.—Consistent with the requirements of 45 C.F.R. parts 98 and 99 and as used in this part, the term:

~~(6) "Earned income" means gross remuneration derived from work, professional service, or self-employment. The term includes commissions, bonuses, back pay awards, and the cash value of all remuneration paid in a medium other than cash.~~

~~(15) "Unearned income" means income other than earned income. The term includes, but is not limited to:~~

~~(a) Documented alimony and child support received.~~

~~(b) Social security benefits.~~

~~(c) Supplemental security income benefits.~~

~~(d) Workers' compensation benefits.~~

~~(e) Reemployment assistance or unemployment compensation benefits.~~

~~(f) Veterans' benefits.~~

~~(g) Retirement benefits.~~

~~(h) Temporary cash assistance under chapter 414.~~

Section 3. Paragraph (a) of subsection (1) of section 1002.87, Florida Statutes, is amended to read:

1002.87 School readiness program; eligibility and enrollment.—

(1) Each early learning coalition shall give priority for participation in the school readiness program as follows:

(a) Priority shall be given first to a child younger than 13 years of age from a family that includes a parent who is receiving temporary cash assistance under chapter 414 and subject to the federal work requirements and to a parent who has an Intensive Service Account or an Individual Training Account under s. 445.009.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1648
INTRODUCER:	Senator Albritton
SUBJECT:	Support for Incapacitated Adult Children
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	**Pre-meeting**
2.			JU	
3.			AP	

I. Summary:

SB 1648 codifies and clarifies a parent's obligation to support an incapacitated or dependent-in-fact adult child. The bill mandates that the right of a parent to receive and manage support for an incapacitated adult child must be established in a guardianship proceeding. The bill allows for the filing of suit to establish support to be filed at any time after an incapacitated adult child reaches 17 years and 6 months old. The bill provides that parents may agree in writing to extend support in an existing child support case if the agreement is submitted to the court with proper jurisdiction before the adult child reaches 18; otherwise support is required to be established in a guardianship proceeding. The bill requires support paid after the adult child reaches 18 to be paid to a court-appointed guardian.

The bill will have an indeterminate fiscal impact on the state court system and has an effective date of July 1, 2020.

II. Present Situation:

Child Support

Child support is a parent's legal obligation to contribute to the economic maintenance and education of his or her child until the age of majority, the child's emancipation before reaching majority, or the child's completion of secondary education.[1] This obligation arises since each parent has a duty to support[2] his or her minor or legally dependent child.[3] Child support can be entered into voluntarily, by court order, or by an administrative agency. Child support is an

[1] BLACK'S LAW DICTIONARY, 10th edition, 2014.
[2] s. 61.046(22), F.S., defines "support" as child support when the Department of Revenue is not enforcing the support obligation and it includes spousal support or alimony for the person with whom the child is living when the Department of Revenue is enforcing the support obligation. The definition applies to the use of the term throughout ch. 61, F.S.
[3] s. 61.29, F.S. See generally ss. 744.301 and 744.361, F.S.

important source of income for millions of children in the United States. Child support payments represent on average 40 percent of income for poor custodial families who receive them; such payments lifted one million people above poverty in 2008.[4]

Establishment of Child Support Obligation

When parents live apart because they never married or are divorced or separated, the court may order a parent who owes a duty of support to a child to pay support to the other parent, or in the case of both parents, to a third party who has custody, in accordance with the guidelines schedule in s. 61.30, F.S.[5] Section 61.30, F.S., sets forth guidelines to determine the appropriate amount of child support according to a formula that is based on a parents' income and the amount of time that the child spends with each parent. The judicial officer is permitted to deviate from the guideline amount plus or minus 5 percent after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent.[6] The judicial officer may also deviate from the guideline amount more than plus or minus 5 percent, but he or she must include a written finding in the support order explaining why the guideline amount is unjust or inappropriate.[7] Establishment of a child support award, or enforcement of one, may be through the judicial system or the state child support program.

Department of Revenue Child Support Program

As required by Title IV-D of the Social Security Act,[8] the federal Department of Health and Human Services (HHS) coordinates with child support enforcement programs administered in each state, which perform collection and enforcement services.[9] Each state's child support enforcement agency operates under an approved state plan based on the program standards and policy set by the federal government.[10] In Florida, the Department of Revenue (DOR) administers the child support program.[11] [12]

Current child support program structures vary widely from state to state, but at a minimum, services offered in all child support programs include:

- Locating noncustodial parents;
- Establishing paternity;
- Establishing and modifying support orders;
- Collecting support payments and enforcing child support orders; and

[4] National Conference of State Legislatures, *Child Support Overview*, March 15, 2016, available at http://www.ncsl.org/research/human-services/child-support-homepage.aspx (last viewed January 31, 2020).
[5] s. 61.13(1)(a), F.S.
[6] s. 61.30(1)(a), F.S.
[7] *Id.*
[8] *See* 42 U.S.C. ss. 651 et seq.
[9] National Conference of State Legislatures, *Child Support 101: State Administration*, April 2013, available at http://www.ncsl.org/research/human-services/child-support-adminstration.aspx (last viewed January 31, 2020).
[10] *Id.*
[11] s. 409.2557(1), F.S.
[12] Department of Revenue, *About the Child Support Program*, 2016, available at http://floridarevenue.com/dor/childsupport/about_us.html (last viewed January 31, 2020).

- Referring noncustodial parents to employment services.[13]

Any parent or person with custody of a child who needs help to establish a child support order or to collect support payments may apply for services. Individuals receiving public assistance from the state are required to participate in the state child support program.[14] IV-D cases are cases in which a state provides child support services through the state or tribal IV-D program to a custodial parent. The program is funded under Title IV-D of the Social Security Act.

Judges issuing an administrative order for child support may include provisions for monetary support, retroactive support, health care, and other elements of support set forth under state law.[15] An administrative child support order has the same force and effect as a court order until and unless it is modified by the department, vacated on appeal, or superseded by a subsequent court order.[16] Thus, an administrative order may be enforced in the same manner as a court order, except that an administrative order may not be enforced through contempt.[17] Neither DOR nor the DOAH have jurisdiction to authorize a timesharing schedule, but they will recognize an informal agreement and incorporate it into the formula if agreed to by the parties. Such an informal agreement is not enforceable should one party violate the agreement. To obtain an enforceable timesharing order, or to determine timesharing where the parties do not agree, either parent at any time may file a civil action in a circuit having jurisdiction and proper venue for the filing of such an action.[18]

Guardianship

Guardianships are trust relationships designed to protect vulnerable members of society who do not have the ability to protect themselves, such as minor children and incapacitated adults. Under a guardianship, a "guardian" is appointed to act on behalf of the vulnerable person, also called a "ward."[19] There are two main forms of guardianship: (1) guardianship over the person and (2) guardianship over the property, which may be limited or plenary.[20] A guardian is given the legal duty and authority to care for the ward and his or her property during the ward's infancy, disability, or incapacity.[21]

For adults, a guardianship may be established when a person has demonstrated that he or she is unable to manage his or her own affairs. If the adult is competent, this can be accomplished voluntarily. However, when an individual's mental competence is in question, an involuntary guardianship may be established through the adjudication of incompetence which is determined

[13] *See* footnote 9.; *see also* s. 409.2557(2), F.S.
[14] s. 409.2572(3), F.S.
[15] *See* s. 409.2563(1)(a), F.S.
[16] s. 409.2563(12), F.S.
[17] ss. 409.2563(9)(d), 409.2563(10)(d), F.S.
[18] s. 409.2563(2)(e), F.S.
[19] *See generally*, s. 744.102(9), F.S.
[20] Section 744.102(9), F.S.
[21] BLACK'S LAW DICTIONARY, 10th edition, 2014.

by a court appointed examination committee.[22] Once an adult is adjudicated incompetent, then a guardian may be appointed.[23]

For minors, i.e., an unmarried person under the age of 18,[24] no petition to determine incapacity need be filed[25] because minors are presumptively lacking in capacity by operation of law. Minors are treated differently "based upon the particular vulnerability of children, their inability to make critical decisions in an informed, mature manner, and the importance of the parental role in child rearing."[26] For instance, minors are deemed not to have legal capacity to initiate legal proceedings[27] or enter contracts.[28]

The process to determine incapacity and the appointment of a guardian begins with a petition filed in the appropriate circuit court.

Continuing Court Jurisdiction

The court retains jurisdiction over all guardianships and shall review the appropriateness and extent of a guardianship annually.[29] At any time, any interested person, including the ward, may petition the court for review alleging that the guardian is not complying with the guardianship plan or is exceeding his or her authority under the guardianship plan and is not acting in the best interest of the ward. If the petition for review is found to be without merit the court may assess costs and attorney fees against the petitioner.[30]

Support Obligations for Incapacitated Adult Children

In some states, an exception to the rule that parents' duty to support their children ends at the children's majority occurs when the child is disabled.[31] In cases where the child is disabled, mentally or physically, and therefore unable to support himself/herself upon reaching the age of majority most states have adopted the rule that parents have a duty to support their adult disabled children.[32] Most often, courts define "disability" in economic terms, i.e., the inability of the adult disabled child to adequately care for one's self by earning a living by reason of mental or physical infirmity. States differ as to whether support for an adult disabled child is determined by

[22] *See generally*, s. 744.102(12), F.S.
[23] *D.H. v. Adept Cmty. Services, Inc.*, 43 Fla. L. Weekly S533 (Fla. Nov. 1, 2018), *reh'g denied*, SC17-829, 2018 WL 6264576 (Fla. Nov. 29, 2018) (quoting *Hayes v. Guardianship of Thompson*, 952 So.2d 498, 505 (Fla. 2006))(internal quotation marks omitted).
[24] Section 744.102(13), F.S.
[25] Fla. Prob. R. 5.555(a)-(b).
[26] 25 Fla. Jur 2d Family Law § 252
[27] D.H. v. Adept Cmty. Services, Inc., 43 Fla. L. Weekly S533 (Fla. Nov. 1, 2018), reh'g denied, SC17-829, 2018 WL 6264576 (Fla. Nov. 29, 2018).
[28] 25 Fla. Jur 2d Family Law § 495.
[29] Section 744.372, F.S.
[30] Section 744.3715, F.S.
[31] National Conference of State Legislatures, *Termination of Child-Support – Exception for Adult Children with Disabilities*, available at https://www.ncsl.org/research/human-services/termination-of-child-support-exception-for-adult.aspx (last visited January 31, 2020).
[32] *Id*.

the state's child support guidelines or by the needs of the child as balanced by the parents' ability to provide support.[33]

In Florida, s. 743.07(2), F.S., provides that courts are not prohibited from requiring support for a dependent person beyond the age of 18 years when such dependency is because of a mental or physical incapacity which began prior to a person reaching majority. While courts are permitted to require support in such instances, support beyond the age of majority for incapacitated adult children is not an issue which must be addressed by courts in determining support obligations.

III. Effect of Proposed Changes:

Section 1 creates s. 61.1255, F.S., defining "incapacitated adult child" as an unmarried adult incapable of self-support as a result of a physical or mental incapability that began before the person reached age 18. The bill requires that the right of a parent or guardian to receive support for an incapacitated adult child must be established in a guardianship proceeding. Parents may agree in writing to extend support in an existing support matter if the agreement is submitted to the presiding court before the adult child reaches 18, otherwise support must be established in a guardianship proceeding. Support paid after the adult child reaches 18 may only be paid to the court-appointed guardian.

Section 2 amends s. 61.13, F.S., removing references to s. 743.07(2) rendered obsolete by the bill and adding an extension for high school graduation, removing the ability of the court to extend support due to a physical or mental disability once an individual reaches the age of 18.

Section 3 amends. 61.29, F.S., providing that child support guidelines do not apply to support for an incapacitated adult child, and specifying that support amounts for such individuals are determined by the newly created s. 61.31, F.S.

Section 4 amends s. 61.30, F.S., limiting the presumption that the child support guidelines currently in statute establish the amounts that the court must order in child support matters where a minor child or a child who is dependent in fact, between 18 and 19 years old, and still in high school with a reasonable expectation of graduation before 19.

Section 5 creates s. 61.31, F.S., specifying the amount of child support to be paid for an incapacitated adult child after the individual turns 18, the terms of the support order, and the rights and duties of both parents with respect to the support order.

Section 6 amends s. 393.12, F.S., providing that an individual being considered for appointment as a guardian does not need to be represented by an attorney unless the potential guardian is delegated the right of a parent to receive support of a person with a developmental disability. The bill provides that a petition to appoint a guardian may include a request for support payments from either or both of the parents of a person with a developmental disability.

[33] *Id*.

Section 7 creates s. 744.1013, F.S., requiring a court to exercise jurisdiction over claims for support of an incapacitated adult child, requiring the court to determine the financial obligation in such cases, and requiring the court to enforce such obligations.

Section 8 amends s. 744.3201, F.S., providing that a petition to a court to determine incapacity may include a request for payment of support, care, maintenance, education, or other needs of an incapacitated adult child as defined under the newly created s. 61.1255, F.S.

Section 9 creates s. 744.422, F.S., providing that a guardian may petition the court for an order requiring either or both parents to make support payments if such payments are not provided for in an initial guardianship plan.

Section 10 amends s. 742.031, F.S., to correct a cross-reference.

Section 11 amends s. 742.06, F.S., providing that modifications of child support and timesharing are to be determined under chapter 61, F.S.

Section 12 amends s. 744.3021, F.S., providing that if a petition is filed for guardianship of a minor with active an child support matter, and the child is 17 years and 6 months or older, the court division with jurisdiction over guardianship matters will have jurisdiction over the proceedings.

Section 13 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:

The bill will have an indeterminate fiscal impact on the state court system as additional support and guardianship proceedings will occur throughout the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 61.13, 61.29, 61.30, 393.12, 744.3201, 742.031, 742.06 and 744.3021 of the Florida Statutes.

This bill creates sections 61.1255, 61.31, 744.1013, and 744.422 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Albritton

26-00921C-20 20201648__

A bill to be entitled

An act relating to support for incapacitated adult children; creating s. 61.1255, F.S.; defining the term "incapacitated adult child"; specifying that parents are responsible for supporting an incapacitated adult child; requiring certain rights of the parents of an incapacitated adult child to be established in a guardianship proceeding; prohibiting any person who is not court appointed from managing assets for or making decisions for an incapacitated adult child; specifying individuals who may file a petition to establish support for an incapacitated adult child; specifying a timeframe in which such petitions may be filed; specifying procedures for establishing support; specifying who may receive such support before and after the incapacitated adult child's 18th birthday; amending s. 61.13, F.S.; specifying that a child support order need not terminate on the child's 18th birthday in certain circumstances; specifying that a court may modify a child support order for adult children in certain circumstances; providing that either parent may consent to mental health treatment for the child in certain circumstances, unless stated otherwise in the parenting plan; amending s. 61.29, F.S.; specifying that support for incapacitated adult children is determined by certain provisions; amending s. 61.30, F.S.; specifying that the child support guidelines apply to minor children and certain adult children; creating s. 61.31, F.S.; specifying

circumstances the court must consider when determining the amount of support for an incapacitated adult child; prohibiting the court from ordering support in an amount that would negatively impact the incapacitated adult child's eligibility for state or federal programs or benefits; amending s. 393.12, F.S.; providing an additional circumstance under which a guardian advocate must be represented by an attorney in guardianship proceedings; specifying that petitions to appoint a guardian advocate for an individual with disabilities may include certain requests for support from the individual's parents; creating s. 744.1013, F.S.; providing guardianship courts with jurisdiction over petitions for support of incapacitated adult children; providing for enforceability of such support orders in a manner consistent with child support orders entered under certain other provisions; specifying that such support orders supersede any orders entered under certain other provisions; amending s. 744.3201, F.S.; specifying that petitions for determination of capacity may include certain requests for payment of support; creating s. 744.422, F.S.; authorizing guardians of incapacitated adults to petition the court for certain support payments from the incapacitated adult's parents in certain circumstances; specifying that the amount of such support is determined by certain provisions; amending ss. 742.031, 742.06, and 744.3021, F.S.; conforming provisions to changes made by the act; providing an

effective date.

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

Section 1. Section 61.1255, Florida Statutes, is created to read:

61.1255 Support for incapacitated adult children; access; powers of court.-

(1) For purposes of this section, an "incapacitated adult child" means an unmarried adult who is incapable of self-support as a result of a physical or mental incapacity that began before the person attained the age of 18.

(2) The parent or parents of an incapacitated adult child are responsible for supporting that child. The right of a parent or other person to receive and manage support for or manage the property of an incapacitated adult child or to make decisions to meet essential requirements for the health or safety of the incapacitated adult child must be established in a guardianship proceeding under chapter 393 or chapter 744. A parent or other person does not have the power to manage support for, manage property of, or make decisions regarding needs that are essential to the health and safety of an incapacitated adult child unless he or she has been appointed as the incapacitated adult child's guardian advocate under chapter 393 or guardian under chapter 744.

(3) The right of a parent or other person to have access to an incapacitated adult child or to decide where the incapacitated adult child will live must be established in a guardianship proceeding brought under chapter 393 or chapter

744.

(4) A petition to establish support for an incapacitated adult child may be filed only by:

(a) The incapacitated adult child, if his or her right to sue or defend lawsuits has not been removed by the court;

(b) A parent or other person on behalf of the incapacitated adult child if he or she has not been appointed a guardian advocate under chapter 393 or a guardian under chapter 744; or

(c) The incapacitated adult child's guardian advocate appointed under chapter 393 or guardian appointed under chapter 744.

(5) A petition to establish support for an incapacitated adult child may be filed at any time after he or she reaches the age of 17 years and 6 months.

(6) If a court has jurisdiction over the parties because of an issue of child support, the parents may agree in writing to extend support in the existing case, if the agreement is submitted to the court for approval before the incapacitated child reaches the age of 18. Otherwise, the amount of support to be paid by one parent to the other must be established in a guardianship proceeding.

(7) Support paid after the incapacitated child reaches the age of 18 may be paid only to the incapacitated adult or his or her court-appointed guardian advocate or guardian.

Section 2. Paragraph (a) of subsection (1) and paragraph (b) of subsection (2) of section 61.13, Florida Statutes, are amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(1)(a) In a proceeding under this chapter, the court may at any time order either or both parents who owe a duty of support to a child to pay support to the other parent or~~, in the case of both parents,~~ to a third party who has custody in accordance with the child support guidelines schedule in s. 61.30.

1. All child support orders and income deduction orders entered on or after October 1, 2010, must provide:

a. For child support to terminate on a child's 18th birthday unless the court finds or previously found that the child or the child who is dependent in fact is 18 years of age, is still in high school, and is performing in good faith with a reasonable expectation of graduation before he or she reaches the age of 19 ~~s. 743.07(2) applies~~, or is otherwise agreed to by the parties;

b. A schedule, based on the record existing at the time of the order, stating the amount of the monthly child support obligation for all the minor children at the time of the order and the amount of child support that will be owed for any remaining children after one or more of the children are no longer entitled to receive child support; and

c. The month, day, and year that the reduction or termination of child support becomes effective.

2. The court initially entering an order requiring one or both parents to make child support payments has continuing jurisdiction after the entry of the initial order to modify the amount and terms and conditions of the child support payments if the modification is found by the court to be in the best interests of the child and~~; when the child reaches majority; if~~ there is a substantial change in the circumstances of the

parties; if the minor child or child who is dependent in fact and is between the ages of 18 and 19, is still in high school and is performing in good faith with a reasonable expectation of graduation before he or she reaches the age of 19 ~~if s. 743.07(2) applies~~; or when a child is emancipated, marries, joins the armed services, or dies. The court initially entering a child support order has continuing jurisdiction to require the obligee to report to the court on terms prescribed by the court regarding the disposition of the child support payments.

(2)

(b) A parenting plan approved by the court must, at a minimum:

1. Describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child;

2. Include the time-sharing schedule arrangements that specify the time that the minor child will spend with each parent;

3. Designate who will be responsible for:

a. Any and all forms of health care. If the court orders shared parental responsibility over health care decisions, ~~the parenting plan must provide that~~ either parent may consent to mental health treatment for the child, unless stated otherwise in the parenting plan.

b. School-related matters, including the address to be used for school-boundary determination and registration.

c. Other activities; and

4. Describe in adequate detail the methods and technologies that the parents will use to communicate with the child.

Section 3. Subsection (4) is added to section 61.29, Florida Statutes, to read:

61.29 Child support guidelines; principles.—The following principles establish the public policy of the State of Florida in the creation of the child support guidelines:

(4) The guidelines do not apply to support for an incapacitated adult child as defined in s. 61.1255. The amount of support for an incapacitated adult child is determined by s. 61.31.

Section 4. Paragraph (a) of subsection (1) of section 61.30, Florida Statutes, is amended to read:

61.30 Child support guidelines; retroactive child support.—

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support for a minor child or child who is dependent in fact, is between the ages of 18 and 19, is still in high school and is performing in good faith with a reasonable expectation of graduation before he or she reaches the age of 19 in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter. The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such

guideline amount would be unjust or inappropriate. Notwithstanding the variance limitations of this section, the trier of fact shall order payment of child support which varies from the guideline amount as provided in paragraph (11)(b) whenever any of the children are required by court order or mediation agreement to spend a substantial amount of time with either parent. This requirement applies to any living arrangement, whether temporary or permanent.

Section 5. Section 61.31, Florida Statutes, is created to read:

61.31 Amount of support for incapacitated adult child.—

(1) In determining the amount of support to be paid after an incapacitated adult child, as defined in s. 61.1255, reaches the age of 18, the specific terms and conditions of that support, and the rights and duties of both parents with respect to the support of the child, the court shall determine and give special consideration to all of the following:

(a) The incapacitated adult child's income and assets.

(b) Any existing and future needs of the incapacitated adult child which are directly related to his or her mental or physical incapacity and the substantial care and personal supervision directly required by or related to that incapacity.

(c) Whether a parent pays for or will pay for the care or supervision of the incapacitated adult child or provides or will provide such care or supervision himself or herself.

(d) The financial resources available to each parent for the support, care, and supervision of the incapacitated adult child.

(e) Any other financial resources or other resources or

programs available for the support, care, and supervision of the incapacitated adult child.

(2) The court may not order support in an amount that will negatively impact the incapacitated adult child's eligibility for any state or federal programs or benefits.

Section 6. Paragraph (b) of subsection (2) and subsection (3) of section 393.12, Florida Statutes, are amended to read:

393.12 Capacity; appointment of guardian advocate.—

(2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

(b) A person who is being considered for appointment or is appointed as a guardian advocate does not need to ~~not~~ be represented by an attorney unless required by the court or if the guardian advocate is delegated any rights regarding property other than the right to be the representative payee for government benefits or the right of a parent to receive periodic payments from the other parent for support, care, maintenance, education, or other needs of the person with a developmental disability. This paragraph applies only to proceedings relating to the appointment of a guardian advocate and the court's supervision of a guardian advocate and is not an exercise of the Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the State Constitution.

(3) PETITION.—

(a) A petition to appoint a guardian advocate for a person with a developmental disability may be executed by an adult person who is a resident of this state. The petition must be verified and must:

1.~~(a)~~ State the name, age, and present address of the petitioner and his or her relationship to the person with a

developmental disability;

2.~~(b)~~ State the name, age, county of residence, and present address of the person with a developmental disability;

3.~~(c)~~ Allege that the petitioner believes that the person needs a guardian advocate and specify the factual information on which such belief is based;

4.~~(d)~~ Specify the exact areas in which the person lacks the decisionmaking ability to make informed decisions about his or her care and treatment services or to meet the essential requirements for his or her physical health or safety;

5.~~(e)~~ Specify the legal disabilities to which the person is subject; and

6.~~(f)~~ State the name of the proposed guardian advocate, the relationship of that person to the person with a developmental disability; the relationship that the proposed guardian advocate had or has with a provider of health care services, residential services, or other services to the person with a developmental disability; and the reason why this person should be appointed. If a willing and qualified guardian advocate cannot be located, the petition shall so state.

(b) A petition to appoint a guardian advocate may include a request for periodic payments from either or both parents of the person with a developmental disability for his or her support, care, maintenance, education, or other needs of the person with a developmental disability.

Section 7. Section 744.1013, Florida Statutes, is created to read:

744.1013 Jurisdiction.—The court has jurisdiction over all claims for support of an incapacitated adult child, as defined

in s. 61.1255, and shall adjudicate the financial obligation, including health insurance, of the incapacitated adult child's parents or guardian and enforce the financial obligation as provided in chapter 61. All support required to be paid in relation to an incapacitated adult child over the age of 18 must be paid to the incapacitated adult child or his or her court-appointed guardian. The Department of Revenue shall enforce support orders entered under this chapter or chapter 393 in the same manner that it enforces child support orders under chapter 61. Any order for support entered in a proceeding under this chapter or chapter 393 takes precedence over any support order entered under chapter 61.

Section 8. Present subsection (3) of section 744.3201, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

744.3201 Petition to determine incapacity.—

(3) A petition to determine capacity may include a request for payment of support, care, maintenance, education, or other needs of the alleged incapacitated adult child under s. 61.1255.

Section 9. Section 744.422, Florida Statutes, is created to read:

744.422 Petition for child support for incapacitated adult child.—Pursuant to s. 61.1255, a guardian may petition the court for an order requiring either or both parents to pay periodic amounts for the support, care, maintenance, education, and other needs of an incapacitated adult child, if not otherwise provided for in the guardianship plan. The amount of support is determined by s. 61.31.

Section 10. Subsection (1) of section 742.031, Florida

Statutes, is amended to read:

742.031 Hearings; court orders for support, hospital expenses, and attorney's fee.—

(1) Hearings for the purpose of establishing or refuting the allegations of the complaint and answer shall be held in the chambers and may be restricted to persons, in addition to the parties involved and their counsel, as the judge in his or her discretion may direct. The court shall determine the issues of paternity of the child and the ability of the parents to support the child. Each party's social security number shall be recorded in the file containing the adjudication of paternity. If the court finds that the alleged father is the father of the child, it shall so order. If appropriate, the court shall order the father to pay the complainant, her guardian, or any other person assuming responsibility for the child moneys sufficient to pay reasonable attorney ~~attorney's~~ fees, hospital or medical expenses, cost of confinement, and any other expenses incident to the birth of the child and to pay all costs of the proceeding. Bills for pregnancy, childbirth, and scientific testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child. The court shall order either or both parents owing a duty of support to the child to pay support under chapter 61 ~~pursuant to s. 61.30~~. The court shall issue, upon motion by a party, a temporary order requiring child support for a minor child under ~~pursuant to~~ s. 61.30 pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity on the basis of genetic tests

or other evidence. The court may also make a determination of an appropriate parenting plan, including a time-sharing schedule, in accordance with chapter 61.

Section 11. Section 742.06, Florida Statutes, is amended to read:

742.06 Jurisdiction retained for future orders.—The court shall retain jurisdiction of the cause for the purpose of entering such other and further orders as changing circumstances of the parties may in justice and equity require. Modifications of child support and timesharing are determined under chapter 61.

Section 12. Subsection (4) of section 744.3021, Florida Statutes, is amended to read:

744.3021 Guardians of minors.—

(4) If a petition is filed under ~~pursuant to~~ this section requesting appointment of a guardian for a minor who is the subject of any proceeding under chapter 39 or chapter 61 and who is aged 17 years and 6 months or older, the court division with jurisdiction over guardianship matters has jurisdiction over the proceedings under s. 744.331. The alleged incapacitated minor under this subsection shall be provided all the due process rights conferred upon an alleged incapacitated adult under ~~pursuant to~~ this chapter and applicable court rules. The order of adjudication under s. 744.331 and the letters of limited or plenary guardianship may issue upon the minor's 18th birthday or as soon thereafter as possible. Any proceeding pursuant to this subsection shall be conducted separately from any other proceeding.

Section 13. This act shall take effect July 1, 2020.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1748
INTRODUCER:	Senators Hutson and Perry
SUBJECT:	Child Welfare
DATE:	January 27, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 1748 makes changes to the child welfare statutes to conform to the new federal Family First Prevention Services Act. The bill addresses preventive services, residential group care, and how Florida claims funding under Title IV-E of the Social Security Act. The bill clarifies policies regarding the rates paid to certain foster parents and requires written agreements among the Department of Children and Families (department), community-based care lead agencies and the foster parent when negotiating rates that exceed the state's suggested monthly foster care rate.

The bill clarifies the extended foster care program where children can remain in care up to the age of 21 to align eligibility with the federal law regarding supervised independent living settings. The bill prohibits young adults from participating in extended foster care when they are in involuntary placements such as juvenile detention. The bill modifies the child support guidelines to establish child support payments for parents of children in foster care. The length of time the department must monitor the placement of a child with a successor guardian is reduced from six months to three months prior to closing the case to permanent guardianship. The bill updates language regarding the state's Title IV-E plan and data reporting for children in all placement settings.

The bill may have a positive fiscal impact to the state and has an effective date of July 1, 2020.

II. Present Situation:

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on Feb. 9, 2018. This budget deal included the Family First Prevention Services Act, which has the potential to dramatically change child welfare systems across the country.[1] One of the major areas this legislation seeks to

[1] National Conference of State Legislatures, Family First Prevention Services Act Update. Available at https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx. Last visited Jan. 24, 2020.

change is the way Social Security Act, Title IV-E funds can be spent by states. Title IV-E funds previously could be used only to help with the costs of foster care maintenance for eligible children; administrative expenses to manage the program; and training for staff, foster parents, and certain private agency staff; adoption assistance; and kinship guardianship assistance.

With the Family First Prevention Services Act, states with an approved Title IV-E plan have the option to use these funds for prevention services that would allow "candidates for foster care" to stay with their parents or relatives. States will be reimbursed for prevention services for up to 12 months. A written, trauma-informed prevention plan must be created, and services will need to be evidence-based.[2]

The Family First Prevention Services Act also seeks to curtail the use of congregate or group care for children and instead places a new emphasis on family foster homes.[3] With limited exceptions, the federal government will not reimburse states for children placed in group care settings for more than two weeks. Approved settings, known as qualified residential treatment programs, must use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff. The act requires children to be formally assessed within 30 days of placement to determine if his or her needs can be met by family members, in a family foster home or another approved setting. The act provides that certain institutions are exempt from the two-week limitation, but are generally limited to 12-month placements. To be eligible for federal reimbursement, the law generally limits the number of children allowed in a foster home to six.

III. Effect of Proposed Changes:

Section 1 amends s. 39.01, F.S., providing definitions. The bill amends the definition of "case plan" to conform the definition with the federal language requiring documentation of "preventive" services.[4] The definition of "preventive services" is revised so that such services may be voluntary or court ordered.

Section 2 amends s. 39.0135, F.S., establishing the Operations and Maintenance Trust Fund within the department. The bill requires the department to deposit the child support payment, equaling the child's cost of care, into the Federal Grants Trust Fund for children who are determined Title IV-E eligible. The department is federally required to report and treat child support payments for Title IV-E eligible children differently than Title IV-E ineligible children.[5]

Section 3 amends s. 39.202, F.S., relating to confidentiality of reports of child abuse. The bill permits the Agency for Health Care Administration to receive reports of abuse and neglect as the

[2] *Id.*
[3] *Id.*
[4] Family First Prevention Services Act of 2017, section 111. See https://www.congress.gov/bill/115th-congress/house-bill/253/text?q=%7B%22search%22%3A%5B%22family+first+prevention+services+act%22%5D%7D&r=1. Last visited Jan. 23, 2020.
[5] Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.

agency is responsible for licensing hospitals under 395 that provide mental health services. This is a new federal requirement.[6]

Section 4 amends s. 39.407, F.S., relating to medical, psychiatric, and psychological assessment and treatment of children. The bill requires such assessments for children placed in a "qualified residential treatment program." Section 11 of the bill creates this new type of group care to comply with the federal Family First Prevention Services Act.[7] This is needed because the new federal law limits the use of federal Title IV-E funding for group care unless it is a specialized to meet specific needs of the child. The bill defines a "qualifying assessment" as an assessment of children who need placement in a qualified residential treatment program. This assessment must be completed within 30 days of placement. The court must approve or reject such placements within 60 days of placement. The department may adopt rules to implement this section.

Section 5 amends s. 39.6011, F.S., relating to case plan development for dependent children. The bill requires the child's case plan to include documentation supporting a placement in a qualified residential treatment program.

Section 6 amends s. 39.6221, F.S., relating to permanent guardianship of a dependent child. The court can place a child with a relative under a permanent guardianship when the court determines that reunification or adoption is not in the best interest of the child. The bill revises the criteria used by the court to grant permanent guardianship to include children who have been placed with a guardian for the preceding 3 months.

Section 7 amends s. 39.6251, F.S., providing for continuing care for young adults. Florida extended foster care to the age of 21. Young adults in extended foster care can reside in supervised independent living environments. The bill excludes residing in juvenile detention centers or other detention programs as supervised independent living environments.

Section 8 amends s. 61.30, F.S., providing child support guidelines and child support. The bill provides a guideline for establishing the child support amount for dependency cases. Specifically, the bill states that if the child is in an out-of-home placement the amount of child support would be 10% of the parent's income.

Section 9 amends s. 409.145, F.S., relating to the care of dependent children and quality parenting. The bill requires that all residential group home employees meet level 2 background screening requirements pursuant to ss. 39.0138 and 435.04, F.S. This requirement for background screening in required under the federal Family First Prevention Services Act.[8]

Current law allows the department and community based care lead agency to increase the foster care room and board rate when necessary. The bill excludes level I foster care room and board payments from this allowance. Level I foster care is when relatives care for the abused child and such relatives are provided an established rate of $333 per month.[9] The bill also requires written

[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] Section 409.145, F.S.

documentation between the region and CBC when an enhanced foster care room and board payment is agreed upon.

Section 10 repeals s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs. The department does not currently use this setting for placement of children. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S., to comply with new federal requirements for the use of Title IV E funds.[10]

Section 11 creates s. 409.16765, F.S., to create the qualified residential treatment program. This will align Florida Statutes with federal Family First Prevention Services Act and provide for the placement of children who have emotional disturbance or mental illness.[11] The new program must provide a safe and therapeutic environment, use strength-based and trauma-informed treatment, be licensed and accredited, have licensed nursing or clinical staff 24 hours a day, and provide after care services to support children who are discharged from the program.

The bill requires the community based care lead agency to ensure that each child placed in a qualified residential treatment program be assessed within 30 days of placement, maintain documentation, and limit placements to no more than 12 consecutive months or 18 nonconsecutive months. For children under the age of 13, placement is limited to 6 months. Stays longer than 6 months for these children must be approved by the department. The bill authorizes the department of adopt rules to implement this section.

Section 12 amends s. 409.1678, F.S., relating to specialized placements of children who are victims of commercial sexual exploitation (human trafficking). The bill allows for safe houses and safe foster homes to serve victim of or at risk of human trafficking in the same setting with children of any population.

Section 13 repeals s. 409.1679, F.S., relating to reimbursement for comprehensive residential group care services to children who have extraordinary needs. This type of program is not used and is repealed by the bill. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S.

Section 14 amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemptions. The bill adds qualified residential treatment programs and human trafficking safe houses to the definition of a residential child-caring agency. This will ensure that the state can seek Title IV-E funding for such placements.[12]

Section 15 amends s. 39.301, F.S., relating to the initiation of a child abuse investigation. The bill conforms to changes made regarding preventive services.

[10] Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.
[11] *Id.*
[12] *Id.*

Section 16 amends s. 39.302, F.S., relating to child abuse investigations for children residing in an institution to correct a cross reference.

Section 17 amends s. 39.402, F.S., relating to placement of children in a shelter. The bill conforms to changes made regarding preventive services.

Section 18 amends s. 39.501, F.S., relating to petitions for dependency to conform to changes made in the bill regarding preventive services.

Section 19 amends s. 39.6013, F.S., relating to case plan amendments to correct a cross reference.

Section 20 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:

The bill revises the criteria the court uses to grant permanent guardianship to include children who have been placed with a guardian for the preceding 3 months rather than the current requirement of 6 months for those cases where the caregiver has been named as the successor guardian. The reduction by three months will reduce costs to the department for supervision and legal services. The amount of savings is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.0135, 39.202, 39.407, 39.6011, 39.6221, 39.6251, 61.30, 409.145, 409.1678, 409.175, 39.301, 39.302, 39.402, 39.501, and 39.6013.
This bill creates section 409.16765 of the Florida Statutes.
This bill repeals ss. 409.1676, and 409.1679 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (11) and (67) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(11) "Case plan" means a document, as described in s. 39.6011, prepared by the department with input from all parties.

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The case plan follows the child from the provision of preventive ~~voluntary~~ services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

(67) "Preventive services" means social services and other supportive and rehabilitative services provided, either voluntarily or by court order, to the parent or legal custodian of the child and to the child or on behalf of the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's developmental needs and need for physical, mental, and emotional health and a safe, stable, living environment; shall promote family autonomy; and shall strengthen family life, whenever possible.

Section 2. Section 39.0135, Florida Statutes, is amended to read:

39.0135 Federal Grants and Operations and Maintenance Trust Funds ~~Fund~~.—The department shall deposit all child support payments made to the department, equaling the cost of care, under ~~pursuant to~~ this chapter into the Federal Grants Trust Fund for Title IV-E eligible children and the Operations and Maintenance Trust Fund for children ineligible for Title IV-E. If the child support payment does not equal the cost of care, the total amount of the payment shall be deposited into the appropriate trust fund. The purpose of this funding is to care for children who are committed to the temporary legal custody of the department.

Section 3. Paragraphs (a) and (h) of subsection (2) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;

2. Ongoing child or adult protective services;

3. Early intervention and prevention services;

4. Healthy Start services;

5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapters 393 and 394 ~~chapter 393~~, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;

6. Employment screening for employees ~~caregivers~~ in residential group homes licensed by the department, the Agency for Persons with Disabilities, or the Agency for Health Care Administration; or

7. Services for victims of domestic violence when provided

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by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, under ~~pursuant to~~ chapters 984 and 985.

(h) Any appropriate official of the department, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

Section 4. Present subsections (6) through (9) of section 39.6011, Florida Statutes, are redesignated as subsections (7) through (10), respectively, and a new subsection (6) is added to that section, to read:

39.6011 Case plan development.—

(6) When a child is placed in a qualified residential treatment program, the case plan must include documentation outlining the most recent assessment for a qualified residential treatment program, the date of the most recent placement in a

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qualified residential treatment program, the treatment or service needs of the child, and preparation for the child to return home or be in an out-of-home placement. If a child is placed in a qualified residential treatment program for longer than the timeframes described in s. 409.1676, a copy of the signed approval of such placement by the department must be included in the case plan.

Section 5. Paragraph (a) of subsection (1) of section 39.6221, Florida Statutes, is amended to read:

39.6221 Permanent guardianship of a dependent child.—

(1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:

(a) The child has been in the placement for not less than the preceding 6 months, or the preceding 3 months if the caregiver has been named as the successor guardian on the child's guardianship assistance agreement.

Section 6. Paragraph (a) of subsection (4) of section 39.6251, Florida Statutes, is amended to read:

39.6251 Continuing care for young adults.—

(4)(a) The young adult must reside in a supervised living environment that is approved by the department or a community-based care lead agency. The young adult shall live independently, but in an environment in which he or she is provided supervision, case management, and supportive services by the department or lead agency. Such an environment must offer developmentally appropriate freedom and responsibility to

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prepare the young adult for adulthood. For the purposes of this subsection, a supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment, or another housing arrangement if the arrangement is approved by the community-based care lead agency and is acceptable to the young adult. A young adult may continue to reside with the same licensed foster family or group care provider with whom he or she was residing at the time he or she reached the age of 18 years. A supervised living arrangement may not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children or young adults who are determined to be delinquent. A young adult may not reside in any setting in which the young adult is involuntarily placed.

Section 7. Paragraph (a) of subsection (1) of section 61.30, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

61.30 Child support guidelines; retroactive child support.—

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter, except as provided in paragraph (d). The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of

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fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such guideline amount would be unjust or inappropriate. Notwithstanding the variance limitations of this section, the trier of fact shall order payment of child support which varies from the guideline amount as provided in paragraph (11)(b) whenever any of the children are required by court order or mediation agreement to spend a substantial amount of time with either parent. This requirement applies to any living arrangement, whether temporary or permanent.

(d) In a proceeding under chapter 39, if the child is in an out-of-home placement, the presumptively correct amount of periodic support is 10 percent of the obligor's actual or imputed gross income. The court may deviate from this presumption as provided in paragraph (a).

Section 8. Paragraph (e) of subsection (2) and paragraph (f) of subsection (4) of section 409.145, Florida Statutes, are amended, and paragraph (h) is added to subsection (4) of that section, 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.

(2) QUALITY PARENTING.—A child in foster care shall be

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

(e) *Employees of* ~~*Caregivers employed by*~~ *residential group homes.*—All employees, including persons who do not work directly with children, of a residential group home must meet the background screening requirements under s. 39.0138 and the level 2 standards for screening under chapter 435 ~~All caregivers in residential group homes shall meet the same education, training, and background and other screening requirements as foster parents~~.

(4) FOSTER CARE ROOM AND BOARD RATES.—

(f) Excluding level I family foster homes, 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.

(h) All room and board rate increases, excluding increases under paragraph (b), must be outlined in a written agreement between the department and the community-based care lead agency.

Section 9. Section 409.1676, Florida Statutes, is amended to read:

409.1676 Comprehensive residential group care services ~~to~~


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~~children who have extraordinary needs.~~

(1) It is the intent of the Legislature to provide comprehensive residential group care services~~, including residential care, case management, and other services, to children in the child protection system who have extraordinary needs~~. These services are to be provided in a residential group care setting by a not-for-profit corporation or a local government entity under a contract with the Department of Children and Families or by a lead agency as described in s. 409.987. These contracts should be designed to provide an identified number of children with access to a full array of services for a fixed price. Further, it is the intent of the Legislature that the Department of Children and Families and the Department of Juvenile Justice establish an interagency agreement ~~by December 1, 2002~~, which describes respective agency responsibilities for referral, placement, service provision, and service coordination for children under the care and supervision of the department ~~dependent~~ and delinquent youth who are referred to these residential group care facilities. The agreement must require interagency collaboration in the development of terms, conditions, and performance outcomes for residential group care contracts serving the youth referred who are under the care and supervision of the department and delinquent ~~have been adjudicated both dependent and delinquent~~.

(2) As used in this section, the term:

(a) ~~"Child with extraordinary needs" means a dependent child who has serious behavioral problems or who has been determined to be without the options of either reunification with family or adoption.~~


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~~(b)~~ "Residential group care" means a living environment for children who are under the care and supervision of the department ~~have been adjudicated dependent and are expected to be in foster care for at least 6 months~~ with 24-hour-awake staff or live-in group home parents or staff. Each facility must be appropriately licensed in this state as a residential child caring agency as defined in s. 409.175(2)(l) ~~and must be accredited by July 1, 2005. A residential group care facility serving children having a serious behavioral problem as defined in this section must have available staff or contract personnel with the clinical expertise, credentials, and training to provide services identified in subsection (4)~~.

~~(c) "Serious behavioral problems" means behaviors of children who have been assessed by a licensed master's-level human-services professional to need at a minimum intensive services but who do not meet the criteria of s. 394.492(7). A child with an emotional disturbance as defined in s. 394.492(5) or (6) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate. A child having a serious behavioral problem must have been determined in the assessment to have at least one of the following risk factors:~~

~~1. An adjudication of delinquency and be on conditional release status with the Department of Juvenile Justice.~~

~~2. A history of physical aggression or violent behavior toward self or others, animals, or property within the past year.~~

~~3. A history of setting fires within the past year.~~

~~4. A history of multiple episodes of running away from home~~

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~~or placements within the past year.~~

~~5. A history of sexual aggression toward other youth.~~

(b) "Qualifying assessment" is a department-approved functional assessment administered by a qualified individual to recommend or affirm placement in a qualified residential treatment program.

(c) "Qualified individual" means a trained professional with experience working with children or adolescents involved in the child welfare system and who is not employed by the department or lead agency and has no actual or perceived conflict of interest with any placement setting or program.

(d) "Qualified residential treatment program" has the same meaning as provided in 42 U.S.C. s. 672.

(3) The department~~, in accordance with a specific appropriation for this program,~~ shall contract with a not-for-profit corporation, a local government entity, or the lead agency that has been established in accordance with s. 409.987 for the performance of residential group care services described in this section. A lead agency that is currently providing residential care may provide this service directly with the approval of the local community alliance. The department or a lead agency may contract for more than one site in a county if that is determined to be the most effective way to achieve the goals set forth in this section.

(4) The lead agency, the contracted not-for-profit corporation, or the local government entity is responsible for a comprehensive assessment, a qualifying assessment, residential care, transportation, access to behavioral health services, recreational activities, clothing, supplies, and miscellaneous

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expenses associated with caring for these children; for necessary arrangement for or provision of educational services; and for assuring necessary and appropriate health and dental care.

~~(5) The department may transfer all casework responsibilities for children served under this program to the entity that provides this service, including case management and development and implementation of a case plan in accordance with current standards for child protection services. When the department establishes this program in a community that has a lead agency as described in s. 409.987, the casework responsibilities must be transferred to the lead agency.~~

(5)~~(6)~~ This section does not prohibit any provider of these services from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from earning federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(6)~~(7)~~ The lead agency, not-for-profit corporation, or local government entity has the legal authority for children served under this program, as provided in chapter 39 or this chapter, as appropriate, to enroll the child in school, to sign for a driver license for the child, to cosign loans and insurance for the child, to sign for medical treatment, and to authorize other such activities.

(7) For children placed in a qualified residential treatment program, the lead agency shall:

(a) Ensure each child receives a qualifying assessment no

later than 30 days after placement in the program.

(b) Maintain documentation of a child's placement as specified in s. 39.6011(6).

(c) Not place a child in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or if the child is under the age of 13 years, for more than 6 months, whether consecutive or nonconsecutive, without the signed approval of the department for the continued placement.

(d) Provide a copy of the qualifying assessment to the department; the guardian ad litem; and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment.

(8) Within 60 days after initial placement, the court must approve or disapprove the placement based on the qualified assessment, determination, and documentation made by the qualified evaluator, as well as any other factors the court deems fit.

(9) ~~(8)~~ The department shall provide technical assistance as requested and contract management services.

~~(9) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.~~

(10) The department may adopt rules necessary to administer this section.

Section 10. Paragraph (c) of subsection (2) of section 409.1678, Florida Statutes, is amended to read:

409.1678 Specialized residential options for children who are victims of commercial sexual exploitation.—

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(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

(c) To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175, and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must also:

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.

2. Serve exclusively one sex.

3. Group child victims of commercial sexual exploitation by age or maturity level.

4. If a safe house, care for child victims of commercial sexual exploitation ~~in a manner that separates those children from children with other needs~~. ~~Safe houses and~~ Safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

5. Have awake staff members on duty 24 hours a day, if a safe house.

6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.


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Section 11. Section 409.1679, Florida Statutes, is repealed.

Section 12. Paragraphs (l) and (m) of subsection (2) of section 409.175, Florida Statutes, are amended to read:

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

(2) As used in this section, the term:

(l) "Residential child-caring agency" means any person, corporation, or agency, public or private, other than the child's parent or legal guardian, that provides staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. Such residential child-caring agencies include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are not in private residences, qualified residential treatment programs as defined in s. 409.1676, human trafficking safe houses as defined in s. 409.1678, at-risk homes, and wilderness camps. Residential child-caring agencies do not include hospitals, boarding schools, summer or recreation camps, nursing homes, or facilities operated by a governmental agency for the training, treatment, or secure care of delinquent youth, or facilities licensed under s. 393.067 or s. 394.875 or chapter 397.

(m) "Screening" means the act of assessing the background of personnel or level II through level V family foster homes and includes, but is not limited to, criminal history checks as provided in s. 39.0138 and employment history checks as provided

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in chapter 435, using the level 2 standards for screening set forth in that chapter.

Section 13. Paragraph (a) of subsection (14) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(14)(a) If the department or its agent determines that a child requires immediate or long-term protection through medical or other health care or homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Intensive Crisis Counseling Program, such services shall first be offered for voluntary acceptance unless:

1. There are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Such factors may include the parents' or legal custodians' young age or history of substance abuse, mental illness, or domestic violence; or

2. There is a high likelihood of lack of compliance with preventive ~~voluntary~~ services, and such noncompliance would result in the child being unsafe.

Section 14. Paragraph (b) of subsection (7) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely

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affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed under ~~pursuant to~~ s. 409.175 and is named in any capacity in three or more reports within a 5-year period, the department may review all reports for the purposes of the employment screening required under s. 409.175(2)(m) ~~pursuant to s. 409.145(2)(c)~~.

Section 15. Subsection (15) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(15) The department, at the conclusion of the shelter hearing, shall make available to parents or legal custodians seeking preventive ~~voluntary~~ services any referral information necessary for participation in such identified services to allow the parents or legal custodians to begin the services as soon as possible. The parents' or legal custodians' participation in the services may not be considered an admission or other acknowledgment of the allegations in the shelter petition.

Section 16. Paragraph (d) of subsection (3) of section 39.501, Florida Statutes, is amended to read:

39.501 Petition for dependency.—

(3)

(d) The petitioner must state in the petition, if known, whether:

1. A parent or legal custodian named in the petition has previously unsuccessfully participated in preventive ~~voluntary~~

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services offered by the department;

2. A parent or legal custodian named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent or legal custodian has rejected the preventive ~~voluntary~~ services offered by the department;

4. A parent or legal custodian named in the petition has not fully complied with a safety plan; or

5. The department has determined that preventive ~~voluntary~~ services are not appropriate for the parent or legal custodian and the reasons for such determination.

If the department is the petitioner, it shall provide all safety plans as defined in s. 39.01 involving the parent or legal custodian to the court.

Section 17. Subsection (8) of section 39.6013, Florida Statutes, is amended to read:

39.6013 Case plan amendments.—

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

Section 18. This act shall take effect July 1, 2020.

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

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And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; revising definitions; amending s. 39.0135, F.S.; requiring that child support payments be deposited into specified trust funds; amending s. 39.202, F.S.; authorizing the Agency for Health Care Administration to access certain records; amending s. 39.6011, F.S.; requiring certain documentation in the case plan when a child is placed in a qualified residential treatment program; amending s. 39.6221, F.S.; revising the conditions under which a court determines permanent guardian placement for a child; amending s. 39.6251, F.S.; specifying certain facilities that are not considered a supervised living arrangement; requiring a supervised living arrangement to be voluntary; amending s. 61.30, F.S.; providing a presumption for child support in certain proceedings under ch. 39; amending s. 409.145, F.S.; requiring certain screening requirements for residential group home employees; requiring a written agreement to modify foster care room and board rates; providing an exception; amending s. 409.1676, F.S.; revising legislative intent; revising and providing definitions; revising a provision requiring the department to contract with certain entities; revising requirements for lead agencies, not-for-profit corporations, and local


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government entities with which the department is contracted; deleting a provision authorizing the department to transfer casework responsibilities for certain children to specified entities; providing responsibilities for lead care agencies; providing placement timeframes for the qualified residential treatment program; deleting a provision requiring that certain provisions be implemented to the extent of available appropriations contained in the annual General Appropriations Act; amending s. 409.1678, F.S.; revising a requirement and an authorization for safe houses; repealing s. 409.1679, F.S., relating to comprehensive residential group care requirements and reimbursement; amending s. 409.175, F.S.; revising definitions; amending ss. 39.301, 39.302, 39.402, 39.501, and 39.6013, F.S.; making technical changes and conforming provisions to changes made by the act; providing an effective date.

By Senator Hutson

7-01039A-20 20201748__

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; revising definitions; amending s. 39.0135, F.S.; requiring that child support payments be deposited into specified trust funds; amending s. 39.202, F.S.; authorizing the Agency for Health Care Administration to access certain records; amending s. 39.407, F.S.; authorizing the Department of Children and Families to place children in a specified program without court approval; defining the term "qualifying assessment" and revising definitions; providing applicability; requiring an assessment by a specified professional in order to be placed in a program; requiring assessment within a specified timeframe; requiring that an assessment be provided to certain persons; requiring the department to submit a specified report to the court; requiring the court to approve program placement for a child; authorizing the department to adopt rules relating to the program; amending s. 39.6011, F.S.; requiring certain documentation in the case plan when a child is placed in a qualified residential treatment program; amending s. 39.6221, F.S.; revising the conditions under which a court determines permanent guardian placement for a child; amending s. 39.6251, F.S.; specifying certain facilities that are not considered a supervised living arrangement; requiring a supervised living arrangement to be voluntary; amending s. 61.30, F.S.; providing a presumption for child support in proceedings under

chapter 39; amending s. 409.145, F.S.; requiring certain screening requirements for residential group home employees and caregivers; requiring a written agreement to modify foster care room and board rates; providing an exception; repealing s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs; creating s. 409.16765, F.S.; defining the term "qualified residential treatment program"; providing requirements for qualified residential treatment programs; providing responsibilities for community-based care lead agencies; providing placement timeframes for the qualified residential treatment program; requiring the department to adopt rules; amending s. 409.1678, F.S.; revising a requirement and an authorization for safe houses; repealing s. 409.1679, F.S., relating to comprehensive residential group care requirements and reimbursement; amending s. 409.175, F.S.; revising definitions; amending ss. 39.301, 39.302, 39.402, 39.501, and 39.6013, F.S.; making technical and conforming changes; providing an effective date.

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

Section 1. Subsections (11) and (67) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(11) "Case plan" means a document, as described in s. 39.6011, prepared by the department with input from all parties. The case plan follows the child from the provision of preventive ~~voluntary~~ services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

(67) "Preventive services" means social services and other supportive and rehabilitative services provided, either voluntarily or by court order, to the parent or legal custodian of the child and to the child or on behalf of the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's developmental needs and need for physical, mental, and emotional health and a safe, stable, living environment; shall promote family autonomy; and shall strengthen family life, whenever possible.

Section 2. Section 39.0135, Florida Statutes, is amended to read:

39.0135 Federal Grants and Operations and Maintenance Trust Funds ~~Fund~~.—The department shall deposit all child support payments made to the department, equaling the cost of care, under ~~pursuant to~~ this chapter into the Federal Grants Trust Fund for Title IV-E eligible children and the Operations and Maintenance Trust Fund for children ineligible for Title IV-E. If the child support payment does not equal the cost of care, the total amount of the payment shall be deposited into the appropriate trust fund. The purpose of this funding is to care

for children who are committed to the temporary legal custody of the department.

Section 3. Paragraphs (a) and (h) of subsection (2) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;

2. Ongoing child or adult protective services;

3. Early intervention and prevention services;

4. Healthy Start services;

5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapters 393 and 394 ~~chapter 393~~, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;

6. Employment screening for employees ~~caregivers~~ in residential group homes licensed by the department, the Agency for Persons with Disabilities, or the Agency for Health Care

Administration; or

7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, under ~~pursuant to~~ chapters 984 and 985.

(h) Any appropriate official of the department, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

Section 4. Subsection (6) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the

court, in a residential treatment center licensed under s. 394.875, a qualified residential treatment program as defined in s. 409.16765, or a hospital licensed under chapter 395 for residential mental health treatment only under ~~pursuant to~~ this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

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

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875, a qualified residential treatment program defined in s. 409.16765, or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to

residential treatment is unavailable.

4. "Qualifying assessment" means a determination by a department-approved functional assessment concerning a child or adolescent who has an emotional disturbance or a serious emotional disturbance or mental illness, as those terms are defined in s. 394.492, for recommended placement in a qualified residential treatment program under s. 409.16765.

(b)1. If ~~Whenever~~ the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the Agency for Health Care Administration. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program. This paragraph does not apply to a child who may need placement in a qualified residential treatment program.

2.~~(c)~~ Before a child is admitted under this paragraph ~~subsection~~, the child must ~~shall~~ be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

a.~~1.~~ The child appears to have an emotional disturbance serious enough to require residential treatment and is

reasonably likely to benefit from the treatment.

b.~~2.~~ The child has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

c.~~3.~~ All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

3. A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(c)1. If the department believes that a child in its legal custody has a serious emotional or behavioral disorder or disturbance and may need placement in a qualified residential treatment program, a qualifying assessment must be conducted by a qualified evaluator who is a trained professional with a master's degree in human services, has at least 3 years' experience working with children or adolescents involved in the child welfare system of care, and has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program. The qualifying assessment must be completed no later than 30 days after placement of the child in a qualified residential treatment program.

2. A copy of the qualifying assessment must be provided to the department; to the guardian ad litem; and, if the child is a

member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the placement recommendations with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the suitability or qualifying assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and

suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department and the guardian ad litem. The department must submit the report to the court. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held under ~~pursuant to~~ s. 39.701, the child's continued placement in residential treatment must be a subject

of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) In addition to the requirements of paragraphs (g) and (h), within 60 days after initial placement in a qualified residential treatment program, the court must approve or disapprove the placement based on the qualified assessment, determination, and documentation made by the qualified evaluator, as well as any other factors the court deems fit.

(j)1.~~(i)~~ The department must adopt rules for implementing timeframes for the completion of suitability and qualifying assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

2. The department may adopt rules relating to the assessment tool, the placement recommendations from the

assessment, and the training criteria for qualified evaluators in order to administer this section.

Section 5. Subsections (6) through (9) of section 39.6011, Florida Statutes, are redesignated as subsections (7) through (10), respectively, and a new subsection (6) is added to that section, to read:

39.6011 Case plan development.—

(6) When a child is placed in a qualified residential treatment program, the case plan must include documentation outlining the most recent assessment for a qualified residential treatment program, the date of the most recent placement in a qualified residential treatment program, the treatment or service needs of the child, and preparation for the child to return home or be in an out-of-home placement. If a child is placed in a qualified residential treatment program for longer than the timeframes described in s. 409.16765, a copy of the signed approval of such placement by the department must be included in the case plan.

Section 6. Paragraph (a) of subsection (1) of section 39.6221, Florida Statutes, is amended to read:

39.6221 Permanent guardianship of a dependent child.—

(1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:

(a) The child has been in the placement for not less than the preceding 6 months, or the preceding 3 months if the caregiver has been named as the successor guardian on the

child's Guardianship Assistance Agreement.

Section 7. Paragraph (a) of subsection (4) of section 39.6251, Florida Statutes, is amended to read:

39.6251 Continuing care for young adults.—

(4)(a) The young adult must reside in a supervised living environment that is approved by the department or a community-based care lead agency. The young adult shall live independently, but in an environment in which he or she is provided supervision, case management, and supportive services by the department or lead agency. Such an environment must offer developmentally appropriate freedom and responsibility to prepare the young adult for adulthood. For the purposes of this subsection, a supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment, or another housing arrangement if the arrangement is approved by the community-based care lead agency and is acceptable to the young adult. A young adult may continue to reside with the same licensed foster family or group care provider with whom he or she was residing at the time he or she reached the age of 18 years. A supervised living arrangement may not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children or young adults who are determined to be delinquent. A young adult may not reside in any setting in which the young adult is involuntarily placed.

Section 8. Paragraph (a) of subsection (1) of section 61.30, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

61.30 Child support guidelines; retroactive child support.—

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter, except as provided in paragraph (d). The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such guideline amount would be unjust or inappropriate. Notwithstanding the variance limitations of this section, the trier of fact shall order payment of child support which varies from the guideline amount as provided in paragraph (11)(b) whenever any of the children are required by court order or mediation agreement to spend a substantial amount of time with either parent. This requirement applies to any living arrangement, whether temporary or permanent.

(d) In a proceeding under chapter 39, if the child is in an out-of-home placement, the presumptively correct amount of periodic support is 10 percent of the obligor's actual or imputed gross income. The court may deviate from this presumption as provided in paragraph (a).

Section 9. Paragraph (e) of subsection (2) and paragraph (f) of subsection (4) of section 409.145, Florida Statutes, are

amended, and a new paragraph (h) is added to subsection (4) of that section, 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.

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

(e) *Employees* ~~*caregivers*~~ *employed by residential group homes.*—All employees, including persons who do not work directly with children, of a residential group home must meet the background screening requirements under s. 39.0138 and the level 2 standards for screening under chapter 435. All caregivers in residential group homes must ~~shall~~ meet, at a minimum, the same education and~~,~~ training~~, and background and other screening~~ requirements as foster parents.

(4) FOSTER CARE ROOM AND BOARD RATES.—

(f) Excluding level I family foster homes, 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.

(h) All room and board rate increases, excluding increases under paragraph (b), must be outlined in a written agreement between the department and the community-based care lead agency.

Section 10. Section 409.1676, Florida Statutes, is repealed.

Section 11. Section 409.16765, Florida Statutes, is created to read:

409.16765 Qualified residential treatment programs.—

(1) As used in this section, the term "qualified residential treatment program" means a residential group home environment that provides care for a child who has an emotional disturbance or a serious emotional disturbance or mental illness, as those terms are defined in s. 394.492.

(2) A qualified residential treatment program shall, subject to available resources, meet the following requirements:

(a) Provide a safe and therapeutic environment tailored to the needs of children with emotional or behavioral health problems.

(b) Use a model of treatment that includes a strength-based and trauma-informed approach.

(c) Be licensed as a residential child-caring agency as defined in s. 409.175.

(d) Be accredited by an accrediting organization under s. 472(k)(4)(g) of the Social Security Act.

(e) Have available, 24 hours a day, registered or licensed nursing and clinical staff based on the child's treatment plan.

(f) Provide aftercare services or supports to all children who are discharged from the program.

(3) The community-based care lead agency shall:

(a) Ensure each child who is placed in a qualified residential treatment program receives a qualifying assessment, as defined in s. 39.407, no later than 30 days after placement in the program.

(b) Maintain documentation of a child's placement in a qualified residential treatment program as specified in s. 39.6011(6).

(c) Not place a child in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or if the child is under the age of 13 years, for more than 6 months, whether consecutive or nonconsecutive, without the signed approval of the department for the continued placement.

(4) The department shall adopt rules necessary to administer this section.

Section 12. Paragraph (c) of subsection (2) of section 409.1678, Florida Statutes, is amended to read:

409.1678 Specialized residential options for children who are victims of commercial sexual exploitation.—

(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

(c) To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175, and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must

also:

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.

2. Serve exclusively one sex.

3. Group child victims of commercial sexual exploitation by age or maturity level.

4. If a safe house, care for child victims of commercial sexual exploitation ~~in a manner that separates those children from children with other needs~~. ~~Safe houses and~~ Safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

5. Have awake staff members on duty 24 hours a day, if a safe house.

6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

Section 13. Section 409.1679, Florida Statutes, is repealed.

Section 14. Paragraphs (l) and (m) of subsection (2) of section 409.175, Florida Statutes, are amended to read:

409.175 Licensure of family foster homes, residential

child-caring agencies, and child-placing agencies; public records exemption.—

(2) As used in this section, the term:

(l) "Residential child-caring agency" means any person, corporation, or agency, public or private, other than the child's parent or legal guardian, that provides staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. Such residential child-caring agencies include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are not in private residences, qualified residential treatment programs as defined in s. 409.16765, human trafficking safe houses as defined in s. 409.1678, at-risk homes, and wilderness camps. Residential child-caring agencies do not include hospitals, boarding schools, summer or recreation camps, nursing homes, or facilities operated by a governmental agency for the training, treatment, or secure care of delinquent youth, or facilities licensed under s. 393.067 or s. 394.875 or chapter 397.

(m) "Screening" means the act of assessing the background of personnel or level II through level V family foster homes and includes, but is not limited to, criminal history checks as provided in s. 39.0138 and employment history checks as provided in chapter 435, using the level 2 standards for screening set forth in that chapter.

Section 15. Paragraph (a) of subsection (14) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(14)(a) If the department or its agent determines that a child requires immediate or long-term protection through medical or other health care or homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Intensive Crisis Counseling Program, such services shall first be offered for voluntary acceptance unless:

1. There are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Such factors may include the parents' or legal custodians' young age or history of substance abuse, mental illness, or domestic violence; or

2. There is a high likelihood of lack of compliance with <u>preventive</u> ~~voluntary~~ services, and such noncompliance would result in the child being unsafe.

Section 16. Paragraph (b) of subsection (7) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(b) Likewise, if a person is employed as a caregiver in a

residential group home licensed under ~~pursuant to~~ s. 409.175 and is named in any capacity in three or more reports within a 5-year period, the department may review all reports for the purposes of the employment screening required under s. 409.175(2)(m) ~~pursuant to s. 409.145(2)(c)~~.

Section 17. Subsection (15) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(15) The department, at the conclusion of the shelter hearing, shall make available to parents or legal custodians seeking preventive ~~voluntary~~ services any referral information necessary for participation in such identified services to allow the parents or legal custodians to begin the services as soon as possible. The parents' or legal custodians' participation in the services may not be considered an admission or other acknowledgment of the allegations in the shelter petition.

Section 18. Paragraph (d) of subsection (3) of section 39.501, Florida Statutes, is amended to read:

39.501 Petition for dependency.—

(3)

(d) The petitioner must state in the petition, if known, whether:

1. A parent or legal custodian named in the petition has previously unsuccessfully participated in preventive ~~voluntary~~ services offered by the department;

2. A parent or legal custodian named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent or legal custodian has rejected the preventive

~~voluntary~~ services offered by the department;

4. A parent or legal custodian named in the petition has not fully complied with a safety plan; or

5. The department has determined that preventive ~~voluntary~~ services are not appropriate for the parent or legal custodian and the reasons for such determination.

If the department is the petitioner, it shall provide all safety plans as defined in s. 39.01 involving the parent or legal custodian to the court.

Section 19. Subsection (8) of section 39.6013, Florida Statutes, is amended to read:

39.6013 Case plan amendments.—

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

Section 20. This act shall take effect July 1, 2020.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1886
INTRODUCER:	Senator Brandes
SUBJECT:	Grandparent Visitation Rights
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	**Pre-meeting**
2.			JU	
3.			RC	

I. Summary:

SB 1886 makes a change to Florida law related to grandparent visitation rights to allow a grandparent of a minor child to petition the court for court-ordered visitation if one parent of the minor child is deceased, missing, or in a persistent vegetative state and whose other parent has:

- Been identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder; or
- Willingly allowed the minor child to be supervised by an individual identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder.

The bill also removes the requirement that the court must find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child.

The bill has no fiscal impact to the state and has an effective date of July 1, 2020.

II. Present Situation:

History of Grandparent Visitation Rights

Under common law, a grandparent who was forbidden by his or her grandchild's parent from visiting the child was normally without legal recourse.[1] Nonparent visitation statutes which did not exist before the late 1960s, now allow grandparents to petition courts for the right to visit

[1] Kristine L. Roberts, *State Supreme Court Applications of Troxel v. Granville and the Courts' Reluctance to Declare Grandparent Visitation Statutes Unconstitutional*, 41 FAM. CT. REV. 14, 16 (Jan. 2003). Also see Karin J. McMullen, *The Scarlet "N:" Grandparent Visitation Statutes That Base Standing on Non-Intact Family Status Violate the Equal Protection Clause of the Fourteenth Amendment*, ST. JOHN'S LAW REVIEW, 83 (2009).

their grandchildren. Before the passage of these statutes, grandparents – like all other nonparents – had no right to sue for court-ordered visitation with their grandchildren.[2]

The common law rule against visitation by nonparents sought to preserve parental autonomy, as a value in and of itself, as a means of protecting children and to serve broader social goals:

- Courts historically expressed reluctance to undermine parents' authority by overruling their decisions regarding visitation and by introducing outsiders into the nuclear family.[3] This common law tradition received constitutional protection in the 1920s when the Supreme Court held that a parent's right to direct the upbringing of his or her children was a fundamental liberty interest.[4]
- Under common law, courts presumed that fit parents act in the child's best interests and recognized that conflicts regarding visitation are a source of potential harm to the children involved.[5]
- Common law tradition understood parental authority as the very foundation of social order. Courts generally relied on ties of nature to resolve family disagreements rather than imposing coercive court orders.[6]

In response, states began to enact statutes to permit grandparents and sometimes other nonparents to petition for visitation rights. States passed the first wave of grandparent visitation statutes between 1966 and 1986. By the early 1990s, all states had enacted grandparent visitation laws that expanded grandparents' visitation rights. Today, the statutes generally delineate who may petition the court and under what circumstances and then require the court to determine if visitation is in the child's best interests.[7]

The enactment of grandparent visitation statutes responded primarily to two trends: demographic changes in family composition and an increase in the number of older Americans and the concurrent growth of the senior lobby.[8] Grandparent visitation resonated with the public as well, who responded to sentimental images of grandparents in the popular media and the conclusions of social scientists who focused on the importance of intergenerational family ties. During the 1990s, many Americans also focused on drug abuse problems of parents, significant poverty levels, and increasing numbers of out-of-wedlock children. Also during this period, Americans looked less to traditional social institutions, such as churches, and more toward the legal system as a way to solve their family problems.[9]

Policy related to grandparent visitation soon led to constitutional concerns because grandparent visitation statutes implicate the Fourteenth Amendment in two ways:

- The substantive due process rights of parents to direct the upbringing of their children in as much as parents' decisions are challenged, and

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[2] *Id*.
[3] *Id*.
[4] See *Meyer v. Nebraska*, 262 U.S. 390 (1923) and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).
[5] Kristine L. Roberts, *State Supreme Court Applications of Troxel v. Granville and the Courts' Reluctance to Declare Grandparent Visitation Statutes Unconstitutional*, 41 FAM. CT. REV. 14, 16 (Jan. 2003).
[6] *Id*.
[7] *Id*.
[8] Karen J. McMullen, *The Scarlet "N:" Grandparent Visitation Statutes That Base Standing on Non-Intact Family Status Violate the Equal Protection Clause of the Fourteenth Amendment*, ST. JOHN'S LAW REVIEW, 83 (2009).
[9] *Id*.

- The right to equal protection because many grandparent visitation statutes differentiate among parents based upon family status.[10]

The pertinent clauses in the Fourteenth Amendment state that a state shall not "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."[11] As of 2007, 23 state supreme courts had ruled on the constitutionality of their grandparent visitation statutes, with the majority finding their statutes constitutional; however, courts in several large states, Florida included, have held their grandparent visitation statutes unconstitutional.[12]

Grandparent Visitation Rights in Florida

Until 1978, Florida grandparents did not have any statutory right to visit their grandchild. Currently, provisions relating to grandparents rights to visitation and custody are contained in chs. 752 and 39, F. S. Provisions previously in ch. 61, F.S., have been removed because they were ruled unconstitutional.

Chapter 752, Florida Statutes – Grandparent Visitation

The legislature enacted ch. 752, F.S., titled "Grandparental Visitation Rights," in 1984, giving grandparents standing to petition the court for visitation in certain situations. At its broadest, s.752.01(1), F.S., required visitation to be granted when the court determined it to be in the best interests of the child and one of the following situations existed:

- One or both of the child's parents were deceased;
- The parents were divorced;
- One parent had deserted the child;
- The child was born out of wedlock; or
- One or both parents, who were still married, had prohibited the formation of a relationship between the child and the grandparent(s).[13]

Florida courts have considered the constitutionality of s. 752.01, F.S., on numerous occasions and have "consistently held all statutes that have attempted to compel visitation or custody with a grandparent based solely on the best interest of the child standard . . . to be unconstitutional."[14] The courts' rulings are premised on the fact that the fundamental right of parenting is a long-standing liberty interest recognized by both the United States and Florida constitutions.[15]

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[10] *Id*.
[11] U.S. CONST. amend. XIV, s. 1.
[12] Comm. on Judiciary, The Florida Senate, Grandparent Visitation Rights, (Interim Report 2009-120) (Oct. 2008). available at http://archive.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-120ju.pdf. (last visited January 29, 2020).
[13] See ch. 93-279, Laws of Fla. (s. 752.01, F.S. (1993)). Subsequent amendments by the Legislature removed some of these criteria. See s. 752.01, F.S. (2008).
[14] *Cranney v. Coronado*, 920 So. 2d 132, 134 (Fla. 2d DCA 2006) (quoting *Sullivan v. Sapp*, 866 So. 2d 28, 37 (Fla. 2004)).
[15] In 1980, Florida's citizens approved the addition of a privacy provision in the state constitution, which provides greater protection than the federal constitution. Specifically, Florida's right to privacy provision states: "Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein." FLA. CONST. art. I, s. 23.

In 1996, the Florida Supreme Court addressed its first major analysis of s. 752.01, F.S., in *Beagle v. Beagle*, 678 So. 2d 1271 (Fla. 1996). In *Beagle*, the Court determined that s. 752.01(e), F.S., which allowed grandparents to seek visitation when the child's family was intact, was facially unconstitutional. The Court announced the standard of review applicable when deciding whether a state's intrusion into a citizen's private life is constitutional:

> The right of privacy is a fundamental right which we believe demands the compelling state interest standard. This test shifts the burden of proof to the state to justify an intrusion on privacy. The burden can be met by demonstrating that the challenged regulation serves a compelling state interest and accomplishes its goal through the use of the least restrictive means.[16]

The Court held that "[b]ased upon the privacy provision in the Florida Constitution, . . . the State may not intrude upon the fundamental right of parents to raise their children except in cases where the child is threatened with harm."[17]

In 2015, the Legislature amended ch. 752 of the Florida Statutes to provide that a grandparent of a minor child whose parents are deceased, missing, or in a permanent vegetative state may petition for visitation with a grandchild. If only one parent is deceased, missing or in a permanent vegetative state, the other parent must have been convicted of a felony or a violent offense in order for a grandparent to be able to petition for visitation. The court must also find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child, and if not, must dismiss the petition. If the court finds that there is prima facie evidence that a parent is unfit or that there is danger of significant harm to the child, the bill allows the court to appoint a guardian ad litem for the child and requires the court to order the family to mediation. The law provides a list of factors for the court to consider in assessing best interest of the child and material harm to the parent-child relationship. The bill places a limit on the number of times a grandparent can file an original action for visitation, absent a real, substantial, and unanticipated change of circumstances.[18]

Chapter 39, Florida Statutes – Dependent Children

When a child has been adjudicated dependent and is removed from the physical custody of his or her parents, the child's grandparents have the right to unsupervised, reasonable visitation, unless visitation is not in the best interests of the child or would interfere with the goals of the case plan.[19] The court may deny grandparent visitation if it is not in the child's best interest or based on the grandparent's prior criminal history.

When the child is returned to the custody of his or her parent, the visitation rights granted to a grandparent must be terminated.[20]

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[16] *Beagle*, 678 So. 2d at 1276 (quoting *Winfield v. Division of Pari-Mutuel Wagering*, 477 So. 2d 544, 547 (Fla. 1985)).
[17] *Id*.
[18] Chapter 2015-134. F.S.
[19] Section 39.509, F.S.
[20] *Id*.

Existing grandparent visitation with a child who has been adjudicated dependent does not automatically terminate if the court enters an order for a termination of parental rights. Grandparent visitation rights will only terminate if the court finds that continued grandparent visitation is not in the best interest of the child or visitation would interfere with DCF goals of permanency planning for the child.[21] Before the court may terminate parental rights, notice must be provided to certain persons, including any grandparent entitled to priority for purposes of adoption.[22]

If the court determines that reunification with a parent and adoption are not in the best interest of the child, the child can be placed with a permanent guardian or with a fit and willing relative. The court must address a number of factors in the order for permanent guardianship or placement with a fit and willing relative, including the frequency and nature of visitation or contact between the child and his or her grandparents.[23]

The Effect of Court Ordered Visitation on Children and Their Families

Requests for visitation by third parties over parental objections raise a multitude of issues. Increasing attention appears to be focused on the effects of those requests for visitation on the children involved. In an analysis of *Troxel v. Granville*, one author stated:

> I am not suggesting that relationships must be conflict free in order to be viewed as being emotionally beneficial to those participating in them; however, when the relationships between members of the extended family and members of the nuclear family are so strained and when the ability to resolve those disputes is so impaired that one side or the other feels compelled to seek judicial intervention, the possibility that children will benefit from a court-imposed solution is remote. Where, over parental objection, visitation with a third party has been court ordered, the conflict between the parent and the individual whose bid for visitation the court has honored exacts a toll on the child(ren)....[24]

Another legal scholar has stated that while grandparents can be wonderful resources for children, parents, not courts, should decide with whom their children should spend time and that a court reversal of a parent's decision raises problems:

> Allowing courts to overrule parents is not good for children. The best interest of the child standard may sound appealing but, as an untethered guide to deciding where parental autonomy ends and the state's authority begins, it is not, in fact, in the best interest of the

[21] *Id*.
[22] Section 39.801(3)(a), F.S. A grandparent has the right to notice by the court if a child has lived with the grandparent for at least 6 out of 24 months immediately preceding the filing of a petition for termination of parental rights pending adoption. Section 63.0425(1), F.S.
[23] Sections 39.6221(2)(d) and 39.6231(3)(d), F.S.
[24] David A. Martindale, *Troxel v. Granville: A Nonjusticiable Dispute*, 41 FAM. CT. REV. 88 (Jan. 2003)

> child. The main point here is that parental autonomy is not the enemy of the child; it is the best way this society knows to protect the child's best interest.[25]

One commentator recognizes that grandparent visitation is a highly sensitive issue, especially in Florida where the senior citizen population is so large. While there are some bad grandparents, the pervasiveness of the stereotype of loving grandparents makes it hard to envision a situation where a child would not benefit from contact with his or her grandparents. For that reason, many courts have succumbed to sentimentality when deciding whether or not to grant grandparents visitation rights.[26]

A more objective view has been taken by the Florida Supreme Court. Both the Federal and Florida constitutions convey rights of privacy. Among those privacy rights lies the right of parents to raise their child as they see fit. Case law has long addressed this right and, while it may seem unfair or unwise to deny loving grandparents the right to visit their grandchild, based on a long line of federal and state precedent it is clear that the Florida Supreme Court is correct in deciding that, absent some showing of harm to the child, a court cannot override a fit parent's decision. Case law shows that, absent a grandparent proving harm to the child, visitation is rarely granted.[27]

A statute which demands such a showing of harm, while technically correct because it adheres to judicial rulings, will do little to help grandparents attain visitation with their grandchildren. The better solution would be to shift the focus away from judicial intrusions upon families and instead help families resolve their disputes themselves through mediation and counseling.[28]

III. Effect of proposed Changes

Section 1 amends s. 752.011, F.S., to allow a grandparent of a minor child to petition the court for court-ordered visitation if one parent of the minor child is deceased, missing, or in a persistent vegetative state and whose other parent has:

- Been identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder; or
- Willingly allowed the minor child to be supervised by an individual identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder.

The bill also removes the requirement that the court find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child.

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

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[25] Katharine T. Bartlett, *Grandparent Visitation: Best Interests Test is Not in Child's Best Interest*, WEST VIRGINIA LAW REVIEW. 102:723 (2000).
[26] Maegen E. Peek, *Grandparent Visitation Statutes: Do Legislatures Know The Way To Carry The Sleigh Through The Wide And Drifting Law?* FLORIDA LAW REVIEW (Apr. 2001)
[27] *Id*.
[28] *Id*.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The United States Supreme Court has recognized the fundamental liberty interest parents have in the "care, custody and management" of their children.[29] The Florida Supreme Court has likewise recognized that decisions relating to child rearing and education are clearly established as fundamental rights within the Fourteenth Amendment of the United States Constitution and that the fundamental liberty interest in parenting is specifically protected by the privacy provision in the Florida Constitution.[30] Consequently, any statute that infringes these rights is subject to the highest level of scrutiny and must serve a compelling state interest through the least intrusive means necessary.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

[29] *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982)
[30] *Beagle v. Beagle*, 678 So. 2d 1271, 1276 (Fla. 1996).

VII. Related Issues:

Since case law shows that, absent a grandparent proving harm to the child, visitation is rarely granted, it is unclear what effect removing the provision that the court must find the grandparent has made a prima facie showing of parental unfitness or danger of significant harm to the child will have.

VIII. Statutes Affected:

This bill substantially amends s. 752.011 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.

229474

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 72 - 73

and insert:

evidence of one of the conditions in subsection (1) and that a parent is unfit ~~or that there is significant harm to the child~~,

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

And the title is amended as follows:

Delete line 10

229474

and insert:

significant harm to the child in

By Senator Brandes

24-01788A-20 20201886__

A bill to be entitled

An act relating to grandparent visitation rights; amending s. 752.011, F.S.; authorizing a grandparent of a minor child whose parent was the victim of a murder to petition the court for court-ordered visitation with the child under certain circumstances; removing the requirement that a grandparent petitioning the court for court-ordered visitation with a minor child make a prima facie showing of parental unfitness or significant harm to the child in a preliminary hearing on such petition and instead requiring the grandparent to make a prima facie showing of other specified conditions; conforming provisions to changes made by the act; providing an effective date.

WHEREAS, Florida law permits case-by-case judicial review of grandparent visitation in very limited circumstances under s. 752.011, Florida Statutes; however, it does not address review of grandparent visitation in criminal cases, such as when one parent is deceased under violent or criminal circumstances and the surviving parent forbids contact between the deceased's parents and their grandchildren, and

WHEREAS, the right to petition courts is no guarantee of access or visitation; rather, it simply allows courts to review the case and determine what is both safe and in the best interest of the child involved, and

WHEREAS, in the best interest of a child who is already dealing with complex grief at the loss of a parent and, further,

in the interest of justice under circumstances where criminal proceedings are ongoing or anticipated, courts should have the authority to review grandparent petitions for visitation, and

WHEREAS, giving courts the authority to review grandparent petitions for visitation would prevent the separation of children and families while the justice system reviews cases, and could further disincentivize or deter criminal action in divorce and custody cases, NOW, THEREFORE,

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

Section 1. Section 752.011, Florida Statutes, is amended to read:

752.011 Petition for grandparent visitation with a minor child.—

(1) A grandparent of a minor child may petition the court for court-ordered visitation with the minor child if:

(a) The ~~whose~~ parents of the minor child are deceased, missing, or in a persistent vegetative state;~~,~~ or

(b) ~~whose~~ One parent of the minor child is deceased, missing, or in a persistent vegetative state and the ~~whose~~ other parent has:

1. Been convicted of a felony or an offense of violence evincing behavior that poses a substantial threat of harm to the minor child's health or welfare;

2. Been identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder; or

3. Willingly allowed the minor child to be supervised by an

individual identified by the state attorney as a person of interest or an unindicted co-conspirator in an open homicide investigation relating to the deceased parent's murder~~, may petition the court for court-ordered visitation with the grandchild under this section~~.

(2)~~(1)~~ Upon the filing of a petition by a grandparent for visitation, the court shall hold a preliminary hearing to determine whether the petitioner has made a prima facie showing of one of the conditions in subsection (1) ~~parental unfitness or significant harm to the child~~. Absent such a showing, the court shall dismiss the petition and may award reasonable attorney fees and costs to be paid by the petitioner to the respondent.

(3)~~(2)~~ If the court finds that there is prima facie evidence of one of the conditions in subsection (1) ~~that a parent is unfit or that there is significant harm to the child~~, the court may appoint a guardian ad litem and shall refer the matter to family mediation as provided in s. 752.015. If family mediation does not successfully resolve the issue of grandparent visitation, the court shall proceed with a final hearing.

(4)~~(3)~~ After conducting a final hearing on the issue of visitation, the court may award reasonable visitation to the grandparent with respect to the minor child if the court finds by clear and convincing evidence that a parent is unfit or that there is significant harm to the child, that visitation is in the best interest of the minor child, and that the visitation will not materially harm the parent-child relationship.

(5)~~(4)~~ In assessing the best interest of the child under subsection (4) ~~(3)~~, the court shall consider the totality of the circumstances affecting the mental and emotional well-being of

the minor child, including:

(a) The love, affection, and other emotional ties existing between the minor child and the grandparent, including those resulting from the relationship that had been previously allowed by the child's parent.

(b) The length and quality of the previous relationship between the minor child and the grandparent, including the extent to which the grandparent was involved in providing regular care and support for the child.

(c) Whether the grandparent established ongoing personal contact with the minor child before the death of the parent, before the onset of the parent's persistent vegetative state, or before the parent was missing.

(d) The reasons cited by the respondent parent in ending contact or visitation between the minor child and the grandparent.

(e) Whether there has been significant and demonstrable mental or emotional harm to the minor child as a result of the disruption in the family unit, whether the child derived support and stability from the grandparent, and whether the continuation of such support and stability is likely to prevent further harm.

(f) The existence or threat to the minor child of mental injury as defined in s. 39.01.

(g) The present mental, physical, and emotional health of the minor child.

(h) The present mental, physical, and emotional health of the grandparent.

(i) The recommendations of the minor child's guardian ad litem, if one is appointed.

(j) The result of any psychological evaluation of the minor child.

(k) The preference of the minor child if the child is determined to be of sufficient maturity to express a preference.

(l) A written testamentary statement by the deceased parent regarding visitation with the grandparent. The absence of a testamentary statement is not deemed to provide evidence that the deceased or missing parent or parent in a persistent vegetative state would have objected to the requested visitation.

(m) Other factors that the court considers necessary to making its determination.

(6) ~~(5)~~ In assessing material harm to the parent-child relationship under subsection (4) ~~(3)~~, the court shall consider the totality of the circumstances affecting the parent-child relationship, including:

(a) Whether there have been previous disputes between the grandparent and the parent over childrearing or other matters related to the care and upbringing of the minor child.

(b) Whether visitation would materially interfere with or compromise parental authority.

(c) Whether visitation can be arranged in a manner that does not materially detract from the parent-child relationship, including the quantity of time available for enjoyment of the parent-child relationship and any other consideration related to disruption of the schedule and routine of the parent and the minor child.

(d) Whether visitation is being sought for the primary purpose of continuing or establishing a relationship with the

minor child with the intent that the child benefit from the relationship.

(e) Whether the requested visitation would expose the minor child to conduct, moral standards, experiences, or other factors that are inconsistent with influences provided by the parent.

(f) The nature of the relationship between the child's parent and the grandparent.

(g) The reasons cited by the parent in ending contact or visitation between the minor child and the grandparent which was previously allowed by the parent.

(h) The psychological toll of visitation disputes on the minor child.

(i) Other factors that the court considers necessary in making its determination.

(7) ~~(6)~~ Part II of chapter 61 applies to actions brought under this section.

(8) ~~(7)~~ If actions under this section and s. 61.13 are pending concurrently, the courts are strongly encouraged to consolidate the actions in order to minimize the burden of litigation on the minor child and the other parties.

(9) ~~(8)~~ An order for grandparent visitation may be modified upon a showing by the person petitioning for modification that a substantial change in circumstances has occurred and that modification of visitation is in the best interest of the minor child.

(10) ~~(9)~~ An original action requesting visitation under this section may be filed by a grandparent only once during any 2-year period, except on good cause shown that the minor child is suffering, or may suffer, significant and demonstrable mental or

emotional harm caused by a parental decision to deny visitation between a minor child and the grandparent, which was not known to the grandparent at the time of filing an earlier action.

(11) ~~(10)~~ This section does not provide for grandparent visitation with a minor child placed for adoption under chapter 63 except as provided in s. 752.071 with respect to adoption by a stepparent or close relative.

(12) ~~(11)~~ Venue shall be in the county where the minor child primarily resides, unless venue is otherwise governed by chapter 39, chapter 61, or chapter 63.

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